

VICTORIA
POLICE FORCE

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Chief Commissioner of Police

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Our Ref: LEX 21694

Coroner Sarah Gebert
Coroners Court of Victoria
65 Kavanagh Street
SOUTHBANK VIC 3006

Subject: [REDACTED] - Finding into death without inquest
Court Reference: COR 2017 3180
Date of Recommendation: 25 February 2021

Dear Coroner Gebert,

Victoria Police response to recommendations arising from the Investigation into the death of [REDACTED]

This document provides the response to your recommendations directed towards the Chief Commissioner of Police, arising from the Investigation into the death of [REDACTED] (without inquest), delivered on 25 February 2021.

RECOMMENDATIONS TO VICTORIA POLICE

Recommendations

Pursuant to section 72(2) of the Act, I make the following recommendations:

- *Victoria Police develop a framework for determining whether a person with a history of or current mental illness and suicidality is a fit and proper person to hold a firearm licence under the Firearms Act, in consultation with the Royal Australian and New Zealand College of Psychiatrists and the Royal Australian College of General Practitioners; and*
- *As part of the development of that framework, the Royal Australian and New Zealand College of Psychiatrists and the Royal Australian College of General Practitioners develop a set of clinical guidelines regarding assessing fitness to own a firearms licence and firearms in people with a history of or current mental illness and suicidality.*

Victoria Police is supportive of these recommendations.

A framework for determining whether a person with a history of or current mental illness and suicidality is a fit and proper person to hold a firearm licence has been in place since 2014 in the form

of the 'Quick Guide: The role of health professionals in the firearm licencing process ('Quick Guide')' which is provided to medical practitioners to assess the suitability of an individual to hold a firearm licence (Annexure A). This document was developed in consultation with the Royal Australian and New Zealand College of Psychiatrists ('RANZCP') and the Royal Australian College of General Practitioners ('RACGP').

As a result of the death of [REDACTED], Victoria Police has developed guidelines (Annexure B) requiring a firearms licence be suspended for a minimum 12 months after a suicide attempt is made. Reinstatement of a licence requires medical reports at the start, middle and end of the suspension period.

In response to these recommendations, the Quick Guide will be updated in consultation with the RANZCP and the RACGP to ensure the framework is contemporary. Consultation will particularly address the need for structured risk and capacity assessments and the suggestions made by the Coroner at paragraph 52 of her findings.

The 'Quick Guide' will also be amended to include a release of medical information consent form from the licence holder and instructions to the medical professional to send the report directly to Victoria Police.

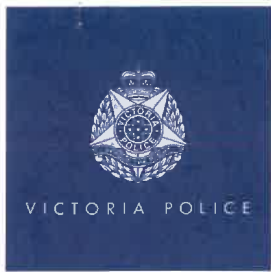
Victoria Police is committed to continuing to assess its response to mental health and the 'fit and proper person' requirement in firearms licencing through review of internal policy and procedure.

Yours sincerely,



Shane Patton APM
Chief Commissioner

28/5/21



LICENSING & REGULATION DIVISION



QUICK GUIDE: THE ROLE OF HEALTH PROFESSIONALS IN THE FIREARM LICENSING PROCESS

PURPOSE

This quick guide outlines the role of health professionals in the firearm licensing process, the circumstances in which medical information may be obtained and used, and the protections afforded to health professionals by the *Firearms Act 1996* for providing medical information in good faith.

THE USE OF FIREARMS AND PUBLIC SAFETY

There are a number of requirements that must be met before a firearm licence can be granted in the State of Victoria.

One of these requirements is that the Chief Commissioner of Police must be satisfied that the applicant can possess, carry or use a firearm without being a danger to public safety or peace and in doing so, poses no threat to themselves. In this vein, the applicant's medical history may be an important consideration in order to determine suitability for a licence. This process applies for a new or renewal application.

Health professionals have a critical role in this process, and Victoria Police relies heavily on their impartial and expert advice in determining an applicant's suitability to possess firearms.

WHAT IS MEANT BY A HEALTH PROFESSIONAL?

Section 183(4) of the *Firearms Act 1996* defines a health professional as a registered medical practitioner, a registered psychologist, a nurse or midwife, a prescribed class of social worker or a prescribed class of professional counsellor.

WHAT PROTECTION DOES LEGISLATION PROVIDE?

Under section 183 of the *Firearms Act 1996*, health professionals are not subject to any civil or criminal liability for providing certain information to the Chief Commissioner of Police provided that the advice is given in good faith.



QUICK GUIDE: THE ROLE OF HEALTH PROFESSIONALS IN THE FIREARM LICENSING PROCESS

WHEN WILL VICTORIA POLICE REQUEST A MEDICAL REPORT FROM A HEALTH PROFESSIONAL?

There are two scenarios:

1. An applicant for a firearm licence requires medical evidence to support their application

In the course of applying for, or renewing a Victorian firearm licence, applicants are required to declare whether they have been treated for certain medical issues (including mental health) in the previous five years. Applicants are advised that it is an offence against section 140A(1) of the *Firearms Act 1996* to knowingly supply details that are false or misleading.

The medical issues that Victoria Police believe may impact on a person's ability to safely possess and carry firearms safely are (broadly, but not limited to):

- Mental health concerns including depression, stress or emotional problems;
- Alcohol or drug related problems;
- Neurological conditions including stroke and brain injury; and/or
- A physical disability or any other medical condition.

If an applicant indicates that they have a medical history relative to any of the above, Victoria Police retains its discretion to require a written medical report from the treating health professional.

2. An existing licence holder requires medical evidence to continue to hold a licence

Victoria Police may receive advice from a variety of sources including sporting clubs, family members or associates of a licence holder expressing concern as to the suitability of an existing licence holder. In these scenarios, Victoria Police must review the person's suitability for a licence. If the concerns raised are medically based, Victoria Police will seek a medical report from the treating health professional regarding the matter.

WHEN SHOULD A HEALTH PROFESSIONAL MAKE A REPORT TO VICTORIA POLICE ON THEIR OWN MOTION?

As licences are renewed between three and five years, any change in the medical condition of a firearm licence holder should be brought to the attention of Victoria Police. It is for this reason that health professionals should be continually mindful of the firearm licensing regime in Victoria.

Victoria Police has an expectation that health professionals will notify Victoria Police if they feel a patient is not suited to possess firearms where they suspect the patient:

- Is a firearm licence holder; or
- Has, or is intending to apply for a firearm licence.



QUICK GUIDE: THE ROLE OF HEALTH PROFESSIONALS IN THE FIREARM LICENSING PROCESS

WHAT INFORMATION IS VICTORIA POLICE SEEKING?

In the aforementioned situations, a medical report is required from the treating health professional that specifies the following:

- Confirmation of who the treating health professional is;
- The nature of the condition, its treatment (including medication) and likely impacts;
- A clear statement in the treating health professional's opinion as to whether or not the person is a fit and proper person to be in possession of a firearm licence and whether the person poses a threat to themselves or the community due to the possession and use of firearms;
- Whether the treating health professional's advice or opinion is subject to any limitations (i.e. whilst continuing to take medication, under supervision etc).

As a guide, templates for the above situations are attached to this information guide (Appendix 1).

WHAT ACTION IS TAKEN BY VICTORIA POLICE UPON RECEIVING NOTIFICATION?

After receiving a medical report, Victoria Police will consider the information, along with any other relevant information to determine the applicant's suitability for a firearm licence. Each case will be considered on its merits (case by case basis). This will assist in the determination of a person's suitability and any likely effect on their ability to possess, carry or use a firearm.

The review may result in one of the following outcomes:

- Licence holder retaining their firearm licence with no further action;
- Suspension or cancellation of the person's existing licence;
- Refusal of licence application;
- Applicant granted a new firearm licence;
- Applicant granted a new firearm licence with special conditions imposed; these conditions may include (but not limited to) the requirement to periodically submit medical reports or restrictions requiring supervision;
- Applicant granted a new firearm licence for a shorter duration; or
- Further medical information may be required.

Decisions to refuse a licence application, suspend or cancel a licence or impose conditions on a licence can be appealed by the applicant/licence holder.



QUICK GUIDE: THE ROLE OF HEALTH PROFESSIONALS IN THE FIREARM LICENSING PROCESS

HOW TO NOTIFY VICTORIA POLICE

The responsible unit within Victoria Police that regulates the firearm industry is the Licensing & Regulation Division.

Notification regarding medical suitability must be made in writing, and sent by either email, post or fax to:

Licensing & Regulation Division
GPO Box 2807
Melbourne 3001
Victoria Australia

Phone: 1300 651 645
Email: lrld@police.vic.gov.au

If you would like clarification regarding any information contained within this guide or have additional questions or concerns please contact the Licensing & Regulation Division.



VICTORIA POLICE

Office use only:

Entity No: _____

APPENDIX 1

MEDICAL REPORT: SUITABILITY FOR VICTORIAN FIREARM LICENCE HOLDERS OR APPLICANTS

Personal Details of Patient or Client (complete in BLOCK letters)

Surname: _____ Date of Birth: / /

First Given Name: _____

Second Given Name: _____

Home Address: _____

Health Professional:

Please tick your health profession:

- Registered Medical Practitioner
- Nurse
- Midwife
- Registered Psychologist
- Social Worker
- Counsellor

How long have you known/treated the patient or client? Years: _____ Months: _____

Do you know the medical history of the patient or client? Circle: Yes / No

If not, who treated the patient or client previously? _____

Contact details of previous health professional: _____

Please tick:

I am of the belief that the above-named person:

- is a current holder of a firearm licence
- intends to apply for a firearms licence

and wish to provide the following information in good faith.



Assessing Mental Health & Firearms

To ensure consistency in decision making the following guide is to be utilised when assessing firearms licence holders with Mental Health conditions.

All files should be assessed on their individual merits and it should be remembered that mental health conditions are treatable and can be appropriately managed. Fairness to the applicant or licence holder, and public safety will need to be balanced.

Required actions

New/Renewal –

Check age of MH involvement and ensure medical report is provided. Report needs to be at least 12 months after MH involvement and within a few months of the application.

Current licence –

If an actual Suicide attempt is made. Licence to be suspended for minimum 12 months with medical reports covering that time (Start, Middle and End of assessment). Occasionally a longer period of suspension may be required. If the LH objects, simply cancel the licence. The Firearms Appeal Committee will require updated medical reports in any event.

Threats of suicide licence is suspended for a minimum of 6 months (then as above)

Any other MH condition will require a supporting medical report that is recent (no more than 3 months).

All reports should be on the Guide to Medical Practitioner or at least cover off on that information.

References from family/friends and colleagues are also required that indicate how the LH has been behaving/feeling.

Information to be assessed in Medical Submission

- How long the reporting medical practitioner has known the person
- The relevant skills and qualifications to make the assessment (i.e.: GP vs Psychiatrist)
- The nature of the treatment (if any) and the duration of the treatment

- The medical practitioners' recommendation regarding the persons ability to safely possess and use firearms.

If in doubt, seek further information. If the medical practitioner report indicates further treatment required, the person requires supervision when using firearms or any or any other statement that is less than unequivocal, further information will be required to ensure public safety. In extreme or unusual cases advice can be sought from the Police Medical Officer or a Forensic Medical Examiner.

Any refusal or cancellation can be appealed to the Firearms Appeal Committee and/or VCAT. So long as procedural fairness can be shown, these bodies have supported LRD in the past. They may direct or require further medical assessments.