



ISLE OF MAN



**Guidance for an advocate representing
a person being interviewed under
compulsion powers**

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Version Control

Version	Date Published	Comments
1	July 2024	Initial version
2		
3		
4		

Important note: *This document has been drafted with the intention that it is helpful and informative to any person interacting with the Isle of Man Gambling Supervision Commission (the "GSC") in regard to a person who the advocate is representing being required to attend before officers (i.e. staff) who have been authorised to act on behalf of the Commission and provide information (i.e. be interviewed).*

1. Background

- 1.1. The GSC has been afforded powers¹ whereby, upon authorisation by a Justice of the Peace ("JP"), it can "*require the person whose affairs are to be investigated, or any other person whom it has reason to believe has relevant information, to attend before the Commission at a specified time and place to answer questions or otherwise furnish information with respect to any matter relevant to the investigation*". A person who fails, without reasonable excuse, to attend before the GSC having received due Notice commits an offence and is liable on summary conviction to a fine not exceeding £2,500 or to custody for a term not exceeding 6 months, or both.
- 1.2. A person whose affairs are to be investigated will be aware of such.
- 1.3. 'Any other person' includes, for example, a person who is a 'victim' of the alleged regulatory misconduct or a 'witness of fact' (e.g. employee/officer of the operator subject to the investigation, outsourced service provider, auditor, etc).

2. Does a person being interviewed by the GSC have a right to legal advice?

- 2.1. In the context of a regulatory investigation using compulsion powers, the person being required to attend before the GSC has no right in law to be provided with access to legal advice².
- 2.2. Notwithstanding that no legal right of access is afforded to the person, the GSC would recommend that any person subject to an interview of this nature, seeks independent³ legal advice.

3. Self-incrimination

- 3.1. Any statement made by a person in response to being required to attend and answer questions (see 1.1 above) cannot be used against that person in respect of criminal proceedings, except proceedings relating to a contravention of section 10(2) of the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018 or Schedule 2 to the Gambling Supervision Act 2010.
- 3.2. A person will be notified in advance where responses provided may be used in criminal proceedings against them.

¹ For example, section 12 of the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018 (the "Act")

² The right of a person to free independent legal advice only exists under criminal law, for example, Part 6 etc of the Police Powers and Procedures Codes Order 2014 and section 61 Police Powers and Procedures Act 1998

³ It is often the case that a licence holder that is being investigated will 'provide' an advocate to, e.g. any employee who is being interviewed by the GSC as part of that investigation. In those circumstances it is for the advocate to manage their own actual, or potential, conflicts of interest.

4. Notes for advocates

- 4.1. The GSC will seek to positively engage with any advocate appointed to advise a person in any aspect of their interactions with the GSC.
- 4.2. The GSC will have regard to all known relevant factors in reasonably considering any request by a person to have an advocate attend the interview and to agree, if necessary, a revised date and time for the interview to take place. For the avoidance of doubt, the GSC will typically welcome and permit attendance at interview by an advocate.
- 4.3. Notwithstanding the above, the GSC reserves the ability and discretion to determine if any advocate attending is, in the opinion of the authorised persons conducting the interview, unduly impacting the conduct of the interview (for example, through repeated interruption⁴) to either (a) terminate the interview, and/or (b) refuse to allow the advocate's attendance during any continuation of the interview.
- 4.4. The GSC will afford the opportunity to the person and advocate for breaks during an interview and, on a best endeavours basis, will seek to advise persons attending of the anticipated timescale of any interview.
- 4.5. Interviews of this nature conducted by the GSC will be audio recorded. At the conclusion of the interview attendees will be provided with a Notice by the GSC explaining what happens to those audio records.
- 4.6. Attendees at a regulatory interview may become aware of information that is restricted in terms of Schedule 2 to the Gambling Supervision Act 2010. A person who contravenes Paragraph 1 of Schedule 2 to the Gambling Supervision Act 2010 is guilty of an offence.

This document is correct at the date of publication but is subject to change from time to time.

⁴ having full regard that a person has to answer the question asked.