

RE: Your application for renewal of your PC (Final Decision)

From: peter@lawyerslegal.com.au


Sent: Friday 22 October, 2021 11:57 am

To: Peter Docherty <pdocherty@liv.asn.au>, <ilg3182@gmail.com>, <president@liv.asn.au>

Subject: RE: Your application for renewal of your PC (Final Decision)

Attachments:

Associations: LAW INSTITUTE OF VICTORIA [1793]

 This email was sent as High priority

Dear Mr Docherty, Ms Wolff and Judge Gray,

Thank you for your confirmation, in the email below, that the delegation is at an end.

My understanding of the situation is that Ms Fiona McLeay, the Victorian Legal Services Commissioner (VLSC), against whom serious allegations of corruption have been made, took the decision to refuse renewal of my Practising Certificate on the basis that I am not a 'fit and proper person'. It appears that the VLSC is of the view that a fit and proper person would not publish allegations of corruption against the person who controls the renewal of Practising Certificates - a Catch 22 situation (one that would give rise to a recommendation that lawyers should be required to report suspected misconduct, as per Ms Wolff's recent communication to the profession).

At the risk of labouring the point, it appears that it is the view of the VLSC and the LIV that a fit and proper person would not self-publish allegations of corruption against a senior public official, and that only unfit lawyers would dare to do so. (I note that the LIV did not want to respond my query as to whether a fit a proper person might divulge such allegations to an investigative journalist for publishing in print or broadcast media.)

On this basis, the VLSC decided that an investigation should be conducted into my being a 'fit and proper' person.

In order to give the appearance of an independent investigation, the VLSC delegated her role to the Law Institute of Victoria (LIV). For its part, the LIV took the decision to abandon my existing request for support in having my allegations against the VLSC referred to IBAC, and instead to accept the VLSC's delegation, and to pursue me on behalf of the VLSC.

Due to the obvious conflicts of interest, the LIV decided to appoint an "independent investigator". Enter Judge Ian Gray, who promised to undertake a thorough and impartial investigation and to make recommendations based on the outcome of those investigations.

Judge Ian Gray purported to have no interest at all in the truth or otherwise of my complaints and allegations, and it appears that he did not query why the VLSC had ignored her statutory obligations to report suspected corrupt conduct on the part of her own officers to IBAC. Instead, Judge Gray confined his investigations to a series of questions put to me about my reasons for publishing my complaints. I answered all of Judge Gray's questions completely and honestly, and Judge Gray gave the impression that he accepted all of my explanations.

Judge Gray determined that I was a fit and proper person, and that my Practising Certificate should be renewed, albeit with a condition requiring me to remove my allegations of corruption from my website and refer them to IBAC. I advised the LIV that I would remove my entire website from the internet immediately upon the renewal of my Practising Certificate with the recommended condition. Indeed, I removed the website prior to my Practising Certificate being renewed.

The LIV, as delegate of the VLSC, decided not to accept the recommendation of the 'independent investigator'. Thus, the involvement of Judge Gray amounted to nought.

The LIV, as delegate of the VLSC, decided that I should be 'blackmailed'. I was told that I would have to remove my corruption allegations from my website before any decision would be made about my Practising Certificate. However, the *quid pro quo* hinted at in the LIV's decision did not confirm that my Practising Certificate would be renewed; it was left as a mere possibility. I have no doubt that that possibility would never have eventuated, and that the VLSC would have found some other pretext on which to refuse to renew my Practising Certificate.

I removed the entire website from the internet but the LIV, as delegate of the VLSC, still refused to renew my Practising Certificate on the basis that I am not a fit and proper person. It appears that the true reason I have been declared to be unfit to practise as an Australian Legal Practitioner is that I was not quick enough in doing what the LIV, as delegate of the VLSC, wanted me to do.

If my summation of the situation is inaccurate in any way, please advise with specifics and reasons.

I will seek a review of the decision pursuant to Section 100 of the *Legal Profession Uniform Law*.

Regards,



Peter Mericka B.A., LL.B

Australian Legal Practitioner & Authorised Principal
Pursuant to the *Legal Profession Uniform Law Application Act 2014*

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From: Peter Docherty
To: Peter Mericka
Cc:

Subject: Your application for renewal of your PC (Final Decision)

Received: Friday 22 October, 2021 09:30 am

Dear Mr Mericka,

The LIV Council has made a final decision to refuse your application to renew your practising certificate. Pursuant to section 96 of the Legal Profession Uniform Law, the LIV Council may defer taking an action for a period that it considers necessary for the purposes of enabling the proper arrangement of the affairs of your practice. This is the basis upon which the effect of the refusal to renew has been deferred.

I note that you were advised by letter on 30 August 2021, 3 September 2021 and 14 September 2021 that if the material were not removed from your website, the LIV Council would likely find that you were not a fit and proper person and would refuse your application for renewal. By letter on 22 September 2021 you were advised that the LIV Council may not be prepared to renew your practising certificate subject to a condition. You have had ample opportunity to provide any response and be heard in relation to this matter. All responses you have provided in the course of the process have been reviewed and taken into account by the Council in making its decision.

The LIV considers that the subject matter of the delegation is at an end.

Please direct future correspondence to Matt Anstee at the VLSB at : MANstee@lsbc.vic.gov.au

Regards,

LIV Reviews.

Peter Docherty | Head of Professional Standards and Quality Assurance

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