

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into the Victorian Auditor-General's Reports No. 99: Follow up of Regulating Gambling and Liquor (2019) and No. 213: Reducing the Harm Caused by Gambling (2021)

Melbourne – Monday 24 July 2023

MEMBERS

Sarah Connolly – Chair

Nicholas McGowan – Deputy Chair

Michael Galea

Paul Hamer

Mathew Hilakari

Lauren Kathage

Bev McArthur

Danny O'Brien

Ellen Sandell

WITNESSES

Mr James O'Halloran, Deputy Chair,

Mr Chris Carter, Chief Operating Officer, Liquor Control Victoria, and

Mr Cameron Warfe, Deputy General Counsel and Director, Legal Policy and Harm Minimisation, Liquor Control Victoria, Victorian Liquor Commission.

The CHAIR: I declare open this hearing of the Public Accounts and Estimates Committee. I ask that mobile telephones please be turned to silent.

I begin by acknowledging the traditional Aboriginal owners of the land on which we are meeting, and we pay our respects to them, their elders past, present and emerging, as well as any other elders from other communities who may be here with us today.

On behalf of the Parliament, the committee is conducting this follow-up inquiry into the Victorian Auditor-General's reports on regulation of gambling and liquor and the reduction of gambling harm in Victoria.

I advise that all evidence taken by the committee is protected by parliamentary privilege. However, comments repeated outside of this hearing may not be protected by this privilege.

Witnesses will be provided with a proof version of the transcript to check, and verified transcripts, presentations and handouts will be placed on the committee's website.

I welcome James O'Halloran, the Deputy Chair of the Victorian Liquor Commission; as well as Chris Carter, the Chief Operating Officer of Liquor Control Victoria; and Cameron Warfe, Deputy General Counsel and Director, Legal Policy and Harm Minimisation, from Liquor Control Victoria. You are very much welcome here today. I invite you to make an opening statement or presentation, really no more than 5 or 10 minutes, and this will be followed by questions from the committee. Over to you.

James O'HALLORAN: Thank you, Chair, and if I may make some brief opening remarks, if that is okay.

The CHAIR: Sure.

James O'HALLORAN: Just to kick off, the Victorian Liquor Commission commenced on 1 July 2022, supported by staff from the Department of Justice and Community Safety, as the new liquor regulator. Importantly we are a statutory regulator with a singular focus on the regulation of liquor in Victoria, so it is fair to say this last year has been a significant change for everybody involved in liquor regulation and the community. We have, however, put in place new management structures, new systems and dealt with new processes to meet the changed expectations. At the same time, as you would be aware, the broader environment has changed for liquor as the package of legislative reforms progressively came into effect throughout the year. This is an exciting and of course challenging opportunity for us all.

Our vision is to seek to ensure a safe, diverse and responsible liquor industry, focusing on harm minimisation and community safety. Post COVID, with the recognition of new expectations and some emerging business models, many of which are virtual, there is now legislation that allows for specific arrangements for online sales and home delivery, the expansion of hours for certain licences until 1 am, the ability for licensees to provide liquor with food for consumption off premises and the introduction of a new remote sales licence.

Importantly, underpinning these reforms is a now-legislated definition of 'harm'. The definition specifically includes harm to minors, vulnerable persons and communities and those that may be impacted by family violence. Such change requires us to sharpen our focus to ensure we are considering a broader set of risks and perspectives. Many of these changes are perhaps expected features of a modern regulatory regime so as to be able to deal with new ways our industry seeks to operate and the services they wish to provide. These are balanced with the required protections to minimise potential harm. Generally, from our perspective, these changes have been well received.

We also needed to hit the ground running and continue to provide business as usual through the ongoing provision of licensing, compliance, education and our tribunal function. These have been challenging at times. In terms of our business as usual, there has been a need for ongoing improvements and prioritisation, and we have sought to adjust and learn from those experiences. Importantly, for context, in our first year we finalised 14,897 liquor licence applications and also maintained a focus on compliance and enforcement, with 268 completed investigations and 4868 – to be precise – inspections conducted. We also have major disciplinary hearings underway, and the VLC tribunal has determined 46 internal review hearings. We have done these things despite the necessary changes with the separation from the VGCCC and the integration into the department of justice, with systems, resources and shared services. Since our commencement we have actively engaged with industry and the community to listen and share perspectives, and this will be ongoing.

In relation to the VAGO liquor recommendations, I confirm that, as reported in the VAGO response to the performance engagement report of June 2022, the recommendations which relate to liquor have been completed. Of course we do remain committed to bringing life to the new regulatory arrangements, supported by continuous improvement and strengthening our regulatory systems. As we do see the impact and behaviours that arise particularly from the recent reforms, we will continue to educate, administer and, importantly, enforce the regulations of liquor in Victoria. We thank you for your ongoing interest and support.

The CHAIR: Thank you, Mr O'Halloran, for that introduction. I will go to the Deputy Chair.

Nicholas McGOWAN: Thank you so much. Thank you for that report. As I am sitting here listening to you, I am thinking to myself, 'What is the biggest challenge you face right now, particularly in terms reincorporation into the department?'

James O'HALLORAN: There are probably two or three levels to that. Clearly there are the operational aspects, which are important for the community and applicants, which we are conscious of. I say this with respect to any previous arrangements: clearly there is a different regime; we have a singular remit as a regulator on liquor, which has some, perhaps, benefits. I think it is making sure that we do not just lift and drop existing processes and systems – keep the good ones – but make sure that we are setting up a regime and a regulatory environment that is fit for purpose. I think it is fair to say, as I have touched on – the change to 'harm', if you like, or the introduction of a broader scope of 'harm' in the legislation. I think some of the business models are particularly challenging, as people want to do different things with their liquor licence or the community expectations are different. But of course underpinning that, particularly for a hearing like this – clearly the governance and the ongoing assurance to what we do, why we do it and how we do it so that we can share that information and keep the community and groups like you informed of what we are doing. I might come back to that in a moment, but we did take a few steps particularly around external engagement from day one so that we did not just listen to ourselves and jump to a solution. We wanted to test how people are reading the environment themselves. I am happy to go into more detail, if you would like, on that.

Nicholas McGOWAN: What about culturally? I know that when you are reincorporated or you are certainly subject to any shared services, culturally that is a big shift because you still want to operate very independently – you want to be able to call your own shots. How are you finding that transition?

James O'HALLORAN: There are probably a couple of elements to that. One is that the commission itself under law is independent in terms of the functions – under 172 of the Act, from memory – and I think there are the dedicated staff, both personally dedicated and dedicated in their singular focus on liquor in the area there. I think there are more advantages than disadvantages emerging. By remit, we are able to reconnect in quite an easy way back to some of the skills, capabilities and shared services that are there, particularly around information management, maturing systems, just on a bigger scale, which I think we will be able to tap into.

Secondly, I think the staff themselves, if I may, probably will have, as part of the normal process of the department of justice, an ability to tap into training and professional development and not be pigeonholed just perhaps on one topic. Leadership, professional development, regulatory understanding – so far that is progressing well, but I would be the first to admit that we have a way to go, because obviously one of our tenets in the first two quarters, both as a commission and as senior leaders, if you like, in this group, was to make sure that we had a clear sense of our direction going forward rather than just imposing previously. To that end, we have set up finalising our strategic plan, which sits on some pillars that are particularly important around

fairness but also strength, listening and engaging – obviously, in other words, also professional development and making sure that we are a regulator that is up to the challenge – and I think we are making good progress.

Nicholas McGOWAN: Final question, just for me, because I am conscious others have questions as well.

The CHAIR: That is all right.

Nicholas McGOWAN: We heard before from the previous authority that they would like the capacity, or they have talked about it at least, to give infringement notices. Forgive my ignorance in your space, but do you currently have that capacity to serve or give infringement notices on the spot, so to speak?

James O'HALLORAN: Subject to one clarification from Cameron, the short answer is we do issue infringement notices as a matter of course, and I believe they have been in place for some years. In fact in this financial year we have issued 126 infringement notices.

Nicholas McGOWAN: Are they on the spot or is that after an investigation?

James O'HALLORAN: I might just get Cameron to clarify that, because they do fall under other legislation in terms of the process as opposed to a strictly on-the-spot arrangement. Cameron, if you could.

Nicholas McGOWAN: Thank you.

Cameron WARFE: Our inspectors have the ability to issue those infringement notices, and whether that is at the time they identify that non-compliance has occurred or whether that might be subsequent to an investigation where further evidence is gathered, that infringement notice can then be issued.

Nicholas McGOWAN: Of the 126 how many were on the spot versus post visit, for example?

Cameron WARFE: I think we would have to take that on notice. We can come back with some specific figures on that breakdown.

Nicholas McGOWAN: I am just trying to understand how it actually, practically works. If you go into a facility or a venue or a premises and suddenly there is a very clear breach, whatever that might constitute – I am just trying to understand how that would work currently. Is this something you have looked at before previously in terms of what power you have specifically and whether it is sufficient in terms of both obviously the efficiency of the system but also making sure that it does not get too litigious at the same time?

James O'HALLORAN: Just briefly, I am not aware of whether this has been examined before, but if I could draw, picking up your flavour on the practical distinction, perhaps as opposed to a Victoria Police on-the-spot type fine, this is very much an administrative infringement, which then can be challenged through legal processes obviously as opposed to what is often called a 'strict offence', where there is effectively a fine on the spot – albeit you can take it to the Magistrates Court. But probably I would think most of the infringement notices are at least, if not given on the spot – may not always be the case, but subject to taking it on notice – with many of them, certainly the licensee is aware that the inspectors are going to issue an infringement notice. But I might just hold it there, and then we can take those details and break it down.

Nicholas McGOWAN: Sure.

Cameron WARFE: I think it is also important that infringement notices are one of those enforcement tools that our inspectors can use. It might be on reflection, on further investigation of previous compliance history, that the infringement notice is not the appropriate enforcement tool in that set of circumstances. It might be something that might need to be escalated if there is a series of non-compliance events that have occurred.

Nicholas McGOWAN: Thank you very much.

The CHAIR: How much money is the infringement notice?

Cameron WARFE: It depends on the offence that the infringement relates to. It is generally 10 per cent of the maximum penalty, but there are some exceptions to some of the minor –

The CHAIR: So just approximately, you know, what would you see as kind of an average?

Cameron WARFE: It really does depend on the offence. Because each of those offences, depending on their risk, will have their maximum penalty set for that, and in some instances it will depend on whether it is a corporate licensee or individual compliance.

The CHAIR: All right.

Nicholas McGOWAN: Perhaps could you provide to us, of the ones that were issued and accepted or paid, the magnitude of those fines – just so we can understand – or what they were. You may well have a list obviously in terms of –

James O’HALLORAN: Yes, we can give you a breakdown by classification of the original breach, if you like.

Nicholas McGOWAN: That would be great, yes. Fantastic. Thank you.

James O’HALLORAN: That is okay.

The CHAIR: Okay. I am going to throw to – I know Mr Hilakari has some questions.

Mathew HILAKARI: Yes, certainly. Thank you very much for appearing. You mentioned, in your initial remarks, harm and that being an important element of the new legislative requirements. What does that look like practically to you? So how does a harm-based approach work for you?

James O’HALLORAN: Firstly, as I touched on, the now definition of harm is much broader, with a particular focus on children, vulnerable communities et cetera. If I understand, your question actually was how is it playing out?

Mathew HILAKARI: What is going on?

James O’HALLORAN: Yes, great. A couple of things – look, this is an important step change for us in two areas. One is, and I touched on it, that broadly speaking, for want of a better term, it also introduces an ability for people in those sorts of groups or who feel that they are in those groups to object to some of the licence applications. They have not come through yet, but I think that is an important opening to people who have a pretty important concern for the propensity of harm – that they now have a right to be able to object to a licence or raise it – more than just people in the local neighbourhood, for want of a better word, for today’s purposes.

I think importantly from us, for this venue we are certainly conscious of needing to make sure that we continue – more than we have at the moment, because it is early days – to build those into our risk profiles, as well as those sorts of data sources and the information that we can tap into. To that end, we have started to work through, as part of engaging with people who might have different data to what we have access to at the moment, different expertise and of course people who can act and provide good leverage. That may be the licensees, it may be community groups or it may be obviously people of that ilk who would have more direct access to who we can share information with or encourage to be aware of their rights but also how we can help them and how they can help us identify potential areas of harm so that we are aware of it from their perspective. Obviously, whether it be children or vulnerable communities and the like or people particularly who may be subject to family violence, their perspective – I do not think, if I may, any of us can walk in their shoes, but we certainly need to open the dialogue to either get their view or conversely build the sorts of information we may need or in fact may be able to improve our processes in so that we can identify instances where that may be a factor of potential harm.

To date we have built it into what I would loosely call our internal templates for risk, and we are really moving on to the next stage now to try and beef up, for practical purposes, what the sorts of data and networks we need to tap into are and how can we build that into our risk modelling – bearing in mind, I think, on any measure, these things are not linear, they are really a lived experience that in fact we are trying to tap into to make ourselves available to them.

So where we see this in the future – in the probably near future – is we will be more formally out engaging with these sorts of groups to hear their perspective, how they can help us and how we can partner with them, granted not in a policy perspective, of course, but very much from a point of view of risk identification so we can bring to bear the right resources and effort. I think that is not going to be a speedy road, but it is a very important road

to get the settings, the partnerships and the access right and the confidence that we are genuinely looking to improve and apply what was a key protection for some of the reforms that came forward.

Mathew HILAKARI: You mentioned a few moments ago your strategic plan. Where is that up to at the moment, and can you just expand a little bit on those pillars that you outlined?

James O'HALLORAN: Sure. Thank you. I will perhaps start with, in a bit of a broader sense, the strategic plan very quickly. Clearly, as a new regulator – not everybody is new; a few of us are – certainly what is important, as I mentioned to Mr McGowan, was not to necessarily critique what has happened in the past but be aware if it is still fit for purpose. I have quite a lot today talked about being a sole regulator, and I did hear the earlier discussion – I think it was with the Auditor-General – around the circularity of integration versus focus. That is a decision that clearly has been made by the government, and it was announced back in August 2020, from memory.

I suppose the important point for us living this policy now is that we do have the benefit of a singular focus, and that is what we are going to build on. In fact Chris and Chair Danielle Huntersmith commenced in November and actually have had to date about 11 specific purpose meet-and-greet meetings with all sorts of groups, some of which are giving evidence over the next day or so, and that was key to really getting an initial stocktake. I know this might sound trite, if I can be candid, but I think listening to people is never trite – hearing their perspective, getting a take on their reading of the environment as well as obviously putting ourselves out in the marketplace. We have been mindful of that, because it was important not to jump to solutions too quickly.

So with reference to the strategic plan, we have set ourselves four goals. One is to be fair, strong and accountable. If I may, I recognise that a plan on a page is just words until you enact it, and I do stress that we are committed to these goals: fair, strong and accountable; engaged and listening; proactive and responsive; and of course enhance our capability and regulatory expertise. Those four things we believe – and we have discussed this with the staff through Chris and others – set a sensible balance for two reasons. One is that at the end of the day any regulator, established or otherwise, really needs the community and business and, dare I say, people like yourselves to be comfortable and have confidence and certainty that we are up to it, that we are following what needs to be done, but also that we are looking forward to what needs to be put in place.

A regulator, I think, needs to, can and does genuinely listen; understands and appropriately applies the law; demonstrates fairness; and importantly, acts when necessary in the right way. A bit simplistic, but they are the tenets of our strategic plan. And we are now building underneath that through governance processes and some enhancements on some reporting arrangements – as well as the nature of the reports that I, as one of the commissioners or the Deputy Chair, get – to keep two things: one is the functions that the commission has in a legal sense, and secondly, the strategic plan that sets out to ourselves and to others what we seek to be measured against in terms of the next couple of years. The strategic plan will be launched soon, but in essence for today I think that is probably the key message. It is up. I think it is slightly different. The singular focus on liquor, I think, will benefit more than not and on the external side of it in terms of who we have met in a range of existing forums and the 11 that I have mentioned, there is a very strong support for the focus on liquor. Clearly there are some differing views on what can or cannot or should not be done – that sort of thing – but the spirit has been very positive in that a singular discussion around liquor has been well received and we have learned elements from it at all levels.

Mathew HILAKARI: You have mentioned 11 meet and greets. Is that the expanse of the stakeholder engagement that you have had so far? I am particularly interested also in your engagement with stakeholders around online processes but also home delivery of liquor and what your engagement has been with those organisations who are doing that.

James O'HALLORAN: If I can just break that up a bit just to give a sense of who we have met, it covers a range of people, as I said, that are giving evidence over the next day or so, but it also includes obviously some large liquor groups as well as some broad community groups. Secondly, which was an established practice, there have been two, if you like, community stakeholder forums, of which again we can make the list available. One was in September and one in May. I think importantly, in terms of liquor forums generally, we have continued using those. There have been 145 of those this year, so they are quite regular in regional and metropolitan areas or attendees, and perhaps something which is often never perfect, a website and newsletters. They are in the eye of the beholder, but I am pleased to report that we did establish our, if you like, monthly

newsletters, which opened up from December. We have got 28,000 subscribers to that. There are 24,000 also active licensees or active licences, but I think the 28,000 subscribers, whatever they are made up of – and I do not have that detail – are quite handy. But importantly the average opening rate of somebody receiving the newsletter – just to be clear for the transcript, we are obviously not seeing anything else other than that the communication has been opened – is at 62 per cent, and I think that is quite high by standards. Certainly that is a useful vehicle, and also there have been a range of mail-outs and the like. But on the website – we launched that at the end of March, and there have been 197,000 visits from April to July. So again, to build on that, there are different mediums for different engagements. Then I think you asked me about the –

Mathew HILAKARI: Particularly about the home delivery services and the changing nature of liquor, particularly in the COVID and post-COVID eras – you know, particularly around education but also engagement with those providers.

James O'HALLORAN: You are right, home delivery is an issue, as well as the other end of it – the online sales. Firstly, aside from the mechanics of the conversion of some of the licences to fit the remote cellar environment, there are two or three things there. One is that we worked very strongly in the early piece, probably six or seven months ago, with the major delivery vehicles – I perhaps will not name them, but they are quite well known – to check that their systems and their processes were fit for purpose and able to comply with the legislation. There were a couple where we gave some extra time because systems do not change overnight, but that is by and large in place now. Cameron will correct me, but I think recently legislation was enacted for some reporting on non-delivery circumstances. So there is data that needs to be reported to the commission where people have not been able to deliver. I will get Cameron to cover the details. That is quite a large data collection exercise for us. That has been underway in this last month or so, and I think it is due back in in a couple of weeks time. Now, that was specifically enacted by legislation. It is probably the beginning, I would suspect, of seeing, 'What is sensible reporting, oversight or assurance on issues that arise from delivery from the on-the-ground perspective?' I might just pass to Cameron, if could, to clarify anything there.

Cameron WARFE: Thank you, Deputy Chair. That new reporting obligation came about through a ministerial direction in September last year, which requires all licensees that deliver liquor to report back on the number of times where they have not been able to deliver or supply that liquor for a number of reasons, whether that be that there was insufficient identification by the person who was receiving it or whether the person who was due to receive it showed signs of intoxication. We are starting to get that data back from those delivery agents, so we will have some actionable evidence to look at which particular areas in relation to home delivery should be the focus of that. We will be seeing the first reports of that come back by the end of this month, and we will start actioning that by the end of this year.

Mathew HILAKARI: Thank you. That will give a good baseline, I am sure, for you to act upon.

The CHAIR: Mr Hilakari, I am just going to throw to Ms Sandell, and I can come back to you if that is okay.

Mathew HILAKARI: No worries. Yes. I have got lots to ask.

The CHAIR: Ms Sandell.

Ellen SANDELL: Thank you. A couple of things have changed recently. One is the lifting of the late-night liquor licence freeze in the city. There was supposed to be a review, but there was not a review. It was an election commitment. Has there been any analysis by the regulator of how that might change your work or of any challenges that that might present to your work?

James O'HALLORAN: Thank you. I might just run through a couple of things and then see if that addresses the specific question.

Ellen SANDELL: Sure.

James O'HALLORAN: Certainly in terms of implementation once the announcement came out through the *Government Gazette* we were mindful of that. From an implementation point of view there have been a couple of things as recently as last week. We tried our best earlier, but it was certainly important to get the instructions out and to get some supplementary requirements to upgrade some forms available for people in

those municipalities – what I would loosely call the freeze guidelines or compliance with the new freeze guidelines. That is now up on our website, and various people have been contacted to be supported through that. As you said, importantly the freeze guidelines have some quite important changes from our perspective. Aside from the obvious replacement of the previous guidelines, it raises issues that now need to be addressed by applicants around noise mitigation strategies, venue management plans and gender violence prevention and compliance plans. We have, as I say, put in the supplementary advice. We would see that, in answer to your direct question, to date nothing has come forward in terms of a rush or those sorts of things. But certainly the guidelines, when we are sitting and looking at applications, I think the amount of extra information that is required will be most helpful for us to get, if you like, the balance right. We have not had any concerns raised with us specifically, but I think it is just too early.

Ellen SANDELL: Do you have, like, a program of monitoring so that we can kind of see instances of breaches of noise, violence, those kind of things, compared to when the freeze was in place versus not?

James O'HALLORAN: Look, with the long-term measurement of that, obviously there is a catalyst there within those four municipalities where we can start to collect data to get a sense of: are there any hotspots, comparisons or changes to the existing arrangements? So that is our intention. But at this stage of course there is nothing we can measure at the moment. But I do want to just add, if I may, that the sort of trend analysis on this and a few of the other measures, whilst not totally greenfields, if you are familiar with that term, clearly there are some quite significant touchpoints that arise out of the measures that will allow us to, as best as we are able to – and we do want to have quite a formal framework of what can be collected to distil what is the insight or the change or the reason or the incidence. So that would be one of the intentions, particularly in light of the freeze as probably a pretty key example.

Ellen SANDELL: So you have got plans for that?

James O'HALLORAN: Yes.

Ellen SANDELL: Okay. And you mentioned in your opening remarks that some of the new business models are challenging. I assume you are referring to home delivery online sales. Is that what you were referring to?

James O'HALLORAN: I am sorry, assuming – I missed that last bit.

Ellen SANDELL: So in your opening remarks you mentioned there are some new business models that are particularly challenging.

James O'HALLORAN: Yes.

Ellen SANDELL: Are you specifically referring to online home delivery?

James O'HALLORAN: Essentially, yes.

Ellen SANDELL: So I know there have been some proposed solutions around, say, having to wait 2 hours before delivery can happen, and those have been rejected, but I guess: what do you see as the main challenges and what are the tools you need or maybe changes to regulation that you feel would help assist in reducing harm from those new business models?

James O'HALLORAN: I think there are two things. Whilst it is not for me to comment on policies, clearly the 2 hours is not a concern for us at the moment in the sense of – I am sorry, I will rephrase that. The incidence that we are seeing to date is really pretty quiet. We are not getting a lot of complaints around the delivery. We are seeing some licence applicants perhaps not quite sure what their business model is. In other words, they hear about online but they do not necessarily appreciate the obligations that then go with that, particularly in terms of engaging with the delivery of the alcohol, the record keeping, the website in terms of the sorts of record keeping there to ensure minors and so forth do not have access. So I think the risks are still emerging, but from our point of view, we have had something like seven complaints about online, if you could loosely call it online.

Ellen SANDELL: Complaints from –

James O'HALLORAN: From the community

Ellen SANDELL: But is that primarily people who have not received their alcohol or is it more like neighbours, or is it –

James O'HALLORAN: No, sorry: the manner in which the business is conducted. It could be some allegations around – a couple of them are sort of principle arguments: 'We don't think you should be able to do this.' Then there are others around what protections may or may not be in place from the licensee, if you like, or the seller, and they are not seeing it; they do not understand it. My point was we have looked at all seven of those in terms of dealing with both the remote seller as well as any others that are needed, and we have not found a breach or a matter of concern from those seven. Now, I am not suggesting that they are representative, because equally we need to move, as I said earlier, to making sure that people know we are open for business and that they should not be concerned about contacting us or anything like that. But we are setting up so that for remote sellers, or for online sellers, for want of a better word, we will probably monitor up to a certain percentage of those, now that we are in this new year, to see how it is actually operating. We have got some data that was mentioned before. I think from there we will have a better sense of the level of risk and what is the best way to monitor that as well as to measure it in terms of the changes.

Ellen SANDELL: I guess the question is, if you have only received seven complaints, how are we monitoring harm that is happening? Are we just relying on people complaining or should we be more proactive, I guess, in monitoring harm or breaches?

James O'HALLORAN: If I misled you, I apologise. In fact that has really been from this financial year going forward –

Ellen SANDELL: Oh, okay.

James O'HALLORAN: that one of the steps is to particularly focus on remote sellers. In terms of visitation and contact and inspections, to get that better level, we really up until the last year have probably been focused on making sure that businesses that were granted the remote licence or online licence could in fact operate and have the necessary record keeping as well as the controls. And then as part of our normal audit and inspections program we will be targeting those particular areas, because as you say there are some moving parts in there that we want to make sure we get on top of as quickly as possible should there be an issue.

Ellen SANDELL: Thank you.

The CHAIR: Thanks, Ms Sandell. Mr O'Brien.

Danny O'BRIEN: Yes, thank you, Chair. Can I just follow up on the issue of resources? What sort of split have you got, even an estimate, between enforcement and compliance and the other regulatory aspects, in particular applications for licences and the like? You said, I think, there were 14,897 licence applications dealt with last year.

James O'HALLORAN: You are talking about resources, staff.

Danny O'BRIEN: Yes. As in staff or dollars, whatever you might have.

James O'HALLORAN: I will just touch on some of it and then perhaps pass to Chris on some specifics. So the broad licensing area is in the order of 30 FTEs or staff, and that has been reasonably consistent. Over the last 12 months, probably the last six months, the number of applications for temporary licences has increased significantly; I think it is about 1000 more applications in the last financial year. I appreciate some of these are not perhaps normal years, but nevertheless it is 1000 more. A lot of them have been applications for temporary licences. My point is not so much the numbers but the volumes of temporary licence applications have dramatically increased over the last three to four months, and hence some of the issues we have had to deal with are moving more staff into that area. Pleasingly, we are recruiting more into that area, which should be in place by the end of September, but that is progressive. In terms of compliance, I might have to check with Chris the exact number, but there are still vacancies in the organisation. We are looking at settling at about 100 FTEs for all of our areas overall, and that is probably pretty consistent with previous arrangements.

Danny O'BRIEN: Sorry, 100 overall for the whole organisation?

James O'HALLORAN: Yes. Then secondly, as I have touched on already, because of some of the blowout in those processing elements – which we acknowledge, we are not trying to move away from those – whilst we have put steps in place to alert people and other things, the main thing is to get through the applications. So that is happening at the moment.

Danny O'BRIEN: So in that respect, you have got 30 now, you have mentioned more staff by the end of September. What are you likely to end up at?

James O'HALLORAN: I might just pass to Chris, because I cannot recall the compliance figure, firstly, in terms of that, and then we will come back to that second point.

Chris CARTER: Yes. I am happy to. So within the licensing function we currently have 34 staff members. We are driving towards a total headcount of 41, again full-time employees, but then that function, once the current recruitment phase is complete – and I would estimate that to be done at least by early October; advertisements are out in the public domain at the moment. Within the compliance team, it is currently a 31 full-time employee headcount, and again, at the end of our current recruitment phase we are looking at a 35 full-time employee headcount for the compliance function.

Danny O'BRIEN: And you have sort of pre-empted where I was going with this in that we have got a lot of complaints about licensing approval times. I have had one recently of 11 weeks, and they still have not even had a lodgement acknowledged. So I guess the question, though, relevant to this particular inquiry is: if we are so behind on the applications on that side, what sort of comfort do we have that we are actually also keeping up with the compliance and enforcement aspects?

James O'HALLORAN: If I may, Chris, so just on that, there are sort of a couple of things there. Firstly, on the processing side of it there is a recognition of the increase in volumes, the plan, the recruitment that we have outlined. We think that by the end of the year things will normalise, and that is our intention, that is our commitment. Certainly, personally and otherwise, it is a high focus of ours to get the services to the community right, particularly in terms of getting them back to an acceptable level of eight weeks or 60 days. Just as an example, if I look at all the applications up until about a week ago, whilst I do not say that it is comfortable, we have certainly now got an average completion rate of applications that have been determined to be in the order of 85 calendar days. It is still 12 weeks, and again, I am not suggesting that that is where we want to land, but we are getting through the backlogs as well as the live applications. I did mention the number of licence applications last year, I think, but if I did not, for 2022–23 we finalised 14,897 licences, so it is not a minor activity in its own right when you look at the number of total licence applications.

There are 13 different licences, and of course if I look at transfers, which I think are particularly important for people – that is where an existing licensee needs to transfer to a new business and that sort of scenario – the average number of days to determine them at the moment, as of a week ago, is 71 calendar days. Again, I am just saying we are trying to progress improvement. I think the new staff will help. Where there are instances like with your constituent, we appreciate that it is a very real hurt. I am a bit concerned by the lack of acknowledgement of the lodgement, as you phrased it. That does not seem right, and I think all of us would agree that we feel we have normally got the acknowledgement right. We may not have the processing yet –

Danny O'BRIEN: It was 11 weeks, and the advice back to the constituent was that it would still be a couple of weeks before it was allocated to someone to actually consider.

James O'HALLORAN: Sorry, I misheard. I thought you were saying –

Danny O'BRIEN: Yes, 'lodgement' was the word used. They may well have got acknowledgement that it had been lodged, but it was 14 weeks at a minimum that nothing was going to happen with it.

James O'HALLORAN: Look, I just accept that that is our reality at the moment. We are focused on resolving it. I think the best thing we can do for all applications is to get through and continue to focus on the ones we are assessing, but our practice to date has been that we try and look at ones that perhaps are not in the queue yet – the oldest ones, ones that perhaps have more commercial or business sensitivity to them and those sorts of things – and we are doing our best. If I may, clearly I know the effort that Chris's staff put into it. They are trying their best, and I think we will get there.

Danny O'BRIEN: Can I perhaps ask on notice, Chair, whether you could provide me – you mentioned the 13 licence applications – of the 14,897, what the breakdown of those is across those 13 types of licence applications?

James O'HALLORAN: For last year?

Danny O'BRIEN: Yes, just to get an idea, particularly as you mentioned the temporary licences. Can I get one more in, Chair?

The CHAIR: It is not estimates, Mr O'Brien.

Danny O'BRIEN: Sorry, you did not actually go to the question I asked, which was: we have got this issue with the applications, how can the committee and the public have some confidence that, in terms of enforcement and compliance, we do not have a similar problem?

James O'HALLORAN: Well, to answer your question directly – if I did not, I apologise – I think this is the balance we have actually tried to maintain, as indicated by the case results, the inspections and what is called the BP3. We have a number of disciplinary matters that are under active consideration, and of course we have also had a number of joint operations with the police, both regionally and in the metropolitan area, over the year. I can get the figure in a moment. So I think we are getting the balance right.

It is important, from my point of view, we recognise very clearly that what in compliance terms is often called the 'front door' is the beginning of the application. That is as much a compliance strategy as it is a business service. For the purposes of this hearing, just briefly if I may, there are principles that were outlined by the Auditor-General this morning which really are the essence of the recommendations that have already been dealt with. With the recommendations about quality assurance and around front-door checking against all legislation, I do not see those things as competition to being as efficient or as timely as one can be – that is, the 60-day measure – but they are in fact a part of the compliance strategy end to end.

Danny O'BRIEN: Do you have an audit process? You accept, for example, a temporary licence for a festival or an event is probably going to be pretty low risk, so it might get a tick and flick, if you like, but do you then have an audit process that goes through and goes into granular detail on a representative sample of applications?

James O'HALLORAN: There are probably two things. I mean, certainly all applications are risk assessed as low, medium or high for that very reason and there have to be some judgements made, and that has been embedded for probably four years now. That is quite a mature process.

Danny O'BRIEN: So you have a different process for a big box outlet versus a temporary licence. Yes.

James O'HALLORAN: And of course with some of the recent legislative changes around large package and so forth, they have in-built extra features or extra information to systematise, if you like, that process from the applicant's point of view before we would even consider it. In terms of the assurance and so forth, certainly the quality assurance processes around the checking – there are team level meetings and there is obviously professional development. We have recently reinstated – it is perhaps innovative in one way – that I and others sit on, with some of the senior delegates, a quarterly decision meeting to see how some of the delegates are making decisions. It is not to question the individual decisions, but to make sure they are within the right sort of tolerances within the law et cetera.

There was a monitoring process in relation to a higher, more formalised and separate assurance process. To be candid, that really concluded probably mid to late 2021, at the same time as the future of liquor was coming out. We are reinstating that in the coming six months for two reasons. One is I think it is appropriate under our watch that there be some sampling. What was in place from reading it and I think from what I have seen probably was not quite statistically valid in that sense, and of course they are very resource intensive, those programs. The commission going forward is looking at how do we balance what can be a heavy resource response but get and continue to get independent assurance that things are happening, or what are some of the insights, not just for QA but actually as part of the behaviours that we might be seeing either internally, if you like, or conversely some of the challenges that different types of applications are presenting which may not fit the previous experience.

I think online is an example. We are all learning a bit on that I think, and some of it is about how applicants in fact respond positively or perhaps what they may not think is important. From a public education point of view there is an adage that perhaps is relevant here: 'Compliance is not a box'. You actually want to tell people what they can do so that they do not get bothered by us, so that they not impacted by unnecessary contact, but at the same time we can give them certainty on what is expected. And I think there is some room to do there from our point of view as well as some of the other issues.

Danny O'BRIEN: Thank you.

The CHAIR: Thanks, Mr O'Brien. Mr O'Halloran, Mr Carter and Mr Warfe, we are almost out of time. I know we started a little bit late. We have just got a couple of minutes left, and I just wanted to ask you: is there anything else that you really want to share with the committee today? This is an inquiry, I know having spoken to the committee members, we feel very strongly about. Many of our communities are affected by gambling and liquor. Is anything else you think is important for our inquiry that you want to get on record today?

James O'HALLORAN: Just three quick things, if I may, Chair. One is above the recommendations, if you like, that were made some time ago, the summary that I think it was the Auditor-General made – I think the gentleman was the Auditor-General who was here earlier this morning – I just want to reinforce the principles of eligibility and suitability, that professional development and skill and training that was touched on and obviously reporting outcomes rather than outputs, if I could paraphrase the recommendations that way, we are committed to those. They make sense. They are logical. They are totally appropriate, whether it be three years ago or going forward. So as a commission we see those as essential building pieces. What changes is how you do them, and obviously one of the other factors is of course the environment and those sorts of things.

Secondly, whilst the decision is a matter for government, I think there will be advantages in being a sole regulator on liquor. I hope we increasingly demonstrate that to you through not only enforcement and appropriate regulations but also help and support for the community and those who are impacted.

The third one is there is quite an intense amount of effort at the moment around governance and assurance from our perspective and my own, if you like, personal perspective as the Deputy Chair in relation to the sorts of reporting we are receiving, particularly focused on making sure that it is monitoring new reforms as well as tapping into expertise but importantly our own performance so that it is not just around throughput. I think we are seeing some positive signs, and I hope to bring some back here, if you invite us back, or through other mechanisms. That would be probably my three things, if I may, Chair.

The CHAIR: That is great. Thank you. The committee is going to follow up on any additional questions or questions taken on notice in writing, and just so you know, responses are required within five working days of the committee's request. The committee is now going to take a break before recommencing the hearing at 1 pm. I declare this hearing adjourned.

Witnesses withdrew.