

CASE NOTE F

In the matter of an application under section 153 of the *Liquor Control Reform Act 1998* for the internal review of a decision to refuse to transfer a liquor licence.

Commission: Ms Deirdre O'Donnell, Deputy Chair
Ms Danielle Huntersmith, Commissioner
Mr Andrew Scott, Commissioner

Date of Hearing 17 November 2021

Date of Decision: 7 December 2021

Date of Publication: 8 December 2021

Decision: The Commission has determined to set aside the decision of the Delegate and, in substitution, grant the application to transfer the licence.

CASE NOTE

1. During 2020, the Victorian Commission for Gambling and Liquor Regulation (**the Commission**) received an application under the *Liquor Control Reform Act 1998* (**the LCR Act**) for the transfer of a general liquor licence (**the Original Application**).
2. In accordance with section 33(1) of the LCR Act, a copy of the Original Application was served on a Victoria Police licensing inspector (**Victoria Police**). Victoria Police objected to the transfer on grounds that the applicant was not a suitable person to hold the liquor licence, because:
 - (a) the applicant had previously been charged with criminal offences relating to their cultivation, use and possession of cannabis; and
 - (b) the applicant made incorrect statements within the Original Application, relating to their suitability and criminal history.
3. During 2021, a delegate of the Commission determined to refuse to grant the transfer of the liquor licence, pursuant to section 44(2)(a) of the LCR Act, on grounds that the applicant was not a suitable person to hold the Licence (**the Original Decision**) due to being charged with criminal offences relating to the possession, use and cultivation of cannabis.
4. The applicant then applied for the internal review of the Original Decision (**the Review Application**) and provided material as evidence that:
 - (a) their incorrect statement with respect to their criminal history was made because they incorrectly believed that the criminal charges had been discharged when the Original Application was submitted; and
 - (b) the behaviour relating to the criminal charges occurred because the applicant was seeking relief from symptoms of a medical condition, which was now treated through medically prescribed cannabis.
5. The Commission accepted the applicant's submissions that they had suffered from mental health issues and chronic debilitating pain at the time of their offending which led to them using and cultivating cannabis. Since lodging the Original Application, the applicant found a doctor who was able to provide them with a medical prescription for cannabis, and as such, the Commission was satisfied that the applicant would not reoffend.
6. The Commission was also satisfied that the applicant's failure to accurately describe the status of their criminal charges in the Original Application was a mistake rather than an attempt to deliberately mislead the Commission. The Commission therefore determined to set aside the Original Decision and grant the application to transfer the licence.
7. The Commission has decided not to public its reasons for decision in this instance due to considerations relating to the applicant's criminal and medical history.