

ISLE OF MAN GAMBLING SUPERVISION COMMISSION

Guidance
Integrity Controls
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Contents

Why we conduct “integrity” checks	4
The legislation	4
Integrity checks	4
Causes for concern	5
Consideration of causes for concern	5
Decision-making process	7
Right of appeal	7

Why we conduct “integrity” checks

Regulation exists where there is a risk that -

- ❖ dishonesty could affect the fairness of goods or services that are delivered to the public;
- ❖ criminals could benefit from the activity;
- ❖ the public could be harmed or have their interests harmed by consuming the products of the industry.

We apply “integrity” checks to the people that own or control gambling operators in order to prevent unsavoury, dishonest or criminal actors from entering the Island’s regulated gambling sector.

This document provides guidance in respect of “integrity” checks only. It does not extend to checks on capability or capacity that apply to certain roles.

The legislation

A range of primary and secondary law applies to the Island’s gambling sector including the Online Gambling Regulation Act 2001, the Casino Act 1986, the Gaming (Amendment) Act 1984 and the Gaming, Betting and Lotteries Act 1988. The application, extent and precise wording of entry controls does vary across each of these legal instruments. The term “integrity” is used throughout this guidance as an umbrella term to describe the checks carried out under any and each of these instruments.

Integrity checks

Integrity checks are carried out as part of a licence application, when there are changes to the ownership and control of an operator and periodically thereafter. Checks include a review of information provided to the GSC by the applicant, licence holder or individual plus public domain research and other information sources such as other competent authorities or regulatory counterparts. The extent of the checks carried out will vary depending on the nature of the operator, the individual’s role and any relevant risk factors.

Causes for concern

The below list provides examples of matters that will cause concern to the GSC regarding a person's integrity, may cause delay or refusal of an application or could call into question the ownership and control of an existing operator. This is not an exhaustive list and other matters may also be considered.

- ❖ Withholding information from the GSC.
- ❖ Providing false or misleading information to the GSC.
- ❖ Serious or repeat failings of GSC or equivalent off-Island requirements.
- ❖ Allegation, charge or conviction of a criminal offence.
- ❖ Evidence of association with criminal elements.
- ❖ Criticism made by a court, tribunal or enquiry.
- ❖ Settlements (including voluntary settlements and settlements in lieu of proceedings).
- ❖ Negative information received from law enforcement or other competent authorities.
- ❖ A disqualification or undertaking under the Company Officers Disqualification Act or equivalent off-Island.
- ❖ Disciplinary or expulsion from a professional body or previous employer.
- ❖ Evidence of engaging in illegal, deceitful, oppressive or improper business practices.

Consideration of causes for concern

The GSC will consider identified causes for concern and make a determination regarding a person's integrity based on the factors below. The possible outcomes are that the GSC -

- ❖ is satisfied regarding integrity and appointment may take place/continue;
- ❖ is not satisfied and the appointment may not take place/continue;
- ❖ has some concerns and mitigates any perceived risk through limiting the nature of extend of appointments or by imposing ongoing and enhanced due diligence measures.

Factors for consideration -

1. Honesty and cooperation

The GSC strives for open and honest communication with the sector. Operators/applicants/individuals are urged to proactively bring matters that may concern to the GSC's attention at the earliest opportunity and to cooperate in a timely and honest way regarding any enquiries. Discovery of matters that were known but not disclosed will be taken seriously.

2. The reliability of the source of information

Information can come from a wide range of sources with varying credibility. The presence of adverse media is viewed neutrally by the GSC. Each point detected by the GSC will be compared against the declarations that people have made and the GSC will seek and evaluate the explanations that people supply.

The GSC will expect that operators/applications/individuals will have looked for adverse media in anticipation of the application, and have supplied their explanation, including any efforts at correction they have made.

3. The seriousness of the matter

Consideration will be given to whether the information can be categorised as rumour, allegation, charge or conviction (or equivalent for non-criminal matters).

Association with known miscreants is not an automatic bar to licensing, but the relationship must be exonerated i.e. be shown to be incidental to any wrong-doing and formal or informal influence.

Evidence of evasion of justice, where a competent authority has pronounced a sanction and the subject has fled, is highly prejudicial to the GSC in considering that a person is of integrity.

Multiple causes for concern are considered more seriously than a single instance.

4. When the matter occurred

Consideration will be given to the length of time that has elapsed since the matter occurred, including, in relation to criminality, whether a conviction is spent or unspent.

Matters that occurred in a person's youth or in a "previous life" prior to intervention or rehabilitation that caused a change in that person's outlook would be less concerning.

Where a person has operated a gambling setup in an uncertain market and has been overtaken by changes to the framework in that jurisdiction that make the status of gambling unambiguous, the historical business will be viewed sympathetically, but any continuation of business will need to be justified. The Commission will take a dim view of any operation that continues simply because of the perception that they are beyond any realistic reach of that authority to enforce.

5. Relevance to the operator and/or role

The GSC will consider the nature of the operator and the role of the person; money laundering reporting officer, designated official, beneficial owner, etc. and this will be compared to the nature of the issue.

For example, a conviction for a driving offence or public order offence would be less relevant than for fraud or conducting gambling without the necessary licence. Alcohol related offences would be more relevant to casino staff as the premises is licenced for alcohol consumption.

Decision-making process

Integrity checks carried are out by the GSC's Inspectorate who are employees of the GSC. Licensing decisions (including approvals for changes of ownership and control) are made by the Board. The Board is composed of Commissioners who do not work for the Inspectorate, but who take into account the Inspectorate's recommendations.

If the Inspectorate declines to recommend your request be approved at a Commission hearing, you can nonetheless request that the application be heard.

You can expect the Inspectorate to work hard against you during the hearing – after all, there is something about your request which they think carries an unacceptable risk – but you will be given a chance to represent your case and the Commission members are independent. If you are successful, the Inspectorate will consider itself over-ruled and your affairs will proceed normally from that point forward, subject to any additional measures or controls deemed appropriate.

Right of appeal

The GSC considers itself fair-minded and is prepared to service appeals to the Gambling Appeals Tribunal regarding licensing decisions. Outside of this formal appeals process, complaints may be made in writing to the GSC's Chief Executive Officer.