

VCGLR's Regulatory Approach



Introduction

The VCGLR's Regulatory Approach sets out our strategy to regulate the gambling and liquor industries in Victoria.

This strategy is based on contemporary regulatory theory, Government policy and operates in accordance with relevant legislation.

The VCGLR's Regulatory Approach provides a framework for the use of our resources, and to guide decision-making.

The VCGLR's goals are to:

- achieve high levels of voluntary compliance with gambling and liquor laws by setting clear expectations, encouraging the right behaviour and taking strong enforcement action where required
- constrain the regulatory costs and restrictions we impose on the gambling and liquor industries to what is necessary to achieve regulatory objectives
- uphold a culture of integrity and harm minimisation in the gambling and liquor industries.

The VCGLR regulates businesses focussing on the people, premises, products and promotions involved in supplying gambling and liquor. We work together with a diverse number of bodies and groups to achieve positive outcomes for the Victorian community.

There are some synergies with gambling and liquor regulation and industries, which can produce efficiencies under an integrated regulator model. There are also some differences including the harms experienced by the community from gambling and alcohol consumption. The VCGLR:

- takes a consistent approach to regulation across both industries where this provides benefits for industry and the community
- takes a tailored approach with some aspects of gambling and liquor regulation where necessary to effectively regulate and minimise harm.

Synergies and differences

- The VCGLR approaches many gambling and liquor regulatory functions in the same way. For example, the VCGLR uses the same framework for deciding what enforcement action to take for breaches of both gambling and liquor laws.
- The VCGLR will make decisions taking into account the unique nature of gambling and liquor regulation. For example, the VCGLR has a case management approach for major gambling licensees providing intensive oversight given their size and potential impact on the industry and community. However, with approximately 20,000 liquor licences in Victoria, the VCGLR relies more on risk-based targeting to concentrate its efforts onto areas most likely to cause harm to the community.

VCGLR's vision and regulatory objectives

Vision

The VCGLR's vision is for Victorians and visitors to enjoy safe and responsible gambling and liquor environments.

Regulatory objectives

The VCGLR must regulate in a way that supports the achievement of the legislative objectives we are charged with administering.

The VCGLR endeavours to operate without undue formality, and as expeditiously as practicable. The VCGLR also adheres to the rules of natural justice and affords procedural fairness. In working to achieve our regulatory objectives, we only impose costs or restrictions on the liquor and gambling industries that are appropriate and proportionate.

Gambling

The VCGLR balances the following regulatory objectives in respect of gambling:

- foster responsible gambling in order to minimise harm and accommodate those who gamble without harming themselves or others
- ensure that gambling venues remain free from criminal influence or exploitation
- ensure that gambling is conducted honestly
- ensure that minors are neither encouraged to gamble nor allowed to do so
- ensure that community and charitable gaming benefits the community or charitable organisations and that practices that could undermine public confidence are eliminated
- through the regulation of gambling promote tourism, employment, and economic development generally in Victoria.

Liquor

The VCGLR's primary regulatory objective in respect of liquor is to minimise harm from the misuse and abuse of alcohol.

The VCGLR's other regulatory objectives are:

- to facilitate the development of a diversity of liquor licensed facilities reflecting community expectations
- to contribute to the responsible development of the liquor, licensed hospitality and live music industries
- to regulate liquor licensed premises that provide sexually explicit entertainment.

Minimise harm

The VCGLR minimises harm by:

- focussing on types of harm that our statutory powers are best suited to targeting
- concentrating our efforts on action that the businesses and individuals we regulate can take.

We focus on the following harms resulting from the gambling industry:

- problem gambling
- unfairness to players
- criminality
- minors gambling or being encouraged to gamble
- detriment to community and charitable organisations.

We focus on the following harm from the misuse and abuse of alcohol:

- risky drinking
- minors consuming alcohol

What is our approach to problem gambling?

- Individuals and businesses in the gambling industry have an obligation to create environments designed to minimise problem gambling.
- The VCGLR is focused on **fostering responsible gambling** in order to minimise harm from problem gambling. The predominant role of the VCGLR is to ensure the gambling industry meets required standards to create environments that minimise problem gambling.

- violence and anti-social behaviour
- detriment to the amenity of community life.

The VCGLR uses a broad range of tools to minimise harm throughout our licensing, information and education, monitoring and enforcement functions.

We take action where there is a lack of compliance with gambling

What is our approach to the misuse and abuse of alcohol?

- Those involved in the liquor industry are required to implement measures to minimise the risks that intoxicated patrons will be served liquor and that disorderly patrons will harm those in and around licensed premises.
- The VCGLR is focused on minimising **immediate or short-term alcohol-related harms** attributable to licensed premises that occur in and around licensed premises. In particular, the VCGLR will act to minimise intoxication and anti-social and violent behaviour.

and liquor laws because the community may be at risk of harm. The VCGLR will take strong enforcement action when appropriate to deter future non-compliance and educate the gambling and liquor industries about the need to comply with the law.

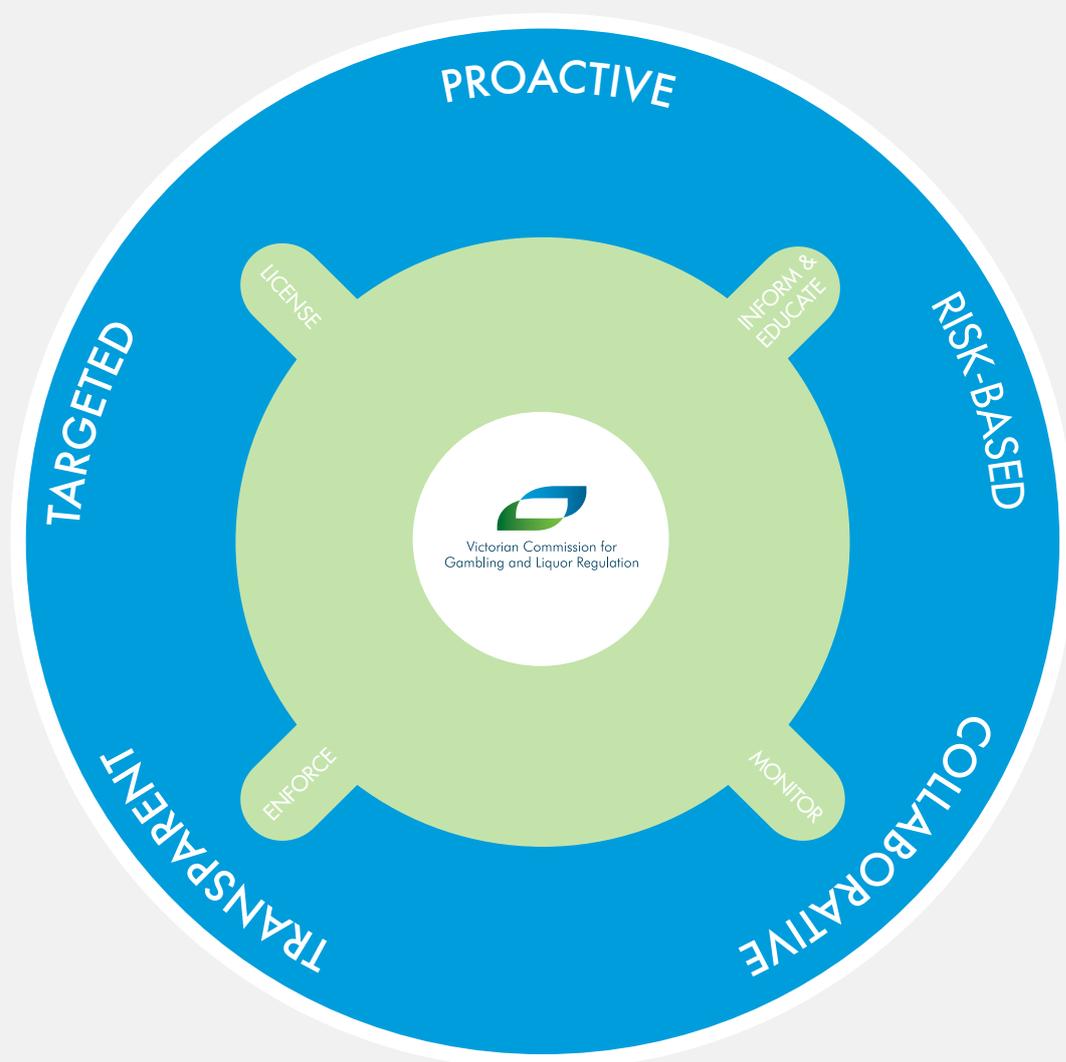
The VCGLR monitors for unacceptable levels of harm or emerging harm from the gambling and liquor industries. The VCGLR will take action if we have the ability to minimise harm. In these situations, the VCGLR is acting to protect the Victorian community rather than seeking to establish fault or non-compliance by particular individuals and businesses.

Sometimes, the VCGLR may not be best placed to take action to minimise harm. In these cases, the VCGLR will collaborate with our regulatory partners including Victoria Police, the community and the gambling and liquor industries to develop ways to minimise harm.

Our approach to harm minimisation

- Where data from research shows an increase in rates of problem gambling in a particular area for example, the VCGLR will focus on raising awareness of requirements for venues to create an environment that fosters responsible gambling and ensuring there is compliance. The VCGLR will also collaborate with other regulatory partners to support additional actions.
- Another example is if data from Victoria Police shows a significant increase in alcohol-related violence in an area. The VCGLR will review the licence conditions of premises in the area to see whether changes can be made to minimise the risk of violence in the future.
- If the VCGLR has evidence suggesting money laundering is occurring in a gaming venue, this evidence is provided to Victoria Police and Austrac for them to investigate.

VCGLR's principles for regulation



Risk-based

Our risk-based strategy guides the VCGLR's decisions to make the biggest difference to the Victorian community. An understanding of risk guides the VCGLR's decision-making, priorities and use of resources in discharging our statutory functions in licensing, information & education, monitoring and enforcement.

By adopting a risk-based approach, we acknowledge a tolerance of risk is necessary to properly meet our regulatory objectives.

Risk assessment

The VCGLR considers the risks associated with activities, for example the risks of particular kinds of liquor licensed premises or types of gambling.

The VCGLR looks at the risks presented by individuals and businesses in the gambling and liquor industries, for example a particular business may be more at risk of causing harm to the community than other businesses. This includes the risk of non-compliance with regulatory requirements.

The VCGLR:

- strives for a consistent approach to the assessment of risk throughout our operations
- asks for input on risk assessments from other relevant government agencies, including Victoria Police and local councils, to ensure we use all relevant data, information and intelligence
- uses information and data provided to us from sources outside government in risk assessments if relevant and appropriate, taking into account the need for accuracy and objectivity
- scans for emergent or unfamiliar risks to enable us to take a proactive approach to regulation.

How we assess risk

- A venue like a late trading nightclub has a higher risk of community harm than a cafe that serves a glass of wine with lunch. This has been established by research looking at assault and intoxication rates.
- A company that frequently conducts trade promotion lotteries but has had a history of repeated breaches of the law will have a higher likelihood of not complying in the future. This makes the company higher risk.

Risk communication

The VCGLR shares risk assessments with affected individuals and businesses and other relevant government agencies as appropriate.

Risk management

We use information generated by risk assessments to prioritise risks and our use of resources to manage risks.

The VCGLR:

- uses risk assessments in decision-making in accordance with our available discretion under relevant legislation
- uses legal, economic, policy and other forms of analysis in addition to risk assessments to guide our decision-making. Risk assessments are persuasive, but not determinative
- puts greater focus on activities, individuals and businesses at higher risk of undermining regulatory objectives
- works to coordinate its risk management activities with other government regulatory partners where appropriate.

Reviewing risk assessment and management

The VCGLR regularly reviews and updates our risk assessments and risk management practices to reflect changes in the gambling and liquor industries, regulatory objectives, the Victorian community and the availability of new data and information.

How we manage risk

- VCGLR Inspectors will more frequently inspect events like large music festivals than school fetes because they have a higher risk of harm to the community.
- The VCGLR will more closely scrutinise applications from businesses with a history of non-compliance with gambling and liquor laws because they have a higher likelihood of not complying in the future. This may mean these applications take longer to process.
- The VCGLR continues to work with Victoria Police and other regulators to conduct joint inspections of liquor licensed premises.



Proactive

The VCGLR is proactive in undertaking our role as a regulator.

We take a forward-looking approach in assessing the environment to detect emerging issues so we can dedicate more effort to proactively managing these issues.

The VCGLR makes independent decisions balancing the views and needs of regulatory partners, the community and the gambling and liquor industries. We independently assess the merits of stakeholder concerns and decide whether to act, and what action to take.

What does it mean to be proactive?

- An example of the VCGLR's proactive approach is our practice of identifying peak periods where the risk of harm to the community is increased. In preparation for the 'White Night Festival' for example, the VCGLR liaises with event organisers and licensees to provide information about our processes and approach to licence extensions as well as important regulatory obligations. Before the Spring Racing Carnival the VCGLR proactively provides information to relevant businesses to remind them of their regulatory obligations.



Collaborative

Regulatory power is not held solely by the VCGLR in respect of the gambling and liquor industries. There are a diverse number of bodies and groups that the VCGLR co-regulates with to achieve positive outcomes for the Victorian community. In particular, we work closely with Victoria Police and local government.

We actively look for opportunities to partner, collaborate and share information with others because it improves our effectiveness and reduces potential duplication.

The VCGLR works with the gambling and liquor industries and the community. We look for opportunities for self-regulation where the gambling and liquor industries take it upon themselves to work towards a regulatory outcome. The VCGLR gives clear information to the Victorian community about opportunities for input into our decision-making.

What does it mean to be collaborative?

- The VCGLR holds a range of forums to facilitate collaboration including state-wide information sessions, community sector forums and liquor forums. This complements our regular engagement with industry associations, peak bodies, Victoria Police, VicHealth, the Victorian Responsible Gambling Foundation, local councils and many other bodies.



Transparent

The VCGLR's efforts to achieve regulatory objectives depend upon the actions of others. We are transparent and:

- give the gambling and liquor industries, the Victorian community and regulatory partners a clear understanding of what to expect from us
- provide guidance to VCGLR commissioners and staff to support consistent and effective regulatory action for the benefit of the Victorian community
- provide a transparent account of the way we regulate, our operations and the decisions we make.

How are we transparent?

- One way the VCGLR is transparent is by continually looking for opportunities to publish useful data about our operations and the gambling and liquor industries. For example, the VCGLR has a publicly accessible map with geo-coded information about all permanent liquor licences in Victoria. The VCGLR also publishes data about gaming expenditure regularly on our website.



Targeted

The VCGLR is focused on achieving high rates of compliance with gambling and liquor laws. We rely on theories of responsive regulation and when making decisions about the types of enforcement action to take: we ask ourselves “when to punish, when to persuade?” In many instances, the VCGLR can achieve compliance by seeking to persuade those we regulate in the first instance with tools such as education and warnings, with more significant sanctions being used for more risky individuals and businesses or where there has been greater harm to the community, or a more significant risk of harm.

The three critical elements to our targeted enforcement approach are:

- systemic, fairly directed and fully explained disapproval of those who do not comply with the law
- a respect for individuals and businesses regulated by the VCGLR by taking into account individual circumstances
- an escalation of the severity of enforcement sanctions in the absence of genuine effort to meet required standards.

The VCGLR has a graduated approach to the use of enforcement sanctions where sanctions increase in accordance with the severity of the breach and the harm or risk of harm to the community.

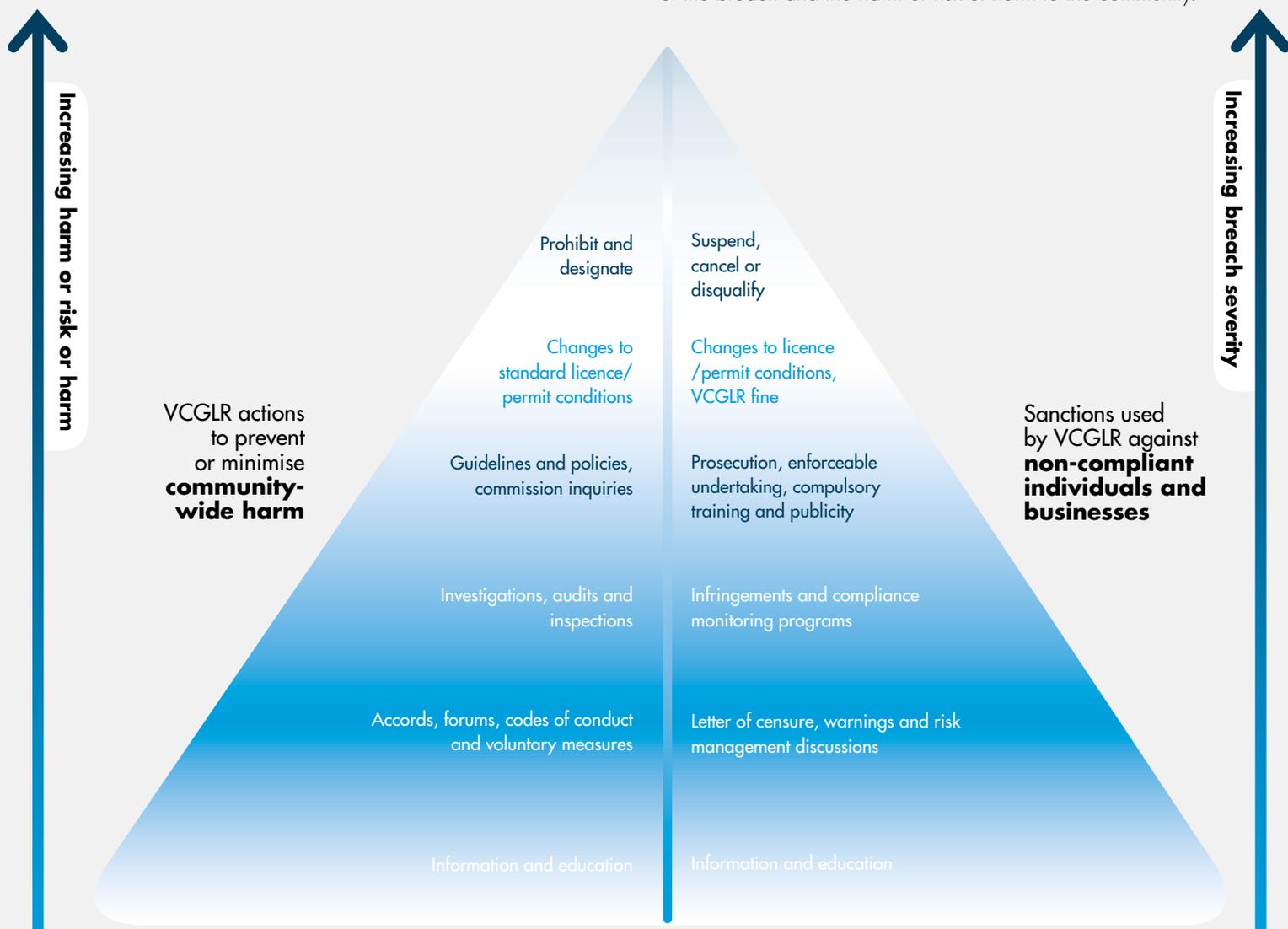
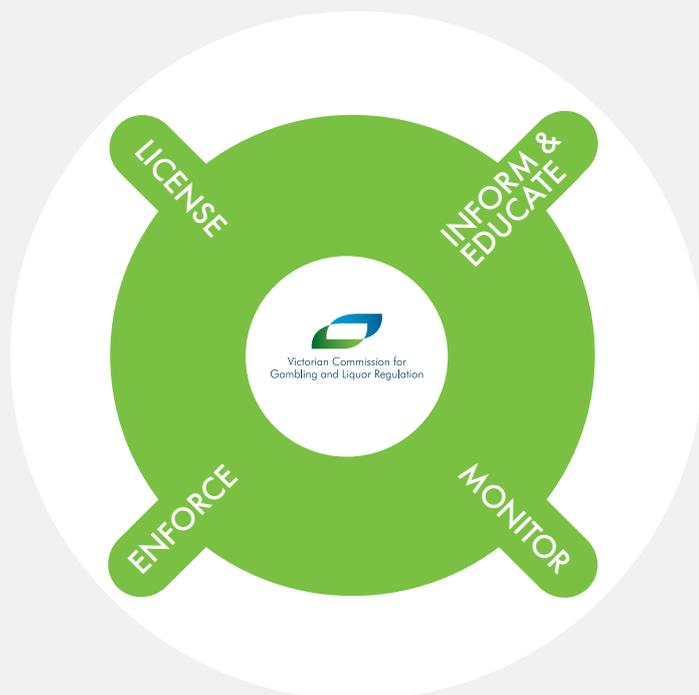


Figure: VCGLR's Graduated Enforcement Pyramid

Whole of VCGLR integrated approach

Key VCGLR functions forming a regulatory cycle are:



The VCGLR uses an integrated approach to performing our regulatory functions that is focused on:

- using the VCGLR's licensing, information & education, monitoring and enforcement functions in combination to solve problems recognising that we are more effective if different regulatory tools are used in combination
- achieving our regulatory objectives and outcomes for the community.

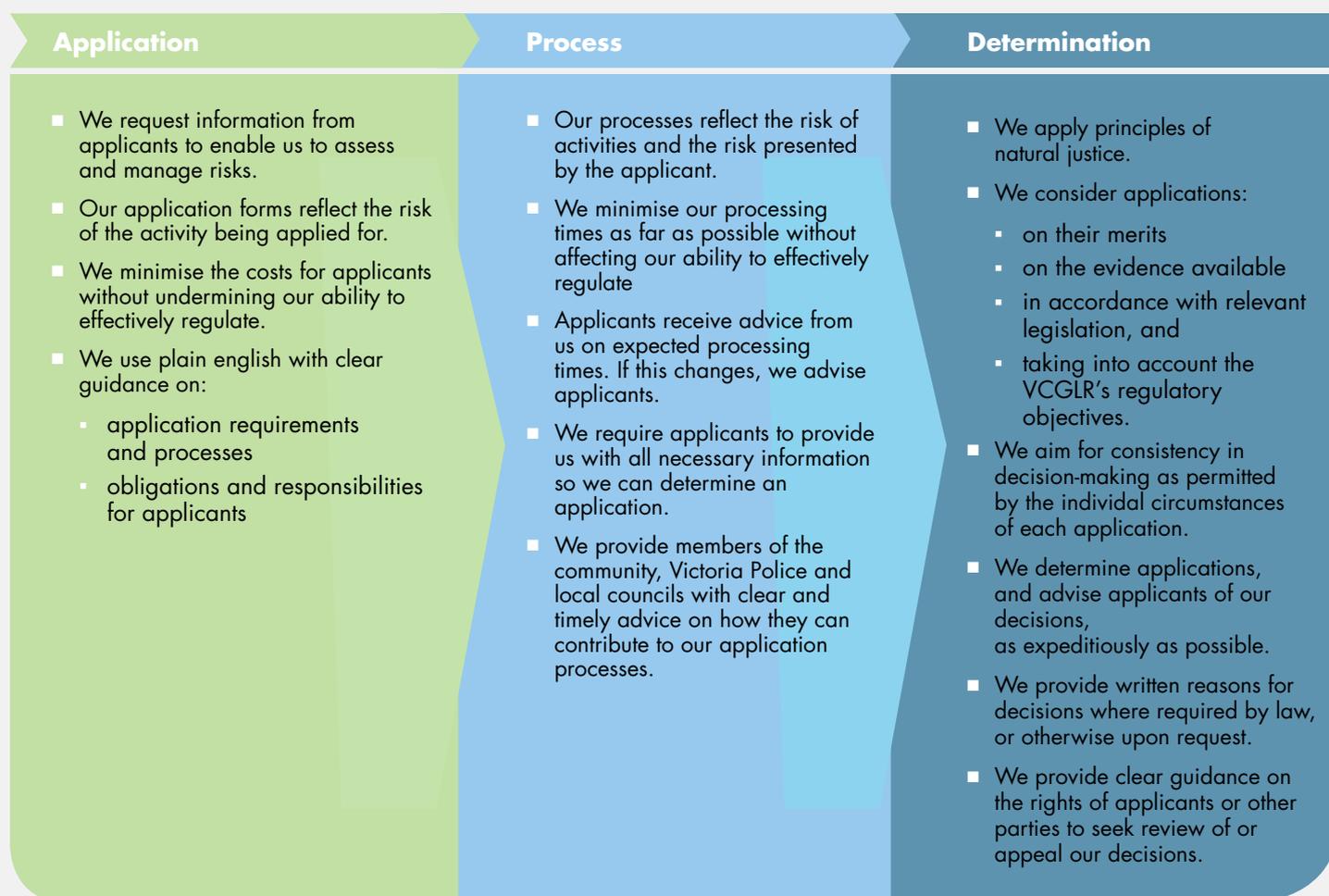
We use information and education in all stages of the regulatory cycle to support voluntary compliance. Information we gather from monitoring the gambling and liquor industries informs all of our functions. We coordinate action across the VCGLR's functions to reduce inconsistency for the gambling and liquor industries and improve our operational effectiveness.

How we work together

- One example is where a venue operator's licence is issued for a new gaming venue. The VCGLR will make sure there is enough information provided so the venue operator is aware of important obligations. VCGLR inspectors are also notified about the opening of a new venue and visit the premises shortly after opening to answer any questions and check obligations are being complied with.
- If the VCGLR detects a venue not complying with the law, it may take action in multiple areas to bring a venue back into compliance. For example, if a liquor licensed premises has been caught serving an intoxicated patron, the VCGLR may give the licensee information to make them aware of their responsibilities, charge the licensee with an offence, vary licence conditions to minimise the risk it will happen again and make sure all bar staff have completed RSA training.

License

A particular focus for the VCGLR is making sure we have the appropriate processes in place in our licensing function to afford natural justice to individuals and businesses.



How risk informs the licensing process

- The VCGLR will ask questions in its applications to help assess and manage risks. This helps the VCGLR streamline its processes. For example, an application for a restaurant and cafe licence that will only open until 5pm on weekdays will have fewer application requirements and will be determined more quickly than a higher risk application for a new large pub.
- The VCGLR will spend comparatively more time and effort considering higher risk applications. For example, the VCGLR has an intensive decision-making process to assess applications for increases in numbers of gaming machines

Probity and suitability checks are an important part of supporting the achievement of regulatory objectives and protecting the community.

The VCGLR:

- conducts checks in a way that minimises costs for individuals and businesses without undermining the integrity of gambling and liquor industries
- doesn't just assess probity and suitability upon entry into the gambling and liquor markets - individuals and businesses can have their suitability reassessed by us at any time.

Major gambling licensees

The VCGLR holds major gambling licensees to the same standard as other individuals and businesses in the gambling and liquor industries.

However, major gambling licensees:

- are larger so their operations can have a significant impact on the gambling industry and the community
- have some unique circumstances resulting from monopoly or duopoly licences.

The VCGLR uses a case management approach to manage the performance and compliance of major gambling licensees. This brings together elements from all of the VCGLR's functions in order to comprehensively and consistently regulate major gambling licensees.



Inform and educate

We target two key audiences for our information and education activities:

- individuals and businesses involved in the gambling and liquor industries
- the Victorian community.

Gambling and liquor industry

Informing and educating the gambling and liquor industries throughout all parts of the regulatory cycle supports compliance with gambling and liquor laws. The VCGLR uses the provision of information and education as an important regulatory tool to influence the behaviour of individuals and businesses regulated by the VCGLR in large numbers and in a cost effective manner.

The VCGLR works together with industry associations and regulatory partners to:

- understand the information and education needs of the gambling and liquor industries
- effectively distribute important information.

Victorian community

The VCGLR works to support the community to participate in regulating the gambling and liquor industries.

Consistent with legislation, we provide information so community members can:

- contribute to decisions made by the VCGLR
- tell us about potential non-compliance and emerging or unacceptable levels of gambling and liquor related harm
- make informed choices about purchasing goods or services in the gambling and liquor industries armed with information about the compliance of individuals and businesses with gambling and liquor laws.

Monitor

We monitor the activities of the gambling and liquor industries in order to detect where individuals and businesses are not complying with their regulatory obligations.

The VCGLR's aim is to identify problems in the gambling and liquor industries that put the achievement of regulatory objectives at risk. The VCGLR's monitoring approach is characterised by flexibility, responsiveness and the use of intelligence. We collaborate with regulatory partners, especially Victoria Police and local councils to gather an in-depth understanding of the gambling and liquor industries.

The VCGLR:

- has a targeted monitoring program informed by risk assessments with a particular focus on gambling and liquor related harm
- conducts random audits and inspections
- looks to identify trends or emerging issues in the gambling and liquor industries as a whole.

The VCGLR uses face-to-face inspections as an opportunity to remind those involved in the gambling and liquor industries of their obligations. We also provide information and advice to assist individuals and businesses to comply with the law and to minimise harm to the community.

Investigations and Commission inquiries provide us with an in-depth examination of an issue. More of the VCGLR's resources are dedicated to investigating or inquiring into potential breaches of gambling and liquor laws or public interest matters where the matters to be investigated present a higher risk to regulatory objectives.

Enforce

The aim of the VCGLR's enforcement regime is to encourage individuals and businesses regulated by us to choose to comply with their obligations.

The VCGLR takes enforcement action:

- to remedy non-compliance with gambling and liquor laws
- where appropriate, to punish individuals and businesses for non-compliance with gambling and liquor laws.

We take a problem solving approach to enforcement where sanctions are chosen based on their likelihood of successfully motivating those found to be non-compliant to change their behaviour and comply with gambling and liquor laws in the future.

When deciding what sanction is appropriate to respond to non-compliance, the VCGLR:

- considers the severity of a breach
- considers what is appropriate for each individual to change their behaviour
- chooses enforcement sanctions that:
 - are proportionate to the breach
 - impose costs only as far as are necessary to appropriately respond to the breach
 - act as a specific deterrent to future non-compliance by the individual offender
 - act as a general deterrent to the gambling and liquor industries by educating them about the need to comply with the law.

The VCGLR has a graduated response to enforcement. Sanctions applied by the VCGLR for non-compliance increase:

- with the severity of the breach including the degree of culpability of the offender and the risk or harm to the community from the breach
- if non-compliance continues or is repeated.

The VCGLR requires strict compliance with requirements to pay taxes and fees. We require all taxes and fees to be paid in accordance with relevant legislation and by the due date. We take enforcement action in the case of non-compliance.

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Feedback

The VCGLR's Regulatory Approach will continue to be reviewed and updated in response to feedback or any significant changes to legislation, government policy or our regulatory practice. We welcome feedback about the VCGLR's Regulatory Approach or the performance of the VCGLR.

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