

PMLS: YOUR PERSONAL ACCOUNTABILITY

It's ultimately individuals, not businesses, who make decisions, which is why the UKGC requires all key decision makers in gambling companies to hold a personal management licence (PML). Harris Hagan's **Francesca Burnett-Hall** looks at PML holders' responsibilities and the Commission's powers under the scheme for *iGaming Business*.

The gambling industry in Great Britain has changed significantly over the past two years, following the implementation of the point-of-consumption licensing regime. During this period the Gambling Commission (the "Commission") has become the regulatory authority for 100% of the iGaming industry and has implemented numerous new strategic policy requirements, for example, in relation to social responsibility.

Anyone involved in the gambling industry will be painfully aware of the many requirements involved in obtaining a licence, and of their responsibilities once licensed by the Commission. Whilst every employee within an operator is key to ensuring regulatory compliance, the most important individuals are those personally licensed by the Commission. Why? Quite simply, because they will be held to account for their decisions. Ultimately, individuals, not businesses, make decisions. Members of senior management will generally hold a personal management licence ("PML") from the Commission because they hold a "key position".

Key positions

PMLs must be held by the individuals who have overall responsibility for the following:

- strategy and delivery of gambling;
- financial planning, control and budgeting;
- marketing and commercial development;
- regulatory compliance; and
- gambling related IT provision and security.

In addition, where an individual, such as a board director, can exercise "significant influence" over the business of an operator, they will also be required to hold a PML, as will the money laundering reporting officer ("MLRO") for a casino operator. It is also considered good practice for MLROs in other sectors to hold a PML.

Suitability

When the Commission assesses a PML application, it looks at whether the applicant is "suitable". Suitability does not stop once a PML is granted; the holder must remain suitable throughout the life of their PML. If for any reason the Commission thinks that they may no longer be suitable, it may review the licence.

Licence reviews

The Commission has wide-reaching powers to conduct a review of a PML; it may do so simply where it considers that a review would be "appropriate". If the Commission decides to review a PML, the individual will be investigated and, where necessary, a regulatory panel hearing will be held to decide whether to take any action. The Commission can decide to do any of the following:

- issue a warning;
- attach additional conditions to the PML or amend existing conditions;
- impose a financial penalty if a condition has been breached;
- suspend the PML;
- revoke the PML; or
- it can choose to take no further action.

Why is this important? It is likely to be a condition of the individual's employment that they must maintain their PML. If it is revoked, it is unlikely that they will be able to continue to do their job, or even a similar job, within the gambling industry.

Holding PMLs to account

What is becoming increasingly clear is that the Commission does not consider it to be businesses that make decisions; rather it is the individuals within them that do so, and it is they who will be held to account for those decisions or, indeed, a failure to make a decision, in the event of a breach of licence.

In her speech at ICE Totally Gaming on 2 February 2016, Sarah Harrison, the Chief Executive of the Commission, stated, in relation to responsible gambling, that: "The Commission's approach...is...focused on holding leadership in gambling businesses to account...our aim here is to improve the board-level focus on, and accountability for, the licence objectives, including those governing responsible gambling."

Further, in a very recent review of an operating licence held by a Park Lane land-based casino, the Commission reiterated the crucial role played by PMLs, issuing a clear reminder that those personally licensed by the Commission could find that their PMLs also become the subject of a review. In this particular review, the operator received a formal warning and conditions were attached to its operating licence following a number of failings relating to its anti-money laundering policies and procedures.

In the Commission's written decision, it confirmed that: "Given the nature of the failings that gave rise to the warning and imposition of conditions on the

operating licence, the Commission has also commenced licence reviews in respect of the Personal Management Licences held by the key individuals involved in the matters that have been the subject of this investigation.”

Case studies: real-life PML reviews

Failure to notify disciplinary action: This PML holder’s employer had disciplined him on a number of occasions; first, a final written warning for gross misconduct, then a suspension six months later and, finally, one month after that, dismissal for gross misconduct. He failed to notify the Commission of this disciplinary action and a warning was issued following the review of his PML. This case demonstrates how important it is for the licensee to notify the Commission of any key events, such as a disciplinary sanction.

Theft: There are a number of cases in which PMLs have been reviewed as a result of theft. One licensee had falsified his company’s accounts, seemingly having taken money for his personal use. Another helped a customer win money to which she was not entitled by inputting incorrect winning numbers on electronic roulette. The Commission concluded in both cases that these individuals were no longer suitable to carry out licensable activities and revoked their PMLs, showing the importance of a licensee’s integrity and ongoing suitability to hold a PML.

Failure to act in an open and transparent way: In June 2014, the licensee received a formal warning with conditions attached to his PML, on the basis of his dealings with the Commission and a lack of timely and complete information being provided. In January 2015, he was the subject of a second review. He surrendered his PML, but the Commission confirmed that it would have revoked it, as it considered him unsuitable to carry on licensable activities having failed to be open and transparent with the Commission, and, further, having breached a condition of his licence. It is clear from this case how vital it is for licensees to be open and transparent in any and all dealings with the Commission.

The best way to conduct yourself during a licence review: This licensee was responsible for regulatory compliance for a group of companies. His PML was reviewed when the Commission found that two subsidiary group companies were carrying out licensable activities without holding an operating licence. Despite this serious breach, due to the way the licensee conducted himself during the review process – he was open and transparent, he co-operated fully with the Commission’s investigations and issued an unreserved apology for the events – the Commission made the decision to issue him with a warning with no further sanctions. This final case demonstrates the importance of the licensee’s conduct during a licence review and the effect it may have on the outcome. It is essential that licensees always work with the Commission in a co-operative and open and transparent way.

What should PML holders be doing?

The Commission’s approach to regulation is risk-based and outcomes focused; it is not prescriptive, which means that there is no checklist which sets out what a licensee must do to protect a PML. However, the following is a good starting point:

- **Always apply the licensing objectives:** the licensing objectives should be embedded with the DNA of any gambling business. A PML holder must place the licensing objectives at the heart of any decision they make.
- **Licence conditions:** a PML holder must comply with the conditions attached to their PML, and their employer’s operating licence, ensuring that the way they carry out their responsibilities does not place either licence at risk. Licences are one of the most valuable assets held by an operator and they should be safeguarded carefully.
- **Spearhead for responsible gambling:** responsible gambling means helping a player ensure that they do not spend more time or money gambling than they can reasonably afford. Those in senior management positions are expected to be the spearhead of responsible gambling within an organisation. Operators must

devise practical measures to reduce harm, by providing customers with tools to allow them to gamble responsibly. Licensees should work with other operators and organisations to promote responsible gambling, for example GamCare, the Industry Group for Responsible Gambling, the Responsible Gambling Trust and the Responsible Gambling Strategy Board.

- **Keep informed:** stay informed of any developments in gambling legislation, codes of practice and Commission guidance. Sign up to the Commission’s newsletter for updates; learn from any Commission public statements or Advertising Standards Authority adjudications. Attend relevant training at regular intervals.
- **Keep their PML up-to-date:** they must make sure that their licence is kept up-to-date by submitting key event notifications and/or applying to vary their PML where necessary. A maintenance check must be completed every five years to avoid the PML from lapsing. It is a regular feature of PML reviews that the holder did not keep their licence up-to-date, resulting in a, very avoidable, breach.

Finally, remember that no PML is an island. The Commission is increasingly holding PML licensees directly responsible for regulatory compliance and licence breaches, even where they hold other key positions. To ensure that both their own, and their employer’s licence, is protected, licensees must conduct themselves with integrity and co-operate with the Commission at all times. If licensees have any concerns about safeguarding their licences, they should seek legal advice.



Francesca Burnett-Hall is an Associate at Harris Hagan and specialises in gambling regulatory, liquor and entertainment licensing law.