



Government of Western Australia
Gaming and Wagering Commission of Western Australia

Compliance and Enforcement Policy

Table of Contents

INTRODUCTION	3
The Commission	3
About this policy	3
Legislated objectives	3
Related legislation	4
REGULATORY POSTURE	5
REGULATORY PRIORITIES	5
Commission responsibilities	6
Expectations of regulated entities	6
APPROACH TO REGULATORY RISK	7
Risk appetite	7
Risk-based considerations	7
Managing the risk of regulatory capture	7
MANAGING COMPLIANCE	9
Compliance tools	9
Promoting and supporting compliance	9
Licensing and direction	10
Audits, Inspections and Investigations	10
Identifying the need for enforcement action	11
ENFORCEMENT ACTION	12
Considerations for an enforcement decision	12
Enforcement tools	13

The Gaming and Wagering Commission of Western Australia (the Commission) acknowledges the Aboriginal peoples of Western Australia as the Traditional Owners and Custodians of the land, waters and communities in which we operate, and we pay our respects to their Elders past and present. The Commission also acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community.

Introduction

The Commission

The Gaming and Wagering Commission of Western Australia (the Commission) is a statutory authority, established under section 4 of the *Gaming and Wagering Commission Act 1987* (**GWC Act**), and is responsible for controlling and regulating the conduct of gaming and wagering in Western Australia through the administration of the following legislation:

- *Betting Control Act 1954*
- *Casino (Burswood Island) Agreement Act 1985*
- *Casino Control Act 1984*
- *Gaming and Wagering Commission Act 1987*
- *Gaming and Wagering Commission (Continuing Lotteries Levy) Act 2000*
- *TAB (Disposal) Act 2019 (except Parts 1 to 5, other than section 27)*

The Commission also has functions under the *Racing and Wagering Western Australia Act 2003*.

About this policy

The Gaming and Wagering Compliance and Enforcement Policy provides the Department of Local Government Sport and Cultural Industries (DLGSC), the gaming and wagering industry, and the community of Western Australia guidance on the Commission's approach to compliance and enforcement by setting out the Commission's legislative framework, regulatory posture and regulatory priorities.

The policy provides high level guidance but does not reduce, extend or modify obligations or powers contained in legislation and associated instruments. The policy guides, but does not control, compliance related decisions. Therefore, if there is any inconsistency between the policy and the legislation under which a statutory function, power or discretion is exercised, the legislation will prevail.

This policy addresses item 4.2 of the Commission's strategic plan (Enhance GWC Regulatory Posture and Compliance and Enforcement Policy) and Perth Casino Royal Commission recommendation 41 that there be a Gaming and Wagering Commission policy regarding the regulatory posture that the Commission will adopt and how the Gaming and Wagering Commission Act will address the risk of regulatory capture.

Legislated objectives

The following table provides a summary of the legislation that informs the Commission's regulatory role and its key objectives.

Legislation	Objectives under the Act
<i>Gaming and Wagering Commission Act 1987</i>	<ul style="list-style-type: none"> ▪ Administer the law relating to gaming and wagering ▪ Review the conduct, extent, and character of gambling operations and the provision, use and location of gaming and wagering facilities ▪ Formulate and implement policies for the scrutiny, control, and regulation of gaming and wagering, taking into consideration the requirements and interests of the community and the need to minimise harm caused by gambling ▪ Consider, and where appropriate inspect, examine or investigate premises, gaming equipment, operations and persons concerned with gambling in relation to approval for permits or certificates ▪ Administer all matters relating to any casino complex, licensed casino, casino key employee, casino employee or gaming in a casino • Licences, permits approvals, authorisations and certificates for persons; premises; casinos; facilities; gaming and other equipment; and gambling operations ▪ Enforce, and to prosecute persons contravening, the laws relating to gambling ▪ Provide advice to the Minister on any matter relating to gaming and wagering and make recommendations in relation to gambling and fees and charges.
<i>Casino Control Act 1984</i>	<ul style="list-style-type: none"> ▪ Control gaming operations within the Casino ▪ Managing other matters incidental to or connected with the Casino. ▪ Remediation of management and operation of the Burswood Casino (in response to the Perth Casino Royal Commission).
<i>Casino (Burswood Island) Agreement Act 1985</i>	<ul style="list-style-type: none"> ▪ Specifies the agreement between the Minister and Crown regarding the construction and establishment of the casino complex at Burswood Island. ▪ Commission oversees Casino shareholdings greater than 10%, including probity assessments, and ordering the surrender of shares where appropriate.
<i>Betting Control Act 1954</i>	<ul style="list-style-type: none"> ▪ Authorise, regulate and control the use of totalisators and betting with a wagering licensee (bookmaker) ▪ Authorise, regulate and control, betting and bookmaking on races, events and contingencies relating to races and events.
<i>Racing and Wagering Western Australia Act 2003</i>	<ul style="list-style-type: none"> ▪ Oversee RWWA's conduct of totalisator and fixed odds wagering on racing, sporting events, other WA events and contingencies at sporting and other events. ▪ Monitor RWWA to ensure bookmakers and totalisators operate in accordance with the Betting Control Act 1954.

The *Gaming and Wagering Commission (Continuing Lotteries Levy) Act 2003* and regulations sets the Continuing Lotteries Levy for administration under the GWC Act. The *TAB (Disposal) Act 2019* can be enacted to amend legislation relative to the disposal (whole or part) of the TAB.

Related legislation

In addition to the direct responsibilities, the Commission recognises the need to provide oversight to gambling entities' efforts to comply with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (AML/CTF) requirements and ensure appropriate interventions are in place to guard against high-risk activities. As part of our AML/CTF approach we liaise, cooperate and exchange information with key partner agencies such as Australian Communications and Media Authority (ACMA), Australian Transaction Reports and Analysis Centre (AUSTRAC), WA Police Force, Australian Federal Police, and interstate and international regulators.

The Commission also recognises its obligations under the *Corruption, Crime and Misconduct Act 2003* (WA), to report suspected serious misconduct by public officers.¹

Regulatory posture

The Commission's approach to regulation is based on the following principles:

- **Effective engagement:** Active engagement with regulated entities to enable them to understand their rights, responsibilities and obligations and minimise inadvertent non-compliance.
- **Intelligence-based approach:** Use data, analysis, insights and information sharing arrangements to assess compliance and inform our regulatory response.
- **Risk-based approach:** Identify and prioritise activities or practices that pose the highest risks or threats to community safety, or to the integrity or fairness of the gambling industry.
- **Minimise regulatory costs:** Develop clear guidelines and efficient processes aimed at minimising the cost of regulation to government and industry, whilst still ensuring compliance.
- **Fair and timely:** Conduct audits, inspections, investigations in a manner that is consistent and appropriate to the circumstance and strive for timely resolution of enforcement matters.
- **Continuous improvement:** Continuously improve regulatory practices through targeted research and effective collaboration with other jurisdictions.
- **Accountability:** Decision-making takes place within rigorous corporate governance processes. Actions are open to review by a range of government bodies, the courts and Parliament.
- **Transparency:** All enforcement matters finalised by litigation or other formal resolution are made public. This may include media statements, or notification online.

Regulatory priorities

The Commission's regulatory principles inform its compliance and enforcement activities to focus on:

- Ensuring fair and ethical conduct of gaming and wagering
- Minimising harm through effective regulation and enforcement
- Consumer protection focus, particularly towards protecting vulnerable people
- Reducing gambling harm by informing and educating the community
- Monitoring industry evolution to identify industry developments and trends and extant and emerging gaming and gambling risks
- Considering and planning for the rapid growth and impact of online gaming and wagering affecting people in WA, particularly young and vulnerable people

¹ Public officer is defined in Section 1 of *The Criminal Code* as including "...a member, officer or employee of any authority, board, corporation, commission, local government, council of a local government, council or committee or similar body established under a written law...".

- Ensuring the gaming and wagering industry guards against misuse of their systems and controls and working collaboratively with AUSTRAC and law enforcement to identify and mitigate against money laundering and terrorism financing
- Achieving the Commission’s objectives outlined in its 2024-2026 Strategic Plan.

Commission responsibilities

To achieve the objectives and to ensure our compliance approach aligns with our regulatory principles, the Commission will:

- engage with industry, and the community of Western Australia to develop a deep understanding of the regulatory environment, and ensure regulatory settings are fit for purpose and meet legislative requirements and State Government expectations²
- ensure ongoing, clear and consistent communication of its approach to regulation; providing transparency of processes, expectations, and compliance responses
- support the regulated community to understand their rights and obligations under gaming and wagering legislation
- provide effective licensing services
- provide efficient and effective evaluation and approval processes for regulated equipment, systems and controls
- ensure revenue due to the State is accurately assessed and paid to the State in a timely manner
- monitor and verify compliance
- take timely action, proportionate to the risks posed and the harm caused by non-compliance
- actively pursue and have zero tolerance for those who opportunistically or deliberately contravene their obligations and the law
- periodically review our approach to compliance, and ensure regulatory settings are appropriate
- continuously building capacity to strengthen compliance.

Expectations of regulated entities

The Commission views compliance as a shared responsibility with the regulated community and expects all entities to:

- recognise the responsibility to be aware of, and comply with, requirements under state and commonwealth legislation, policies, and guidance
- ensure proper procedures and processes are in place to achieve compliance
- ensure all information submitted to the regulator is correct and true
- seek independent advice as necessary to help them understand or comply with obligations
- promptly self-report compliance issues and cooperate with the regulator to resolve them

² <https://www.wa.gov.au/organisation/departments-of-treasury/statement-of-expectations>

- meet financial obligations to the State in an accurate and timely manner
- identify and mitigate the extant and emerging risks of gaming and wagering
- adopt a best practice approach to mitigate gambling-related harm
- prevent criminal infiltration including money laundering.

Approach to regulatory risk

Risk appetite

The Commission has a low-risk appetite for not achieving its regulatory priorities.

Risk-based considerations

In regulating the gaming and wagering industry, the Commission gives particular consideration to conduct:

- thought to be of significant public concern
- affecting indigenous, vulnerable or at-risk groups of Western Australians
- affecting young people
- by gambling industry participants that results in substantial detriment
- by gambling industry participants to avoid their financial obligations
- that includes unfair practices, fraud and exploitation
- that allows criminal infiltration and criminal activity
- involving a significant new or emerging market issue.

Managing the risk of regulatory capture

The Commission recognises that regulatory capture occurs when the regulator becomes influenced or dominated by the industry it regulates, and the interests of the regulated are put ahead of public interest.

Regulatory Capture may manifest in a shared belief of the need to sustain gambling revenue, or the belief that gambling is a benign industry.³ It can result in failing to ensure the regulated entity complies with the requirements, or the regulated entity having undue influence over the manner in which it is regulated.

The Commission acknowledges that positive and active engagement with regulated entities is required to enable the entities to understand their rights and obligations and minimise inadvertent

³ <https://www.wa.gov.au/system/files/2021-08/Perth-Casino-Royal-Commission-Interim-Report-on-the-Regulatory-Framework.pdf> page 73-74.

non-compliance. Engagement with industry is required to develop a deep understanding of the regulatory environment, and ensure regulatory settings are fit for purpose and meet legislative requirements and State Government Expectations.

To allow effective engagement, yet guard against regulatory capture, the Commission has implemented measures to assist in managing conduct. These include:

- Code of conduct policy and guidelines were developed by the Gaming and Wagering Commission to ensure regulatory responsibilities are undertaken with the highest degree of integrity.
- Conflict of interest identification, declaration, management and recording, including:
 - gifts, benefits and hospitality
 - relationships
 - other activities (boards, committees and councils; paid/voluntary employment; sporting/leisure and community clubs)
 - financial interests
 - attending events associated with regulated entities or premises.
- Service Level Agreement to ensure the DLGSC is undertaking the appropriate regulatory activities for the Gaming and Wagering Commission and is maintaining appropriate staff oversight and governance.

DLGSC code of conduct policy and guidelines were amended to recognise the additional considerations for DLGSC staff undertaking regulatory work for the Commission.

Matters of misconduct and serious misconduct can be referred to the Public Sector Commission and Corruption and Crime Commission respectively.

Managing compliance

A range of compliance and enforcement tools are employed to encourage voluntary compliance, proactively monitor compliance, detect and respond to suspected non-compliance and enforce the consequences of non-compliance. The Commission proactively focuses on education and encouraging voluntary compliance by individuals and entities involved in gaming and wagering. Reactive compliance and enforcement activities will be undertaken in a targeted and proportionate manner as required.

Compliance tools

The Commission's Compliance and Enforcement policy provides tools that can facilitate compliance and when they may be used.

Promoting and supporting compliance

The Commission will support those who do the right thing.

Engaging with key stakeholders

The Commission builds cooperative and collaborative relationships with regulated parties and stakeholders. We will actively communicate with regulated entities as well as relevant external stakeholders, including community and not-for-profit groups, other government agencies (including enforcement), industry bodies and gambling support service providers.

We aim to understand stakeholder needs, help them comply, and obtain information we need to develop and establish effective and efficient gaming and wagering policies and practices.

Educating

The Commission recognises that one of the most effective ways of ensuring compliance with the legislation and minimising gambling-related harm, is to ensure individuals have access to the information they need to make informed decisions and understand their regulatory obligations. We use education as a regulatory tool to influence the behaviour of the entities and individuals we regulate.

The Commission also seeks to assist gamblers and the WA community to be aware of their rights and responsibilities under the laws through clear and targeted communications. We will actively engage with relevant external stakeholders, including community groups, harm minimisation groups, other government agencies, industry bodies and gambling support service providers.

The Commission also seek to assist the broader community to be aware of the risks associated with gambling.

Encouraging voluntary compliance and self-regulation

The Commission promotes high compliance rates and encourages and fosters voluntary compliance with gaming and wagering legislation through effective engagement and the supply of information to regulated entities. It seeks to promote voluntary compliance through interactions during site visits,

audits, inspections and complaint investigations. If this is not forthcoming, then enforcement tools may be utilised.

Licensing and direction

Licensing services

Effective licensing services are undertaken to verify key personnel, facilities, equipment, systems, controls and activities to ensure the integrity of gaming and wagering operations in Western Australia.

Policy

The Commission seeks to provide clear, published policies and position statements on gaming and wagering related activities in Western Australia to assist organisations and individuals to understand and comply with their obligations.

Directions

The Commission directs the casino licensee through the issuance of Directions and the approval of rules of authorised casino games and casino procedural and operating manuals. Proposed amendments to rules and manuals are considered relative to the Commission's Regulatory Priorities and the adequacy of compliance.

The Commission may also issue directions to RWWA regarding the organisation, management and control of its gambling operations. This may require RWWA to adopt, vary, cease or refrain from a practice.

Audits, Inspections and Investigations

Audits

Audits are carried out to ensure regulated entities' financial systems and processes correctly account for taxable revenue. Audits are also carried out to ensure funds obtained through community gaming events are spent in accordance with the activity specified in their permit.

Systemic programs to ensure gaming is delivered in accordance with the agreed rules, and with adequate controls to maintain compliance with legislative requirements.

Inspections

Inspections are carried out in the casino on individual gaming machines, tables, personnel and venues. Within the community, inspections are carried out on licensed TABs, permitted gaming functions and other regulating gaming and wagering activities. In all circumstances, inspections may be carried out as part of an audit schedule or on an ad hoc basis, in response to presenting circumstances. Inspections may identify breaches that warrant enforcement action.

Investigation

Investigators conduct investigations into potential contraventions of obligations and look at issues that go beyond routine non-compliance.

Investigations may be undertaken, in response to suspected non-compliance. This may arise from outcomes of licensing, audit and inspection activities, complaints from the public or intelligence from law enforcement and other regulatory bodies.

Identifying the need for enforcement action

A range of compliance activities can result in the detection of a breach, which requires consideration of enforcement action. In addition to the compliance activities listed in the previous sections, the following activities may also give rise to the need for enforcement.

Regulatory activities	Description
Regulatory audits and assurance	Findings from regulatory audits, data audits, or operational audits may identify breaches that result in enforcement action.
Licence, agreement and direction monitoring	Breaches can be detected and result in enforcement action due to our efforts to monitor obligations against legislation, rules, agreements, directions and licence conditions. They can also be detected and result in enforcement action through our monitoring of significant event notifications and date-based obligations.
Industry self-reporting management	Regulated entities and individuals are required to disclose information which may signal a breach and result in enforcement action.
Applications and licensing assessments	We may identify contraventions when assessing applications (for example, applicants providing misleading information) and take enforcement action. If we identify contraventions for applicants who are not currently a licensee, we may need to refer the case on to another appropriate regulator. Probity refreshes may also detect breaches and result in enforcement action.
Complaints and tip-offs management	We may receive a complaint or notification of an incident from the community or other party that suggests a potential or apparent contravention. An investigation may result in the identification of a breach and result in enforcement action.
External referral management	The Commission has the power under 18(3) GWC Act to consult and collaborate with any government department, authority, instrumentality or agency in the State or elsewhere or with any other body which has interests relevant to those of the Commission. The Commission may receive information from and refer relevant to other agencies or regulators for their consideration. Those other agencies include, for example, WA Police Force, ACMA, AUSTRAC and the Australian Federal Police.
Intelligence management	Insights from intelligence-gathering activities and data scanning may result in the identification of a breach and enforcement action.

Enforcement action

Considerations for an enforcement decision

In deciding the appropriate enforcement action to take, the following factors are to be carefully considered and assessed.

Factors	Considerations
Commission’s regulatory objectives	The enforcement action chosen should align with, and support, our overall regulatory objectives.
Benefit derived	A consideration is whether the regulated entity/individual significantly benefited and an enforcement action must ensure that the entity cannot regard any penalty or action as a mere ‘cost of doing business’.
Intent	Deliberate or opportunistic breaches should attract a stronger enforcement action compared with inadvertent or accidental matters.
Past compliance history	Generally, an enforcement action will be stronger and should be escalated where compliance history is poor.
Harm or risk to the community or industry	The strength of the enforcement action should increase as the degree and scale of potential or actual harm caused by the breach increases. The strength of the enforcement action should also increase as the level of risk posed to the community, vulnerable populations, or to the integrity of the gambling industry increases. This includes the risk of criminal infiltration or exploitation.
Attitude and cooperation with the regulator	A negative attitude towards and/or lack of cooperation with the regulator by a regulated entity or individual should result in stronger enforcement action. Factors to consider include: <ul style="list-style-type: none"> • How willingly and transparently the regulated entity or individual engages with us during the monitoring or investigative process • Whether they voluntarily self-reported the non-compliance. • Whether the entity or individual displayed regret or remorse • How swiftly the entity or individual responded to the breach and rectified the matter, including what they have done to prevent reoccurrence.
Regulatory precedents	Consideration should be given to enforcement actions taken for similar matters in the past. However, care should be exercised to ensure distinguishing factors are properly weighed.
Deterrence	The enforcement action should deter the specific regulated entity or individual from offending again and send a message to the wider industry to dissuade them from committing similar breaches.

Enforcement tools

The table below provides a summary of the enforcement tools available under gaming and wagering legislation in Western Australia. Some of these powers can be exercised directly by the Commission, while others are available to be exercised by the Minister of Racing and Gaming, on the recommendation of the Commission.

Tool	Description
Cease and desist	<ul style="list-style-type: none"> A cease and desist is a request by the regulator to stop and refrain from conduct that is non-compliant.
Court injunction	<ul style="list-style-type: none"> A court injunction is a court order that requires a party to do, or refrain from doing, specific acts. This can be used to stop an activity while the Commission determines whether there is a breach, conducts an investigation or is deciding what enforcement action to take. It may be considered in serious situations where an entity has failed to regard all other warnings or instructions and persists in breaching gambling laws.
Non-compliance notification and final non-compliance notification	<ul style="list-style-type: none"> Notifications are formal warnings, for use with any breach, to request the regulated entity to remediate. They can require proof of remediation within a defined timeframe. A non-compliance notification is used when breaches are relatively minor in nature and the facts of the situation, past compliance history and actions taken to remedy the breach deem this action to be sufficient. A final non-compliance notification can be used as an official warning.
Letter of censure	<ul style="list-style-type: none"> The Commission can issue a letter of censure to a casino employee or casino key employee. The Commission can recommend the Minister issue a letter of censure to RWWA or to the Casino Licensee.
Direction	<ul style="list-style-type: none"> The Commission can issue a direction to regulated entities with instructions to rectify non-compliance. It may require the individual or entity to undertake specified action to rectify the non-compliance within a specified timeframe and can include requiring the entity to undertake independent assurance in the assessment of issues and recommended actions to remediate.
Infringement	<ul style="list-style-type: none"> The Commission may infringe regulated individuals or entities for more serious/major breaches.
Conditions	<ul style="list-style-type: none"> The Commission may impose new conditions or vary current conditions on a regulated individual or entity's licence when a breach is detected, or concerns or risks are identified.
Prosecution	<ul style="list-style-type: none"> Prosecution may be undertaken for breaches that are considered serious in nature and/or where the behaviour is conscious and deliberate.
Licence suspension or cancellation	<ul style="list-style-type: none"> The Commission may temporarily or permanently restrict a regulated individual or entity from providing gambling services by suspending or cancelling their licence. This action is taken for non-compliance incidents that are considered serious in nature or, in the instance of cancellation, when the individual or entity is no longer deemed to be a suitable casino or gambling industry participant.

DOCUMENT INFORMATION

Approved by:	Gaming and Wagering Commission	Date: 31 January 2025
Policy owner:	GM Gaming and Wagering	
Version history:	Replaces the Gaming and Wagering 2024-25 Compliance and Enforcement Policy and Priorities document	
File reference:	2024/6866	