

Guideline for the Consideration of Medical Conditions and Impairments (Fit and Proper)

1. Purpose

This guideline has been developed to support the Teacher Registration Board of Western Australia (TRBWA) *Fit and Proper Policy – Medical Conditions and Impairments* and is intended to provide information for teachers, employers and members of the public about the types of medical conditions and impairments that may have a bearing on a determination as to whether an applicant is a fit and proper person to be registered.

It also guides the TRBWA in determining what circumstances associated with medical conditions and impairments would affect fit and proper assessment.

2. Scope

This guideline applies to all applications for registration and renewal. To be eligible for registration a person must be determined to be a fit and proper person to be registered as a teacher. The Board may not grant or renew registration unless it is satisfied that this requirement is met.

It gives general guidance only.

3. Background

In order for a person to be registered, the Board must be satisfied that the person is a fit and proper person to be registered. The best interests of children will always be paramount in this consideration.

It is not the Board's intention that this process be unnecessarily intrusive. The Board is aware that when dealing with matters that involve an applicant's disclosure about medical conditions or mental or physical impairments, that this is likely to include information that is confidential, sensitive and of a personal nature.

Not all medical conditions and impairments are considered to be relevant to whether a person is fit and proper to be registered as a teacher. This guideline provides information to assist applicants to recognise whether or not they need to make disclosures about their medical conditions, or mental or physical impairments.

An applicant's medical condition, disorder, illness, mental or physical impairment is only of interest to the TRBWA if it is of a serious nature such that it adversely affects or is likely to adversely affect the individual's ability to practice professionally, competently and safely as a teacher.

Section 24 of the *Teacher Registration Act 2012* (Act) details what matters the Board is to have regard to in determining whether a person is fit and proper to be registered, including, generally, any matters relating to the person that the Board considers are appropriate.

Information provided by applicants regarding their medical conditions and impairments may have a bearing on a determination as to whether the applicant is a fit and proper person to be registered. The Board has developed a policy entitled *Fit and Proper Policy – Medical Conditions and Impairments* which outlines the Board's consideration of such matters.

When the Board has been made aware of a medical condition or impairment at the time of an application, the Board may decide it needs further evidence, such as a report from a medical

practitioner or information from an employer, to inform its deliberations. Section 13 of the Act provides authority to the Board to make a request of an applicant or nominee to provide it with further information which is relevant in support of their application or that the applicant or nominee attend before the Board.

To assist the Board in making a determination in relation to whether an applicant is a fit and proper person to be registered, the Board has established a Fit and Proper (Medical Conditions and Impairments) Committee (FPMCI Committee). The FPMCI Committee comprises two members of the Board and a medical practitioner. It will consider medical and impairment related fit and proper matters referred to it and will make recommendations to the Board for final determination.

4. Guideline

Applicant	A person making an application for registration or for the renewal of registration in any category. With respect to Limited Registration, the applicant is the person or entity (usually the employer) who made the offer of a teaching position to the nominee.
Nominee	A person to whom a teaching position in an educational venue has been offered for the purposes of Limited Registration.

5. Guideline

5.1 Disclosure by applicants of medical conditions and impairments

As part of the application process for registration or renewal, applicants are required to provide information to the TRBWA in relation to a broad range of matters that may affect whether they are found to be fit and proper to be registered.

All applicants are required to answer questions within the application forms in relation to fit and proper matters (Fit and Proper Questions). Any applicant who answers 'yes' to any of the Fit and Proper Questions is required to provide full details to the TRBWA.

One of the Fit and Proper Questions refers to medical conditions, or physical or mental impairments. Specifically, the question asks whether an applicant has a serious medical condition, or mental or physical impairment, that adversely affects, or is likely to adversely affect, their ability to practise as a teacher.

It therefore follows, that an applicant's medical condition, disorder, illness, mental or physical impairment is **only** of interest to the TRBWA if it is of a **serious nature such that it adversely affects or is likely to adversely affect an applicant's ability to practise as a teacher**.

It is important to note that not all serious medical conditions and impairments need to be disclosed to the TRBWA. The decision about what needs to be disclosed should not be based solely on the type and nature of the medical condition or impairment. The type and nature of the medical condition or impairment must be considered together with the circumstances surrounding the situation (including, but not limited to, management, treatments, and adjustments/modifications to the teaching environment) and the bearing of these factors jointly on the individual's ability to practice professionally, competently and safely as a teacher.

In providing this guideline, it must be noted that each case will be considered on its particular set of circumstances and the specific factors surrounding each situation. The advice which follows, therefore, is general in nature.

Circumstances where disclosure must be made

An applicant **must disclose** to the TRBWA **any serious medical condition, disorder, illness, mental or physical impairment, that adversely affects, or is likely to adversely affect, their ability to practise professionally, competently and safely as a teacher.**

These are likely to be medical conditions or impairments that are:

- **permanent, long-term, persistent in nature or constantly recurring, or otherwise long-lasting in their effects; and**
- **cause long-term physical or mental incapacity; and**
- **those in which treatment may not be effective or is not being managed by the individual, medical professionals or the individual's employer, or adjustments/modifications or assistance are not able to be applied to the situation to enable the teacher to practise capably and safely.**

If an applicant is affected by their use of, or dependence on, alcohol or a drug or drugs to such an extent that their practise as a teacher is, or is likely to be, affected, then this would need to be disclosed.

Circumstances where disclosure may not need to be made

It would **not be necessary** for an applicant to disclose a medical condition or impairment, which **is not serious and does not adversely affect, and is not likely to adversely affect the person's ability to practise as a teacher.**

It is most likely that a medical condition or impairment **would not need** to be disclosed:

- **if the medical condition or impairment is temporary or occasional in nature and the effects of which are short term or mild; or**
- **in injuries, such as a physical injury where the teacher, as a result of the injury, is temporarily not teaching or is temporarily on leave until they have sufficiently recovered to resume teaching without adversely affecting their teaching practise; or**
- **even though it may continue over an extended period of time, including recurrences of a single underlying medical condition, if it is managed through periodic treatment by a medical practitioner; and does not affect the teacher's practise; or**
- **if it is an illness which has been treated and is in the recovering stage and is not likely to adversely affect the teacher's practice; or**
- **if it is a recurrence or relapse of an illness which would not adversely impact a teacher's practise; or**
- **provided the applicant will recognise the situation and will not teach if their condition or impairment would adversely affect their teaching practise; or**
- **provided it has been diagnosed by a medical practitioner and is being managed through continuing treatment or therapy from a medical practitioner or specialist and these requirements are being complied with, including multiple treatments, or is being managed within the workplace with the employer, and if teaching, the applicant's teaching practise is not adversely affected.**

It would not usually be necessary, therefore, to disclose broken bones, a previously treated, cured illness, an illness or disease in remission, or a condition such as asthma, provided that it is being managed by the individual and their medical professional and that it does not, or is not likely to, adversely affect the person's ability to practise as a teacher.

5.2 Further information from applicants

Where an applicant indicates that they have a medical condition or impairment that may have a bearing on their ability to practise as a teacher, they will be required to provide answers to the following supplementary set of questions at the time they declare the existence of a medical condition or impairment.

1. *Describe the nature and seriousness of your medical condition or impairment.*
2. *Describe how your medical condition or impairment adversely affects or is likely to adversely affect your practise as a teacher.*
3. *Describe the steps you have taken to manage your medical condition or impairment and the effect on your practise as a teacher.*
4. *Are you currently employed as a teacher? Yes/no*
5. *If yes, who is your employer?*
6. *Detail the way your medical condition or impairment is being managed in the workplace.*
7. *Is there any other relevant information you wish to disclose?*

5.3 Assessments of matters related to fit and proper medical conditions and impairments

Overarching principles

The best interests of children will always be paramount when considering fit and proper matters.

When considering the registration of a teacher, the Board will focus on those matters which, in the Board's opinion, indicate that:

- an impairment may be present
- the person's ability to practise professionally, competently or safely as a teacher is, or is likely to be, adversely affected
- the person poses, or may pose, a risk to the safety of children.

The Board may take into account a number of factors when considering whether a person is a fit and proper person to be registered as a teacher, in relation to medical conditions and impairments. These may include, but are not limited to:

- the nature and seriousness of the medical condition or impairment
- what the adverse impacts of the medical condition or impairment may be on the person's ability to practise as a teacher
- what the person has done, is doing, or is proposing to do, to deal with the medical condition or impairment and its effects (eg. any treatment being undertaken or proposed)
- if the person is currently employed as a teacher, whether the employer knows, and if so, how is the medical condition or impairment being managed in the workplace
- whether the medical condition or impairment is of a nature that suggests that adjustments or assistance is required so that the teacher is able to practise teaching capably and safely, and if so, what are the adjustments or assistance needed
- whether recent written advice from a medical practitioner or specialist is available.

Initial assessment

All information provided by applicants is initially considered by the Director, under delegation from the Board, to determine whether or not there is sufficient information to determine whether registration may be granted or renewed, or whether further consideration is necessary.

If, after undertaking the initial assessment, it is decided that there are grounds for further consideration of a matter, the Director may decide to:

- request further information from the applicant, which may include advice from third parties. The decision about requesting further information will be based on the clarity and completeness of information provided by the applicant, the nature and seriousness of the matter, and the likely adverse impact on the applicant's teaching.
- refer the matter to the FPMCI Committee of the Board, one member of which is a medical practitioner.
- refer the matter to the Board.

Assessment by the FPMCI Committee

- The FPMCI Committee may require further information from the applicant, which could include advice from third parties such as from a medical practitioner or from the applicant's employer (with consent of the applicant).
- Where written advice is requested from a medical practitioner or specialist, it will be from a practitioner of the applicant's choice and will be obtained at the applicant's expense.
- Such advice must:
 - be signed and issued by a medical practitioner or specialist;
 - be no more than two-months old at the time of making the application for registration or from the time that the request is made by the Board;
 - outline the current diagnosis, treatment, prognosis and the current state of health; and
 - give the medical practitioner's opinion as to whether the person is able to practise as a teacher capably and safely.
- Based on its assessment of the circumstances of the matter, the FPMCI will make a recommendation to the Board, for it to make a determination as to whether the applicant is a fit and proper person to be registered.

Decisions of the Board

The Board may decide to:

- grant or renew the registration;
- grant or renew the registration with conditions.
- request further information from the applicant under s.13 (eg. in writing or to attend before the Board); or
- refuse to grant or renew the application for registration.

Reviewable Decision

Any decision by the Board to refuse an application for the grant or renewal of registration, or to impose a condition when granting or renewing a registration, is a reviewable decision under s124 of the Act. An applicant or nominee who is aggrieved by such a decision has the right to apply to the State Administrative Tribunal for a review of the TRBWA's decision.

6. Supporting information

Fit and Proper Policy – Medical Conditions and Impairments

7. Change History

Approved	Version	Details	Approved By
12/07/2017	1.0	New Guideline Issued	Board
Next Review Date		01/09/2018	