

COMPLAINT RESOLUTION PROCEDURE

Introduction

A business wishing to conduct gambling activities from Gibraltar is required to undergo a rigorous application process to meet the necessary high standards of integrity and probity, as do the executive managers of the business. The operator is then obliged to conduct its business to these high standards once it has been successful in obtaining the licence applied for under the Gambling Act 2005.

There may be instances, however, where a participant believes that a licence holder has acted in an improper manner towards him/her. In this case (s)he, as the "complainant", should lodge a complaint directly with the licence holder (the "respondent") in order to resolve any point of contention. It is a legislative obligation of the licence holder to look into the issue without undue delay.

If the complainant is not satisfied with the decision of the respondent on the matter, (s)he can refer the complaint to the Gambling Commissioner at the Gibraltar Regulatory Authority ("GRA"). The Gambling Commissioner shall then, by the authority conferred on him under the Gambling Act 2005, refer the complaint back to the respondent, and look into the matter himself in order to reach his own conclusions on the issue.

If the respondent is registered with an independent arbitration service provider offering dispute resolution procedures on betting complaints, which is acceptable to the Gambling Commissioner, the Commissioner may agree to that dispute resolution service dealing with such complaints. However, the Commissioner reserves the right to intervene at any time during the dispute resolution process and, if necessary, enforce rulings made by the independent arbitration service provider.

Should a complainant wish to refer the complaint to the Gambling Commissioner, (s)he must submit a fully completed Complaint Resolution Request Form ("CRRF"). The following explains the complaints resolution mechanism of the GRA for complaints against holders of licences issued under the Gambling Act 2005, and also explains the steps a complainant must take before completing a CRRF. Submissions and supporting material must be in English or have a corresponding English translation.

Detailed Complaint Resolution Procedure

Step 1

The complainant contacts the GRA in writing (e-mail is acceptable). The complainant, as the party requesting the complaint resolution, will be requested to provide the following information:

- A CRRF that can be completed at the GRA website: <http://www.gra.gi>. However, a signed CRRF must be submitted before the procedure is commenced (electronic signatures are not available at present);
- The parties to the complaint and contact details for both parties;
- The subject matter of the complaint, in as much detail as possible should be provided, including supporting material (copies of correspondence, notes of telephone calls, relevant contact point of the other party to the complaint);
- Whether the complaint is being made under any specific part of the Gambling Act 2005 or is in respect of an alleged breach of a licence condition the relevant reference should be provided;
- What the impact is on the complainant of the particular issue that is the subject of the complaint;
- Details of efforts to resolve the complaint between the parties;
- The complainant should also indicate whether it has any objection to the Gambling Commissioner making available to the respondent a copy of the complaint lodged with the GRA; material of a confidential nature will be withheld, but such material should be clearly marked and included in a confidential annex;
- Whether the complainant is currently before any other body (e.g. the courts, or an independent arbitration service provider);
- What remedy the complainant considers appropriate.

Step 2

Within one week, the Gambling Commissioner shall inform the parties to the complaint that the complaint is being considered. The Gambling Commissioner shall provide clear contact for the duration of the process. The Gambling Commissioner is ultimately the person in charge of the complaint but he may assign certain parts of the process to one of his staff as a case officer. An initial examination shall be carried out of the material provided, the nature and cause of the complaint, the efforts the parties have taken to resolve the matter and review of any supporting material provided by the parties.

If in the opinion of the GRA, all avenues of resolution between the parties have not been used to full effect, the complaint may be referred back to the parties or the Gambling Commissioner may directly assist with the parties in attempting to resolve the complaint. If the Gambling Commissioner is of the view that further information is necessary, the party making the request for complaint resolution will be asked to provide additional material, the complaint will not be deemed to have commenced until such time as all the material necessary has been supplied.

Step 3

Where the Gambling Commissioner has sufficient information he shall decide within 14 days whether the complaint warrants formal complaint status or whether in his opinion an alternative process may be more suitable to the particular complaint e.g. an informal mediation, or the dispute resolution mechanism of an independent arbitration service provider. The Gambling Commissioner shall inform the parties to the complaint of the decision and seek the agreement of both parties to pursue this alternative approach.

If it is decided that the complaint is such that it requires formal complaint status i.e. arbitration, then a file shall be opened and the respondent will be asked for its response to the issues raised by the complainant. The respondent will be provided with a copy of the material provided by the complainant. Confidential material will not be copied to the respondent where it is clearly marked and included in a confidential annex. The respondent will be required to respond within 14 days. In exceptional circumstances the respondent may be required to respond in a shorter time frame. Such circumstances will include, but will not be limited to, circumstances where the case officer considers that the complainant is suffering severe damage pending the resolution of the complaint.

Alternatively the Gambling Commissioner may decide that the complaint is unfounded and will communicate this finding to the parties concerned. Reasons for such a decision may include (but will not be limited to) that the issue that is the subject of the complaint is not in breach of any licence condition or within the legislative remit of either the Gambling Act 2005, or the GRA.

Step 4

Upon receipt of all the necessary information from the respondent the Gambling Commissioner will examine it to determine whether enough information is available to assess the complaint, and then do so within 14 days. Should further information be required at this stage from the either party, or clarification sought, and if so, that party will be required to provide it within 7 days. If the Gambling Commissioner believes the complaint raises issues in relation to the systems and controls the operator has in place, or issues in relation to an executive manager(s) of the operator, then the GRA may conduct a visit to the business premises as part of the investigation into the complaint.

Step 5

Once the Gambling Commissioner is satisfied that he has the information necessary to assess the complaint, he will within 4 weeks consider the points made by both parties (and third parties where this is applicable) and reach a proposed determination. The proposed determination will be communicated to the parties, with reason(s) for the decision and any action required to remedy or resolve the complaint.

Step 6

Within a period of 14 days after the determination has been communicated, a party may submit a written request for the Gambling Commissioner to review precise aspects of the proposed determination prior to a formal decision being issued. In cases where either no further comments are made, or where comments that are made have no significant bearing on the proposed determination, the Gambling Commissioner will communicate to both parties the formal decision and resolution, together with reasons for the decision. The decision at this point will be final and no further assessment of the complaint will be made.

It should be noted that the review described in step 7 is confined to the case and facts in hand. If a party wishes to expand or amend the scope of the complaint, this will be treated as a new complaint rather than a review of an existing case. Where new information is brought to the GRA's attention within the review period, the Gambling Commissioner will decide whether this new information constitutes a new complaint or can be considered as part of the existing complaint. A major consideration in taking such decision will be to ensure that the full facts are taken into consideration and dealt with quickly. Where new information is brought to light during the review period, the Gambling Commissioner may extend the review timeframe in a reasonable manner.

A further note should be made that once a complaint has been brought to the attention of the Gambling Commissioner for resolution, his final decision is binding on both parties to the complaint. The Gambling Commissioner will have the power to determine all issues unless these are a matter for judicial review by the courts.

Step 7

In communicating the decision the Gambling Commissioner will set a time frame for the implementation of the resolution. Where the determination is that of a breach of licence, the Gambling Commissioner shall notify the Licensing Authority under the Gambling Act 2005.

Step 8

Where either party to the complaint objects to the decision made in this case they may apply in writing to the Gambling Commissioner within 5 days of receipt of the formal notification referred to in step 7 to request a review of the decision. In such cases the Gambling Commissioner will confirm that the decision stands or is revised. The Gambling Commissioner will communicate his final decision in regard to the complaint within a further 5 days. The decision at this point will be final and no further assessment of the complaint will be made.

**Gibraltar Regulatory Authority
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