

THE DEPARTMENT OF INTERNAL AFFAIRS

Te Tari Taiwhenua

GAMING & CENSORSHIP REGULATION GROUP

ENFORCEMENT POLICY

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1 Introduction

GCR operates within a clearly defined regulatory framework as set out in Figure 1 below.

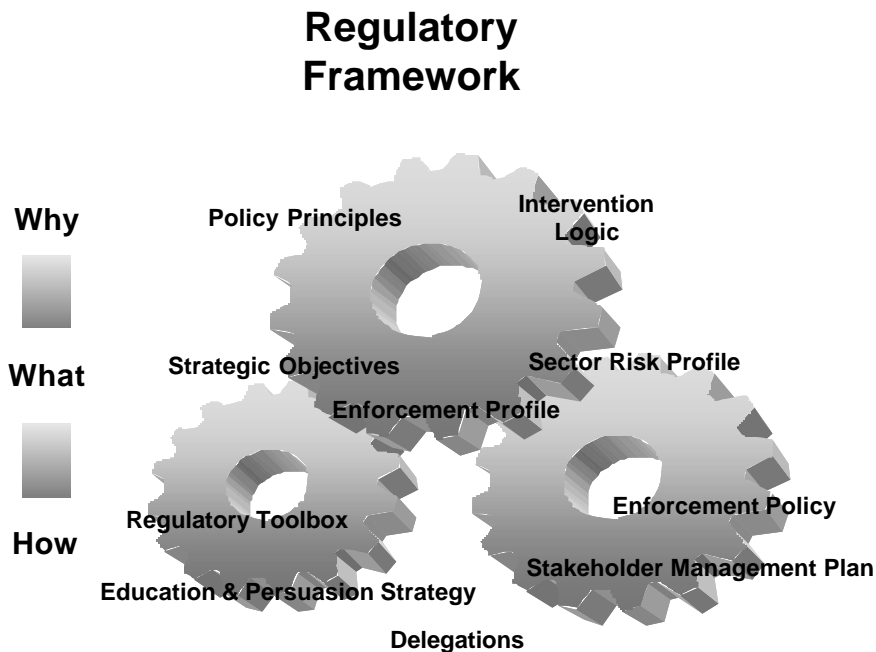


Figure 1: The GCR Regulatory Framework

The **enforcement policy** is a key element of the framework. It will guide decisions about how we deal with identified problems and when we take enforcement action. This document is not only intended to describe policy. It is also intended to provide a practical guide to decision making in respect to investigations and enforcement action.

Keith Manch
Director
Gaming & Censorship Regulation Group

2 Scope

This policy document covers enforcement activity in both the casino and non-casino areas.

It is one of a number of policy and other documents providing guidance and instruction in respect of GCR's compliance and enforcement activity.

Note this policy does not apply to GCR's censorship responsibilities.

3 Regulatory Context

3.1 Strategic Framework

GCR's **strategic focus** is to:

- Ensure that the gaming sector operates with integrity and that gaming activities are fair and lawful
- Keep New Zealanders safe from objectionable publications and uphold community values on censorship.

In support of this, there are four **key objectives** that will be addressed over a three-year horizon with respect to the gaming sector:

- Increasing compliance in the non-casino gaming sector.
- Increasing returns to the community from non-casino gaming operations.
- Preventing and minimising the harm caused by gambling in the casino and non-casino sectors
- Developing casino compliance activities to address criminal activities.

The next aspect of GCR's strategic framework is a **risk profile** for the gaming sector.

The risk profile will guide GCR in respect to which aspects of the gaming sector will be the subjects of most attention in any period of time. The purpose of developing a risk profile is to ensure that there is a systematic process of considering where our resources should be applied that is related to the actual risks or problems that need to be managed. The risk profile will be developed in the context of gambling legislation.

During the 2003-2005 period the key areas of focus will be class 3 and 4 gambling as defined in the Gambling Act. For the 2005-2006 year and beyond GCR will engage in a sector risk profiling exercise as part of annual business planning.

In support of the strategic focus, risk profile and three key objectives GCR has an **enforcement profile**. This profile sets out what we will take responsibility for. Matters that come to our attention that are outside of this profile will be referred to other relevant agencies for any action they deem appropriate.

The enforcement profile is underpinned by the principle that GCR will take responsibility for dealing effectively with regulatory and compliance problems in the gaming sector.

GCR's enforcement profile states that we will deal with:

- All breaches of gambling legislation, regulations, licence conditions, game rules and minimum operating standards including, but not limited to:
 - Returns not to authorised purpose
 - Site owner involvement in the grants process
 - Grant applicants' "double dipping"
 - Grant recipients' legitimacy

- Unlicensed operations or operator
- Unapproved or unlicensed equipment (including table games and associated equipment)
- Fraud by participants in the gaming sector
- Issues relating to participants suitability to remain in the gaming industry e.g. COA holders
- Harm minimisation issues
- Under age participants
- Money laundering
- Cheating, collusion
- Breaches of minimum standards
- Breaches of minimum operating standards

Issues covered by this profile will remain the responsibility of GCR from their identification to their resolution. Within the matters covered by the enforcement profile, where prioritisation is necessary, we will choose which matters to deal with according to criteria that direct us to matters that are of significance.

While the enforcement profile defines *what* matters we will deal with, ultimately *how* we deal with those matters (another way of looking at this is *when* we will apply particular interventions) will be determined in terms of the prevailing licensing rules and enforcement policy.

The **enforcement policy** will guide decisions about how we deal with identified problems (within the parameters of the enforcement profile) and when we take enforcement action. The enforcement policy is set out in sections 4-9 of this document.

An
GCR's

outline of
strategic

Strategic Framework



framework is shown in figure 1.

Figure 2: The GCR Strategic Framework

3.2 Regulatory Tools

In support of this overall approach GCR has adopted a problem-solving philosophy using a balance of tools to address underlying problems in the sector. The tools that will be used are captured in the GCR's **Regulatory Pyramid**¹, as shown in figure 3 below.

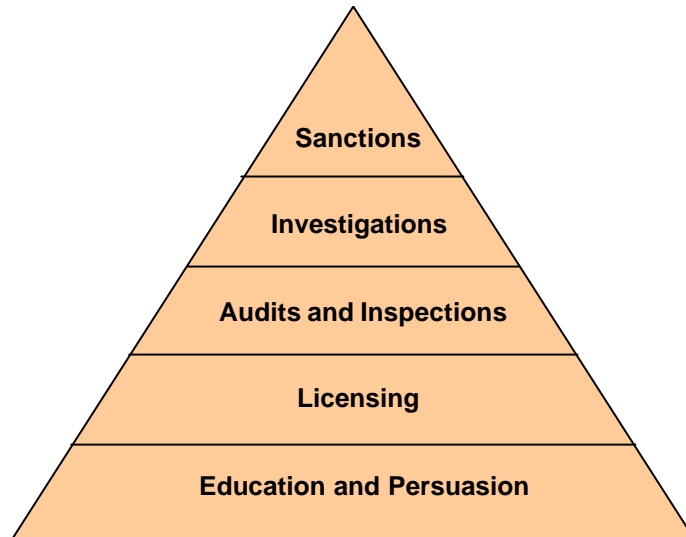


Figure 3: The GCR Regulatory Pyramid.

Education and persuasion is at the base of the pyramid on the basis that the best outcomes will be achieved when there is a high degree of voluntary compliance with the law. As a starting point the assumption is that voluntary compliance is more likely when those required to comply understand what it is they need to comply with.

Education and persuasion is also the mildest type of intervention and can be used in a “positive” sense.

Licensing (for new applications) is at the next tier because it is an intervention that is applied to many (but not all) in the gaming sector. Licensing (new applications) is a “pre market” intervention that is still arguably “positive”. Licensing actions (cancel, suspend, refuse to renew, amend or revoke conditions etc) can also be regarded as sanctions where such decisions are taken following initial licensing action, in response to a problem.

Audits and inspections are next – they are applied quite widely, but not as widely as licensing, or education and persuasion. Audits and inspections are “post market” interventions – they contain a component of education and persuasion and are more interventionist, with the distinct possibility of leading to enforcement activity.

¹ The regulatory Pyramid was first developed by John Braithwaite and Ian Ayres. See Ayres, I. and Braithwaite, J. 1992, *Responsive Regulation: Transcending the Deregulation Debate*, Oxford University Press, New York.

Investigations are next – they generally follow from audits and inspections or the identification of problems by other means e.g. complaints or intelligence reports. When an investigation is being conducted there is a likelihood that it will result in some form of sanction.

Sanctions are at the top of the pyramid – they usually apply after one or other of the previous tools has been used. This does not mean that we must always undertake a prior intervention, such as an education exercise, before imposing sanctions – it just means that sanctions are usually the final step in enforcement.

The **enforcement policy** is about how we decide when to engage in activities in the top two tiers of the pyramid.

4 Approach to Enforcement

4.1 Approach

GCR's approach to enforcement in the gaming sector is aimed at using the most appropriate tools to achieve the highest possible levels of voluntary compliance over time.

In determining our approach the key driver is the focus on supporting the community's interests by ensuring fairness, integrity, increased returns from non-casino gaming, minimising harm and dealing with corrupt practices.

While many in the gaming sector operate according to the law, because of the amount of money involved and the relatively high level of business ability required for full compliance, there are those that do not. GCR is committed to taking action to ensure widespread compliance with the law.

GCR's approach to enforcement is active, firm and flexible depending on the circumstances of each issue. We will act in a way that is fair, balanced and proportional to the nature of the problems we are addressing.

4.2 Principles

The following are the general principles underpinning our enforcement policy:

- Our approach should ensure, as far as possible without compromising the principles of the legislation, the maintenance of positive gaming sector attitudes towards the regulatory system, since these attitudes largely determine the level of "voluntary compliance". Enforcement cannot substitute for low levels of voluntary compliance.
- Enforcement activities should be viewed primarily as a means of encouraging compliance². Enforcement policies should be driven by whether the intervention decision increases compliance directly and contributes to higher levels of voluntary compliance over time. It should not be driven by a desire to maximise the number of enforcement actions or "notches in the belt".
- In each case the enforcement action taken will be consistent with the aim and intent of the legislation and proportional to the problem and the risk associated with that problem (i.e. the relative significance of breaches will be considered and reflected in the nature and scale of the interventions proposed). While we will take a firm and active approach to regulation of the gaming sector, any actions contemplated must be weighed against a balanced and proportional approach to enforcing the law.

² This reference to compliance means "obedience by a target population with regulatory rules or with government policy objectives"

4.3 Policy Elements

The enforcement policy as described in this document consists of four elements:

- The activities that lead to consideration of whether to investigate, and/or intervene in some way.
- Guidance on how to select which matters to pursue by way of investigation and how to determine the appropriate intervention³
- The type of interventions available
- Guidance on how to ensure consistency and integrity of decision making in making enforcement decisions

³ In some cases a sanction may not be appropriate. For example It may appropriate to “do nothing” or institute a targeted education process

5 The Investigation and Enforcement Process

Investigation and enforcement activity will usually follow:

- A complaint⁴/information from the public or gaming sector
- Intelligence both internally and externally
- Inspector identification of an issue
- Routine or targeted compliance activity

A flowchart of the process is shown in Figure 4 below. The shaded area is the primary subject of this policy document.

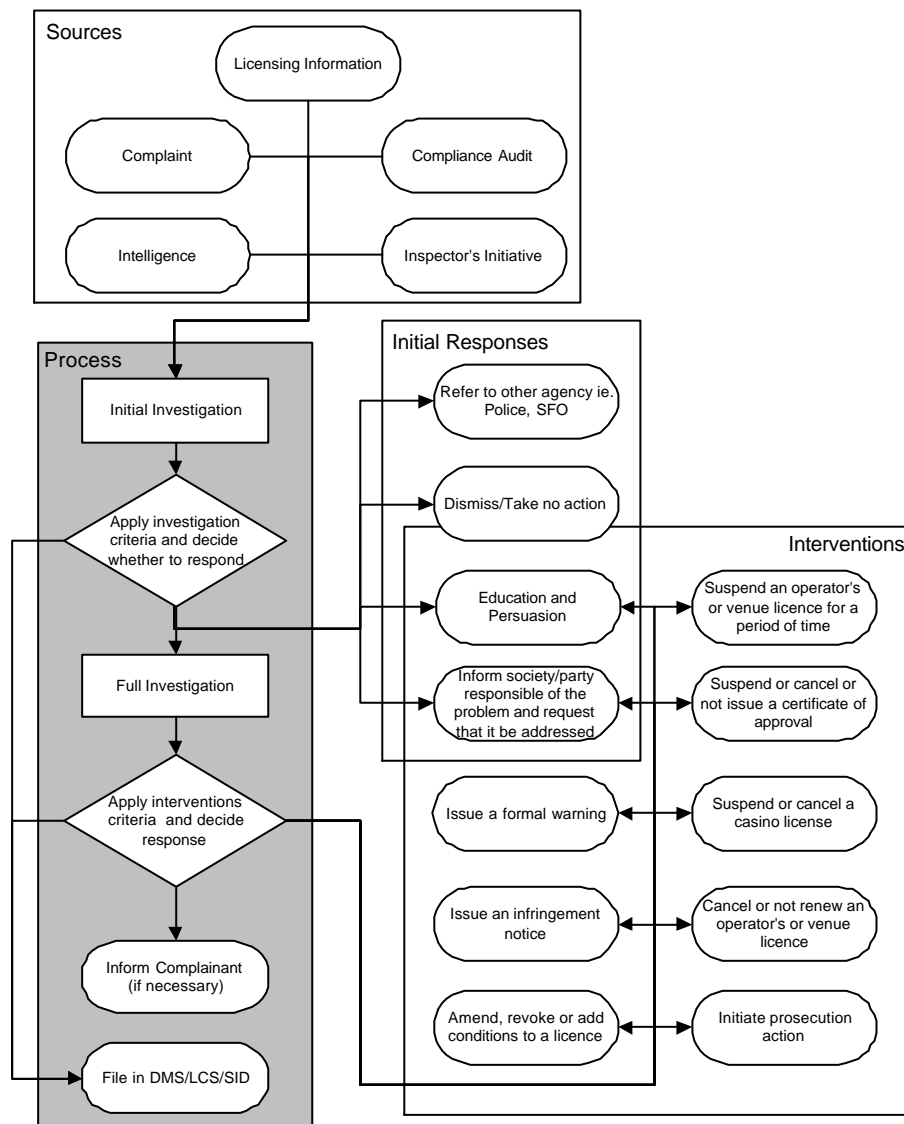


Figure 4: Enforcement Process

⁴ Note: Where the Secretary receives a complaint about the conduct of class 4 gambling at a particular venue or by the holder of a class 4 operator's licence there is a statutory duty to deal with it pursuant to section 81 of the Gambling Act 2003. The policy reflects this duty.

6 Criteria for Investigating

The decision to investigate or apply an intervention must be made for logical and sustainable reasons based on the criteria set out below. Investigations must be carried out professionally, thoroughly and objectively. This will ensure that, when the time comes to decide what action will be taken, the decision is based on clear and logical decision-making and investigative processes.

There are two stages to an investigation: the **initial** investigation and the **full** investigation. An **initial** investigation will be carried out in order to address the criteria for conducting a **full** investigation.

6.1 Undertaking an initial investigation

The **initial** investigation will include, amongst other things:

- Considering the validity of the complaint or information (is it able to be corroborated or substantiated?)
- Gaining an understanding of the matter at hand from the complainant or information received
- Checking relevant databases and information sources within GCR to determine whether similar complaints have been received about the organisations, persons or issues at hand
- Considering whether there are possible avenues of enquiry available to pursue the matter
- If necessary, contacting other agencies or organisations for relevant supporting/background information
- Considering whether the complaint or information discloses a potential breach of gambling legislation, regulations, licence conditions, games rules or minimum operating standards.

Following this **initial** investigation the criteria in section 6.1 should be addressed to identify whether a **full** investigation is warranted. If a **full** investigation is not warranted, information gained in the **initial** investigation needs to be recorded in appropriate databases and filed for two reasons:

- In respect to class 4 matters, so that the Department can respond to any complaint to the Gambling Commission about how the complaint was handled and
- In all cases, so that it is part of intelligence gathering and available for identifying trends or the need to take action on similar issues over time.

In respect to complaints about class 4 gambling, in terms of section 81 of the Gambling Act 2003, if an **initial** investigation does not support the need for a **full** investigation, where possible, the complainant must be notified of what action was taken (i.e. what form the **initial** investigation took and why the matter is not being further pursued).

In some cases the **initial** investigation may lead to an outcome that can be explained to the complainant. For example, the information may be used to support an educative approach or may have been passed on to the organisation complained about so that it can fix the problem. This kind of outcome is addressed in the **full** investigation criteria checklist attached at appendix A.

6.2 Undertaking a Full Investigation - Basis of Decision Making

This section reviews the criteria to be considered to reach a conclusion on:

- whether a **full** investigation is warranted,
- the relative priority of the issue and therefore
- the level of effort and resources to be applied

6.2.1 Investigation Criteria

The following are the questions/criteria to be considered. They are in an indicative order of importance. A guide containing these questions is attached as Appendix A. It is intended that this guide be used when considering whether or not to conduct a **full** investigation and form part of the supporting documentation for the case file.

- 1) Is there, on the face of it, any breach of the law, regulations, licence conditions, games rules, minimum standards or minimum operating standards?

This is a question of fact and should therefore be addressed first. The **initial** investigation will provide the answer to this question.

- 2) Is the issue considered significant in itself, or significant because it forms part of a sequence of minor but persistent breaches, or could it be described as a one off minor breach of the letter of the law or a technical (game rule/minimum operating standards) requirement?

The issue is more likely to be significant if it has the potential to involve or result in:

- a reduction in funds available for community purposes
- personal or commercial gain
- compromising the integrity of gambling equipment or casino operations
- dishonesty or unlawful conduct
- adverse affect on the minimisation of harm resulting from gambling
- disclosure of other, more serious matters, e.g. fraud or money-laundering.

Additionally, if the matter relates to a breach that carries a large penalty (compared to a small penalty) this will contribute to its assessment as being “significant”.

Overall, there are a number of comparative tests that should be applied to determine the relative level of significance and therefore the degree of risk and impact on compliance. The issue should be considered in absolute terms i.e. on its own how significant is it, relative to other breaches or problems identified or already under investigation, relative to the size and risk of the society and finally in the context of the sector as a whole.

3) Was the breach deliberate?⁵

It is important to consider whether the breach was deliberate or unintentional. The **initial** investigation should deal with this assessment. If unintentional and the offending party, for example, took steps to rectify the situation as soon as they were made aware of it, then a **full** investigation is unlikely to be warranted. If however, the issue was an indication of a systemic problem – it was part of a pattern of recurring or persistent breaches – then it may be deliberate and be considered significant.

4) If it is an obvious breach, but only at the minor or technical level, could a valuable precedent or deterrent result from **full** investigation?

If there are wider policy or other precedent-setting benefits to be gained from enforcement action then an investigation may be warranted. The discretion needs to be available to take serious action for less serious matters if, for example, it is part of a planned project to “clean up” an aspect of the sector where there might be systemic levels of non-compliance, or it is consistent with our stakeholder management of a particular society, casino or operator.

⁵ Under the Gambling Act many breaches are of “strict liability” ie the Act states that a certain thing shall or shall not be done, without any reference to the state of mind. The intention of this criterion is to focus on whether the breach was deliberate *regardless* of whether it is strict liability (which is an evidential matter, not a matter that relates to its significance in the context of this criterion).

7 Intervention Criteria

Following a **full** investigation, or other compliance activity that identifies the need for an intervention, the decision to apply an intervention must be made for logical and sustainable reasons based on the criteria set out in 7.1 below. This issue is discussed further in Section 9.

7.1 Applying an Intervention - Basis of Decision Making

This section reviews the criteria to be considered to reach a conclusion on:

- whether to apply an intervention
- what sort of intervention to apply.

7.1.1 Intervention Criteria

The following are the questions/criteria to be considered. They are in an indicative order of importance. A guide containing these questions is attached as Appendix B. **It is intended that this guide be used when considering whether or not to apply a sanction or some other form of intervention and form part of the supporting documentation for the case file.**

- 1) Is there sufficient evidence to support the action proposed? (Note: care needs to be taken to ensure that the “strength” of the evidence is appropriate to the nature of the action that will be taken – consider the difference between criminal action that requires *proof beyond a reasonable doubt*, the civil requirement of *on the balance of probabilities* and the requirement in respect to various licensing provisions of the Gambling Act to be *satisfied*).

This should be confirmed by legal advice where there is *any* doubt or need for clarification.

- 2) Is the breach significant?

The issue is likely to be significant if it has the potential to involve or result in:

- a reduction in funds available for community purposes
- personal or commercial gain
- compromising the integrity of gambling equipment or casino operations
- dishonesty or unlawful conduct
- adverse affect on the minimisation of harm resulting from gambling
- disclosure of other, more serious matters, e.g. fraud or money-laundering.

Additionally, if the matter relates to a breach that carries a large penalty (compared to a small penalty) this will contribute to its assessment as being “significant”.

There are a number of comparative tests that should be applied to determine the relative level of significance and therefore the degree of risk and impact on compliance. The issue should be considered in absolute terms i.e. on its own how significant is it, relative to other breaches or problems identified or already under investigation, relative to the size and risk of the society and finally in the context of the sector as a whole.

3) Was the breach deliberate?⁶

It is important to consider whether the breach was deliberate or unintentional. If unintentional and the offending party, for example, took steps to rectify the situation as soon as they were made aware of it, then further, or lower level action only may be warranted. If however, the issue was an indication of a systemic problem – it was part of a pattern of recurring or persistent breaches – then it may be deliberate and be considered significant.

4) If it is an obvious breach, but only at the minor or technical level, are there other reasons for applying an intervention?

The discretion needs to be available to take serious action for less serious matters f, for example: it is part of a sequence of minor but persistent breaches by the same individual or group; it is part of a planned project to “clean up” an aspect of the sector where there might be systemic levels of non-compliance; it is consistent with our stakeholder management of a particular society or operator⁷; it might create a valuable legal precedent or deter further breaches across the sector.

5) Given the interventions available, what is the most appropriate in respect to the significance of the identified breach? Are there any other mitigating factors?

Finally, it is also important to consider, as part of the recommendation, who *committed* the breach and who should bear the liability or responsibility for it -for example, if a breach of a Game Rule was committed by a venue operator, was the venue operator *alone* liable, or was there a “joint” responsibility - by the venue operator to do a certain thing and also a responsibility by the licence holder (the society) to *ensure* that it was done? Similarly, breaches committed by key persons, venue operators or managers etc may be beyond the knowledge or control of the society concerned and where the legislation, rule, licence condition has made provision for it, it is more likely to be appropriate that the intervention be directed at the actual offender, rather than the society itself?

7.2 Summary

Sections 6 and 7 provide a framework within which decisions can be made on investigations and interventions. The guidance material in Appendix A and B is designed to assist in this decision-making.

⁶ Under the Gambling Act many breaches are of “strict liability” i.e. the Act states that something shall or shall not be done, without any reference to the state of mind The intention of this criterion is to focus on whether the breach was deliberate *regardless* of whether it is strict liability (which is an evidential matter, not a matter that relates to its significance in the context of this criterion).

In practice however it is not merely a matter of whether the “yes” answers outnumber the “no” answers. Rather it is a matter of weighing up the “yes” answers against the “no” answers and reaching a conclusion on an overall balance of the relevant considerations. Each case will ultimately rest on its own merits, and, in some cases, certain additional factors will contribute to the decision made.

8 Interventions

8.1 Hierarchy of Interventions

Where breaches are identified as a result of an investigation or other process a variety of interventions, including sanctions can be applied. The available interventions are described in the table 5 below, in respect to two factors – the scope of their application and the time horizon over which they are applied. In applying any intervention there are two issues to be addressed by decision makers:

- The degree of seriousness of the breach identified
- The appropriate, corresponding level of response required (i.e. intervention or sanction to be applied)

The criteria to assist in determining the seriousness of a breach are covered in Section 7. Determining the appropriate intervention to be applied is a matter of judgment based on the estimation of the seriousness of the breach identified.

| Intervention | Applies to: | Time Horizon | Degree of Intervention |
|---|--------------------------------------|-------------------------|------------------------|
| Initiating prosecution action [sanction] | All | Permanent | Very High |
| Cancellation or non renewal of an operator's licence [sanction] | Society | Permanent | Very High |
| Application for suspension or cancellation of a casino licence [sanction] | Casino Operator | Temporary/ Permanent | Very High/High |
| Suspension of an operator's licence [sanction] | Society | Temporary | High |
| Not issuing or seeking the suspension or cancellation of a COA [sanction] | Casino staff | Temporary/ Permanent | Medium |
| Cancellation of venue licence [sanction] | Society | Permanent | Medium |
| Suspension of venue licence [sanction] | Society | Temporary | Medium |
| Amend, revoke or add conditions to a licence | Society and/or venue | Permanent | Medium/High |
| Issuing an infringement notice [sanction] | Society/Venue/Casino Operator/Patron | Immediate/ Temporary | Medium |
| Warning | Society, Casino operator or venue | Temporary | Low |
| Request to address a problem* | Society, Casino Operator or venue | Temporary | Very Low |
| Educative approach to dealing with an issue* | All | Temporary/ Targeted | Very Low |

Figure 5: Interventions Hierarchy

Note: Interventions marked with * may be used following an **initial** investigation *or* a **full** investigation. All others can only be used following a **full** investigation.

This suggested hierarchy is indicative only.

There is no need to start at the bottom and work up. There is no obligation, for example, to issue a formal warning before taking stronger action. Decision makers have the ability to go straight to whatever intervention is considered appropriate given the circumstances and the judged seriousness of the breach in each case.

A fuller description of each available intervention is included in the GCR Enforcement Manual.

9 Consistency and Integrity of Decision Making

9.1 Why it is Important

GCR has significant powers to intervene as part of its regulatory mandate. It is important that the decisions made regarding enforcement activity *are and can be shown to be* robust and consistent for the following reasons:

- To ensure the decisions made reinforce the principles of enforcement being a means of encouraging compliance and ensuring the maintenance of positive attitudes towards the regulatory system by businesses and the community (refer section 4.2: Principles)
- The decision made and subsequent enforcement actions are likely to adversely affect a licence holder – therefore it is important that the principles of natural justice are applied
- More serious interventions are likely to cause controversy and be challenged by societies, casino operators or individuals in court
- The decisions made and the process by which those decisions are reached are capable of being examined by a court through the process of Judicial Review, the Gambling Commission or by the Ombudsman

9.2 Issues for Decision Makers

The following are the grounds on which a decision may be open to challenge by judicial review. They form the key issues for decision makers to consider when making decisions that affect licence holders. These issues have been integrated into the investigation and intervention criteria frameworks at appendix A and B.

Improper purpose

A decision is made for an improper purpose when a decision-maker bases the decision on reasons that are not contemplated by the Act that provides the discretion. An example would be where a licensing officer declines a site approval because the officer believes there are too many gaming machines in New Zealand when the purpose of the Gambling Act is only to restrict gaming activities that are operated for commercial gain (outside casinos) and not gaming generally.

Relevant and irrelevant considerations

A decision must take into account relevant factors and disregard irrelevant ones. Similar to *Improper purpose* above, a decision that takes into account personal views or does not take account of the objectives of the Act would be an at risk decision.

Error of Fact

A decision must be supported by facts. Decision-makers must be careful to confirm that facts are accurate and not take into account opinions or hearsay. Breaches of the legislation or licence conditions must be established by independent evidence.

Application of a predetermined policy

Though it is acceptable to adopt and apply policy that is general in nature, decision-makers must always be prepared to consider special or unusual circumstances.

Acting under dictation

It is natural for a decision-maker to consult and seek advice and guidance from others, but when a decision is made it must be based on the facts of the case rather than a directive from a manager or other person of higher authority not well acquainted with the facts.

Invalid delegation

Decision-makers must understand the scope and limits of their authority. The delegations that apply to inspectors' authority are contained in the GCR Enforcement Manual.

Unreasonableness

Usually a judicial review will only examine the decision making process, however, in recent times, judges have been willing to examine the decision itself. Provided the decision reached is one that a reasonable person would make given the facts of the case, and the relevant policy is itself reasonable, the decision should be safe from attack on this ground.

Natural justice

This means ensuring that persons adversely affected by decisions made have prior notice of them and are given a reasonable opportunity to make submissions about them. In addition to the grounds discussed above, adherence to the principles of natural justice requires that before a decision is made that adversely affects any person:

- the person is informed of GCR's concerns and the reasons for them;
- the person has adequate time to provide explanations or make submissions and where appropriate rectify the breach
- GCR considers any submissions and is prepared to change its decision in light of the submissions;
- the person is made aware of the implications and consequences of the proposed action.

9.3 Decision Making Process

Figures 6 & 7 below are flow charts of the processes to be followed when a decision is being made to investigate or to apply an intervention. The process takes into account the following controls to ensure that decisions made are robust and consistent:⁷

- The criteria for investigating outlined in this policy document are applied at two levels - Inspector and Senior Inspector 2/Regional Manager
- The criteria for applying interventions outlined in this policy document are applied at two levels – Inspector and Regional Manager, along with being discussed at the Sanctions Group (refer 9.4 below)
- Standard and consistent documentation is used (refer Appendix A and B)
- Decisions and associated documentation are recorded by way of case notes in DMS to ensure that a body of precedent is established for future use

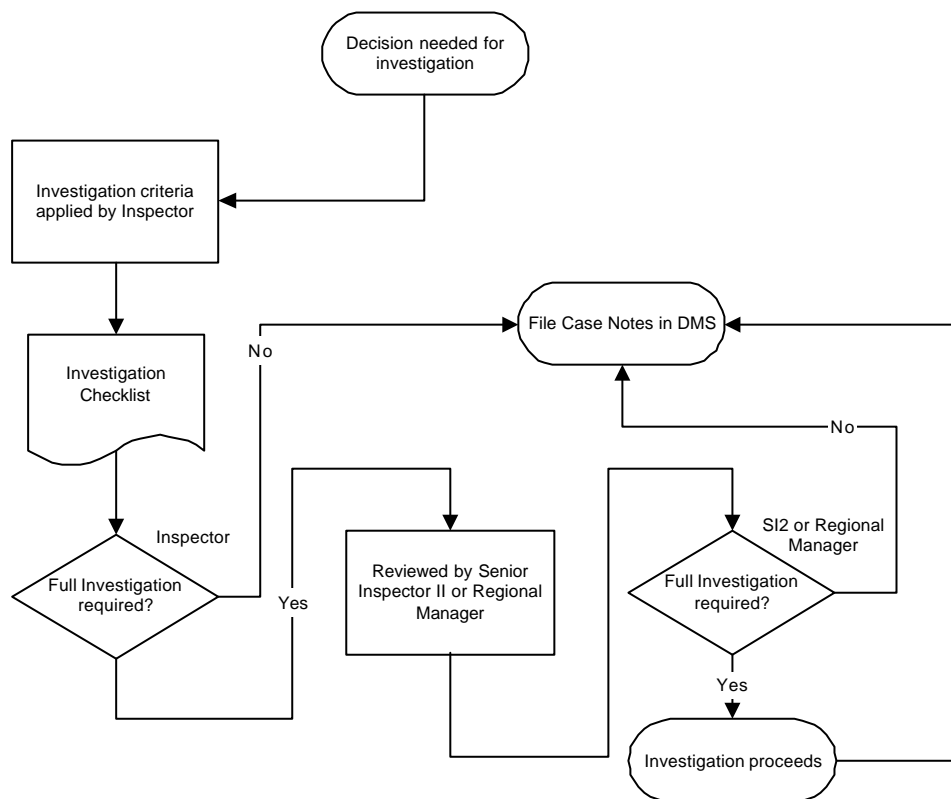


Figure 6: Investigation Decision Making Process

⁷The decision-making processes outlined in Figures 6 & 7 would only apply to major investigations. Lower level investigations (e.g. detection of minors) are usually initiated and dealt with by the inspector on the spot. The use of infringement notices may be applicable for this type of breach.

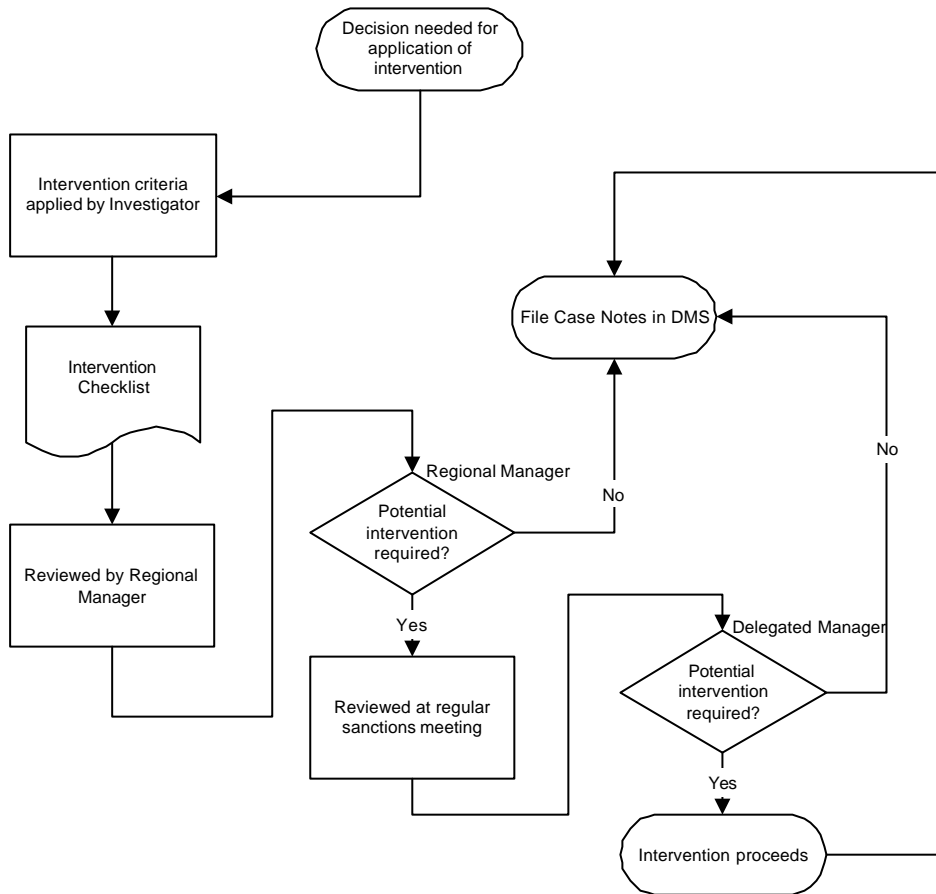


Figure 7: Interventions Decision Making Process

9.4 Sanctions Group

The purpose of the group is to ensure that decisions about interventions are being applied consistently across the country and the gaming sector. It is intended that this group will discuss what interventions are being considered or proposed following investigations.

This group includes relevant managers and is often attended by operational policy advisors. The person with the appropriate delegation will still make decisions. The sanctions group has an advisory role.

9.5 Summary

The outcomes being sought are for our regulatory decisions to:

- Encourage not deter compliance
- Stand up to scrutiny if challenged
- Be consistently applied

Having a policy that includes clear criteria to guide decision-making and a process of information sharing to ensure quality and consistency of decision-making will assist us to achieve these outcomes.

10 Appendices

APPENDIX A: INVESTIGATION CRITERIA

| Criteria – to be completed as part of the initial investigation process – leading to decision to undertake full investigation or complete the investigation process | Reasons/Comment – this column must contain comments/analysis supporting the decision in accordance with section 6 |
|---|---|
| 1) Is there, on the face of it, any breach of the law, regulations, licence conditions, games rules or minimum operating standards? | |
| 2 Is the issue considered significant in itself, or significant because it forms part of a sequence of minor but persistent breaches, or could it be described as a one off minor breach of the letter of the law or a technical (game rule/minimum operating standards) requirement? Consider the potential to involve or result in: <ul style="list-style-type: none"> • a reduction in funds available for community purposes • personal or commercial gain • compromising the integrity of gambling equipment or casino operations • dishonesty or unlawful conduct • adverse affect on the minimisation of harm resulting from gambling • disclosure of other, more serious matters, e.g. fraud or money-laundering. Additionally, if the matter relates to a breach that carries a large penalty (compared to a small penalty) this will contribute to its assessment as being “significant”. | |
| 3) Was the breach deliberate? | |
| 4) If it is an obvious breach, but only at the minor or technical level, could a valuable precedent or deterrent result from a full investigation? | |



| | |
|--|---|
| Based on the above assessment the appropriate action in this matter is: | <ul style="list-style-type: none"> • use information for education & persuasion • inform society/party responsible of the possible problem and request that it be addressed • full investigation required • no further action required • other action e.g. refer to another agency <div style="border: 1px solid black; width: 300px; height: 20px; margin-left: 100px;"></div> <div style="border: 1px solid black; width: 60px; height: 20px; float: right; margin-top: 10px;"></div> <div style="border: 1px solid black; width: 60px; height: 20px; float: right; margin-top: 5px;"></div> <div style="border: 1px solid black; width: 60px; height: 20px; float: right; margin-top: 5px;"></div> |
| Inspector/Investigator Name/Signature | |
| Senior Inspector 2/Regional Manager sign off | Comment |
| 1. Have you checked that the facts are accurate? | |
| 2. Have you taken into account all relevant matters and disregarded irrelevant matters? | |
| 3. Have you considered the merits of the particular case and not simply applied a pre-determined policy? | |
| 4. Are you being consistent with previous practice or expressed policy or representations made? | |
| Any other comments or instructions? | |
| Senior Inspector 2/Regional Manager Name/Signature | |
| Date | |

APPENDIX B: INTERVENTION CRITERIA

| Criteria – to be completed following a full investigation | Reasons/Comment |
|---|-----------------|
| 1) Is there sufficient evidence to support the action proposed? (Note: care needs to be taken to ensure that the “strength” of the evidence is appropriate to the nature of the action that will be taken – consider the difference between criminal action that requires <i>proof beyond a reasonable doubt</i> , the civil requirement of <i>on the balance of probabilities</i> and the requirement in respect to various licensing provisions of the Gambling Act to be <i>satisfied</i>). | |
| 2) Is the breach significant? Consider the potential to involve or result in: <ul style="list-style-type: none"> • a reduction in funds available for community purposes • personal or commercial gain • compromising the integrity of gambling equipment or casino operations • dishonesty or unlawful conduct • adverse affect on the minimisation of harm resulting from gambling • disclosure of other, more serious matters, e.g. fraud or money-laundering. Additionally, if the matter relates to a breach that carries a large penalty (compared to a small penalty) this will contribute to its assessment as being “significant”. | |
| 3) Was the breach deliberate? | |
| 4) If it is an obvious breach, but only at the minor or technical level, are there other reasons for applying an intervention? | |
| 5) Given the interventions available, what is the most appropriate in respect to the significance of the identified breach? Are there any other mitigating factors? | |
| 6) Have you taken into account all the relevant matters and disregarded irrelevant matters and checked that the facts are accurate? | |
| 7) Have you considered who <i>committed</i> the breach and who should bear the liability or responsibility for it? | |

| | |
|--|--|
| pre-determined policy? | |
| <p>4. Have you discussed this at a “Sanctions Group” meeting?</p> <p>Are you being consistent with previous practice or expressed policy or representations made?</p> | |
| Any other comments or instructions? | |
| Regional Manager name/Signature | |
| Date | |
| Final Decision Maker (where appropriate – post proposal to suspend/cancel etc) | |
| 1. Are you the person with the legal authority to make this decision? | |
| 2. Do you have an association with the affected parties or an interest in the subject matter of the decision that might lead to a potential or perceived conflict of interest in relation to the decision? | |

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| 3. Have you identified any person adversely affected by your proposed decision? If a sanction is being proposed have any such persons been fully informed of the nature of the proposed decision and been given an opportunity to make representations about it? | |
| 4. Has proper consideration been given to those representations and is this apparent from your recommendation? | |
| 5. Have you clearly set out all the reasons for your recommendation? | |
| 6. Are you satisfied that all interested parties have been treated fairly and the decision is a reasonable one? | |
| Name/Signature | |
| Date | |