

GAMBLING AND RACING



Access Canberra Framework

Part of Accountability
Commitment series

October 2020



Chief Minister, Treasury and Economic Development Directorate - CMTEDD

Access Canberra

Phone: 13 22 81

Website: act.gov.au/accessCBR

Published October 2020

IMPORTANT NOTE: This information is for guidance only.

CONTENTS

Introduction	4
Purpose	4
Strategic objectives	4
Legislative framework	5
Compliance model	5
Engage, Educate, Enforce	5
Approach to enforcement	6
Education	6
Compliance monitoring and investigations	7
Determining appropriate enforcement responses	8
Powers held by Investigators	9
Review or appeal rights	9
Seeking a review	9
Appendix 1: Relevant legislation	10

INTRODUCTION

The ACT Gambling and Racing Commission (the Commission) is an independent statutory authority responsible for ensuring the lawful conduct of gambling and racing in the ACT. The Commission was established by the ACT [Gambling and Racing Control Act 1999](#) (the Act). The Act establishes the functions of the Commission including the administration of the Territory's gaming and racing laws and the control, supervision and regulation of gaming and racing in the ACT.

Access Canberra is responsible for conducting the Commission's Audit Program and investigating possible breaches of ACT gambling and racing legislation. The section also ensures that licensees adhere to the regulatory requirements of the ACT [Gambling and Racing Control \(Code of Practice\) Regulation 2002](#).

...responsible for conducting the Commission's Audit Program and investigating possible breaches...

Purpose

The purpose of this framework is to set out the objectives and general principles for compliance and enforcement activities undertaken by Access Canberra on behalf of the Commission. These activities are undertaken in relation to the ACT gambling and racing industry, specifically to ensure compliance by approved licensees.

This framework outlines the risk-based approach to compliance with relevant legislation in the ACT and is intended to be a useful and transparent guide.

Key principles

Please refer to the Access Canberra Accountability Commitment as this sets out the principles that inform the decisions and regulatory action of Access Canberra. The Accountability Commitment is available online from www.accesscanberra.act.gov.au.

Risk-based – Access Canberra will apply a risk-based compliance approach to ensure resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest, thereby strengthening its capacity to take action where the community, workers and the environment are most at risk.

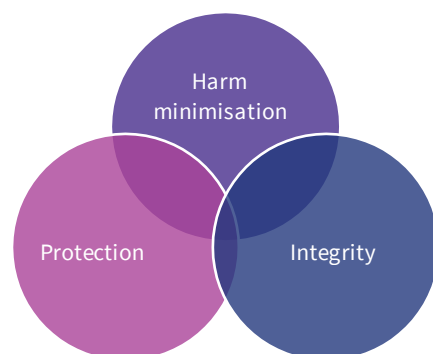
Strategic objectives

The three strategic objectives central to the role of the Commission are:

Harm minimisation – we actively seek to reduce the risks associated with gambling and minimise the potential harm caused by gambling to the community and the individual.

Integrity – we aim to minimise the possibility of criminal or unethical activity in the gambling and racing industry.

Protection – we will provide the community with factual information about gambling products so that people can make informed choices about their gambling. We will also provide the community with information about problem gambling, including how and where to obtain assistance. We aim to protect the community by reducing the risk of unethical or illegal gaming and racing dealings.



The relationship between our Strategic Objectives

Legislative framework

The Commission is an independent statutory authority under the Act. Its functions include:

- > regulating the activities of the casino, gaming machines, lotteries, racing, betting and interactive gambling; approving gaming and racing activities;
- > monitoring and researching the social effects of gambling and of problem gambling;
- > reviewing legislation and policies relating to gaming and racing and making recommendations to the Minister on those matters;
- > providing education and counselling services; investigating and conducting inquiries into issues and activities of persons in relation to gaming and racing related matters;
- > monitoring, researching and funding activities relating to gaming and racing; engaging in community consultation, as appropriate; and
- > collecting taxes, fees and charges imposed or authorised by or under gaming laws.

Access Canberra is responsible for conducting the Commission's Audit Program, investigating possible breaches of ACT gaming laws and ensuring that licensees adhere to the regulatory requirements of the ACT [Gambling and Racing Control \(Code of Practice\) Regulation 2002](#).

Access Canberra is responsible for enforcing and monitoring the compliance of the ACT's licensed gambling and racing venues and entities. These include:

- > Casino Canberra Limited;
- > gaming machine operators;
- > race bookmakers and their agents;
- > sports bookmakers and their agents;
- > the totalisator operator; and
- > lottery operators.

***...investigating possible breaches of
ACT gaming laws...***

Compliance model

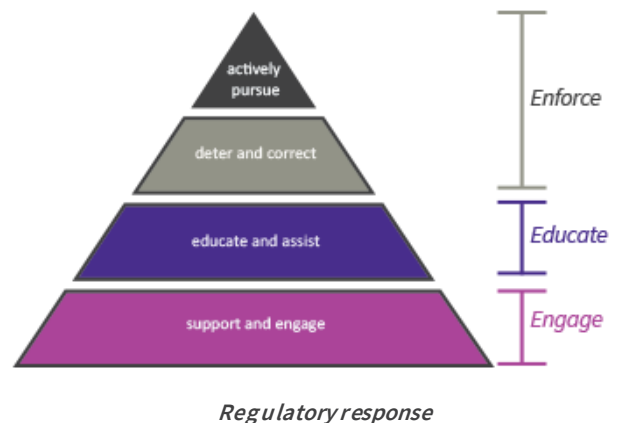
Engage, Educate, Enforce

Engage, educate and enforce are the three fundamental steps used by the Commission. Compliance is encouraged through education but escalating enforcement action will be applied to those whose conduct will, or is likely to, cause harm, or those who demonstrate a disregard for the law.

Engage means ensuring there is a positive working relationship with stakeholders and members of the public.

Educate means taking reasonable steps to ensure people know how to comply (e.g. compliance audits, inspections, newsletters).

Enforce means taking action for non-compliance, proportional to the harm caused by the conduct (e.g. compliance advice, issuing a warning letter, taking disciplinary action).



Approach to enforcement

The Commission and Access Canberra operate on a risk-based compliance model.

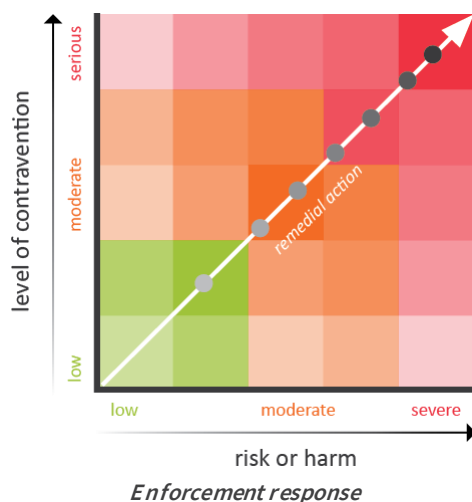
The risk-based compliance approach enables the targeting of resources to those areas where they are most needed and will be most effective. This approach involves a series of steps to identify and assess risks and to then apply the most appropriate regulatory tool to control the risk.

This means that **resource allocation** and **enforcement responses** are determined based on priorities determined through risk assessment.

Resource allocation – how compliance priorities are established, such as the frequency of proactive compliance activities and the prioritisation of complaints or allegations of non-compliance with the Act.

Enforcement responses – the appropriate enforcement response is also determined based on the risk, or realised consequences. This allows a degree of flexibility to ensure the right regulatory approach for the right situation.

Conduct which contravenes the legislation is considered on a case-by-case basis with consideration given to the circumstances of the conduct. The Commission will apply the most appropriate regulatory tool to address the conduct and to achieve the desired regulatory outcome. This may include compliance advice; a written warning, or disciplinary action under the relevant gaming law (if applicable). Prosecution is only considered in extreme cases where the risk to the community is high or there is ongoing non-compliance that has been unable to be resolved by the use of other enforcement responses.



EDUCATION

Like any regulatory regime, the optimal outcome for the Commission and Access Canberra is voluntary compliance. Education has a key role to play in maximising compliance.

Community education is also vital to enable individuals to make informed choices concerning their gambling behaviour. Furthermore, community education provides the public with knowledge that the Commission is committed to actively receiving information concerning any gambling or racing compliance issue in either an open or confidential manner.

Access Canberra provides advice and education to the community, individuals, licensees and gambling and racing industry stakeholders through the course of its proactive and reactive compliance programs. The goal is to ensure that all our stakeholders understand their rights, obligations and responsibilities under the ACT's gaming laws.

As part of its communication strategy, Access Canberra strives to deliver advice and education to relevant target audiences through a number of activities and tools, including newsletters, editorial/articles for industry publications including factsheets, social media such as Facebook and Twitter, advertising campaigns, web content and features at www.accesscanberra.act.gov.au. The Access Canberra online resources include numerous guides, brochures, fact sheets and links to assist industry to achieve compliance and provide compliant and safe services to the community.

The Commission's website (www.gamblingandracing.act.gov.au) includes resources to assist industry to achieve compliance and provide compliant and safe services to the community.

www.accesscanberra.act.gov.au -
Access Canberra online resources

Research

A function of the Commission is to monitor and research the social effects of gambling and problem gambling. Where data from research shows an increase in rates of problem gambling in respect of a particular gambling product, Access Canberra will focus on raising awareness and foster an environment that promotes and encourages responsible gambling.

This research includes investigating of the prevalence of gambling and problem gambling, the effectiveness of existing and new harm minimisation measures, as well as exploring ways in which problem gambling can develop and what assistance is effective.

Research findings inform the Commission's regulatory activities which include restrictions on certain gambling products and features, promoting and funding help-seeking services and providing information to the community. Part of the role of Access Canberra is to ensure gambling operators comply with the Commission's mandated measures to reduce the harm that gambling can cause.

...harm minimisation measures, as well as exploring ways in which problem gambling can develop...

COMPLIANCE MONITORING AND INVESTIGATIONS

Access Canberra compliance activities are aimed at ensuring positive outcomes for industry and the community.

These activities are risk-based and resource allocation reflects the level of risk posed to the strategic objectives, and include:

Audits – Access Canberra conducts an annual Audit Programs which relies on a risk based process for identifying venues and licensees that require a higher number of audits during a financial year.

Information Exchange – Access Canberra gathers information from a range of different sources

including law enforcement bodies. This intelligence is analysed and may be used to produce probity reports to determine the suitability of entities seeking to become licensed gambling operators and venues. The collection of information will occur in accordance with privacy principles.

Investigations – Access Canberra conducts investigations into alleged or detected breaches of the ACT gaming laws. Information is obtained from a variety of sources including the public, industry, and other government and regulatory agencies.

This information is verified to determine compliance with relevant legislation. An investigation may then be initiated into the matter to: collect background information; determine the nature and length of any alleged or detected breach; and determine what contributed to the alleged or detected breach.

Access Canberra prioritises complaints based on the risk or harm (or potential risk or harm) posed to the community, and in line with our harm minimisation strategy allegations made to the Commission could include an allegation made by the public that:

- > a licensee is engaging in practices contrary to their legislated obligations; or
- > breaches of legislation administered by Access Canberra are occurring.

The Commission has developed a robust risk management approach in response to noncompliance by approved licensees and the general public. These include:

- > developing and communicating the Commission's risk management culture, through risk assessments and regulatory response matrix;
- > governance through the Board and Executive Committee to consider significant risk facing programs, projects and business activities;
- > the establishment of appropriate processes and practices to monitor and manage risks associated with the entity's programs, projects and activities; and
- > regular analysis and review of risk management approach.

DETERMINING APPROPRIATE ENFORCEMENT RESPONSES

Once Access Canberra and the Commission has identified that an offence has been committed the next step is to determine the appropriate enforcement response.

Inspectors are able to exercise a level of discretion particularly when the conduct in question is low risk and has caused limited or no harm. The range of options available are below:

No further action – after consultation with management, Authorised Officers may use their discretion in reviewing the circumstances of the breach to take no further action.

Increased audit activity –the risk-based audit program will result in increased audit activity of licensees who have a history of non-compliance.

Written warnings –these relate to identified breaches that are deemed to be relatively minor in nature and the relevant facts deem a written warning sufficient. They can also be an important method of tracking the history of a licensee’s non-compliance.

Disciplinary Action – this is focused on altering the behaviour for the protection of the public through a more tailored response. It is used to produce outcomes that include (but not limited to) reprimand, reprimand with direction, monetary penalties, licence suspension or cancellation, or the imposition or variation of licence conditions.

Prosecution – these matters are heard in the Magistrate’s Court. This will be restricted to matters deemed serious in nature and/or where the behaviour is conscious and deliberate.

Injunction – an injunction is a court order requiring a party to do or refrain from doing specific acts. Injunctions will only be considered in the most serious matters, where a party has failed to heed all other warnings or instructions from the Commission. Failing to comply with an injunction may result in the imposition of significant financial penalties or arrest and a period of incarceration.

...protection of the public through a more tailored response...

POWERS HELD BY INVESTIGATORS

In accordance with the ACT [Gambling and Racing Control Act 1999](#), officers who work for the Commission as part of Access Canberra are authorised to carry out compliance and investigations activities related to the conduct and provision of gambling and racing services in the ACT.

...Access Canberra officers are authorised to carry out compliance and investigations activities...

REVIEW OR APPEAL RIGHTS

Seeking a review

A number of decisions made by Access Canberra are reviewable. Formal reviews of decisions are undertaken by the **ACT Civil and Administrative Tribunal (ACAT)**. The ACAT is the review body for the majority of government decisions in the ACT. There are time limits to seek a review of decisions and fees may apply. The ACAT has various powers which include confirming the decision, varying the decision or setting aside the decision. For more information on ACAT or the appeals process, visit www.acat.act.gov.au.



Web: <https://www.acat.act.gov.au/>

Phone: (02) 6207 1740

Contact: ACT Civil and Administrative Tribunal
GPO Box 370, CANBERRA ACT 2601

Email: tribunal@act.gov.au

In addition to ACAT, a person who has a complaint about a decision can complain to the Ombudsman at www.ombudsman.act.gov.au.



Web: <https://www.ombudsman.act.gov.au/>

Phone: 1300 362 072

Contact: ACT Ombudsman
GPO Box 442, CANBERRA ACT 2601

Email: ombudsman@ombudsman.gov.au

APPENDIX 1: RELEVANT LEGISLATION

The Commission operates under and administers the following relevant ACT gaming laws:

- [*The Gambling and Racing Control Act 1999;*](#)
- [*The Totalisator Act 2014;*](#)
- [*The Gaming Machine Act 2004;*](#)
- [*The Lotteries Act 1964;*](#)
- [*The Pool Betting Act 1964;*](#)
- [*The Race and Sports Bookmaking Act 2001;*](#)
- [*The Unlawful Gambling Act 2009;*](#)
- [*The Racing Act 1999;*](#)
- [*The Interactive Gambling Act 1998; and*](#)
- [*The Casino Control Act 2006.*](#)

The ACT Government also periodically issues guidelines, determinations and delegations in the form of Notifiable Instruments and Disallowable Instruments. To access any relevant legislation visit: <http://www.legislation.act.gov.au>.



Chief Minister, Treasury and Economic Development Directorate

Access Canberra

⚙️ Accountability Commitment Framework

October 2020