

Fit and Proper Policy – Medical Conditions and Impairments

1. Purpose

This policy outlines the Board's consideration of information regarding an applicant's medical conditions and impairments that may have a bearing on a determination that an applicant is a fit and proper person to be registered.

2. Scope

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

Specifically, the scope of this policy is limited to a subset of fit and proper matters that are related to a person's health and wellbeing. These matters could include, but are not limited to, medical conditions, mental or physical impairments and illnesses, and use of, or dependence on, drugs or alcohol.

3. Background

Section 5 of the Teacher Registration Act 2012 (Act) states:

A person or body with functions under this Act must, in the performance of those functions, regard the best interests of children as the paramount consideration.

Section 24 of the Act details the matters the Board is to have regard to in determining whether a person is fit and proper to be registered.

Specifically, s24(g) states:

In determining whether a person is a fit and proper person to be registered, the Board is to have regard to the following –

(g) any other matters relating to the person that the Board considers are appropriate.

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 medical report or 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 attend before the Board.

Section 13(1) states:

The Board may, in writing, request –

(a) the applicant; or

(b) if the application is for the grant or renewal of limited registration, the nominee, to do any or all of the following –

(c) provide the Board with such further information relevant to the application as the Board requires;

(d) verify any further information by statutory declaration;

- (e) *provide the Board with the applicant's or nominee's written consent to seek, from another person or body specified by the Board, information about the applicant or nominee relevant to the application.*

Section 13(2) states:

The Board may, in writing, request –

- (a) *the applicant; or*
- (b) *if the application is for the grant or renewal of limited registration, the nominee,*
to attend before the Board for the purpose of satisfying the Board as to any matter relevant to the application.

Section 13(3) of the Act provides the Board with the authority to refuse an application if the applicant or nominee does not comply with a request made under s13 of the Act.

Note that it is open to the Board, pursuant to s118 of the Act, to publish information through, for example, confidential communication with an employer, concerning matters that may adversely affect the interests of persons at educational venues who are taught by registered teachers. The Board must not, however, publish such information unless satisfied it is in the public interest to do so.

The TRBWA has the power to impose, modify or cancel a condition on a teacher's registration pursuant to s26 of the Act.

Specifically, the relevant clauses within s26 are:

- (1) *The Board may impose conditions on the registration of a teacher –*
 - (a) *when granting or renewing the registration; or*
 - (b) *during the currency of the registration.*
- (2) *The Board may at any time, on the application of a registered teacher or on its own initiative, on reasonable grounds, modify or cancel a condition on a teacher's registration.*
- (3) *Conditions imposed or modified by the Board under this section must be reasonable and relevant to ensuring the professional, competent and safe practice of teaching by the registered teacher.*
- (5) *A condition imposed by the Board may apply indefinitely or for a specified period of time.*

Under s8 of the Act, it is an offence for a registered teacher to contravene a condition to which the teacher's registration is subject.

A person's history of compliance with the Act is also a relevant factor in fit and proper considerations.

4. Definitions

Medical practitioner As defined by s3 of the Act:
a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

5. Policy

5.1 Consideration of medical conditions and impairments in relation to fit and proper

The Act, under s24(g), provides the Board with discretion to consider a range of matters that, in the opinion of the Board, are relevant and appropriate to determining whether a person is fit and proper to be registered as a teacher.

All applicants to the TRBWA are required as part of the application process to respond to questions that directly relate to a broad range of fit and proper matters.

The information provided by the applicant or nominee is assessed by the TRBWA and informs the overall consideration of whether the person is fit and proper to be a registered teacher. For some circumstances, it will be possible to decide to grant or renew registration by considering the initial information provide without obtaining further information.

For others, further assessment may be warranted, requiring obtaining further information, including advice from third parties. Third party advice may include written advice from an experienced and appropriately qualified, medical practitioner or specialist.

A decision to request further information will be based on the clarity and completeness of previous information provided, the nature and seriousness of the matter, likely adverse impact on teaching, and relevance to whether the person would be fit and proper to be a teacher.

Where written advice from a medical practitioner or specialist is required, 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 the request is made by the Board;
- outline the current diagnosis, treatment, prognosis and the current state of health; and
- state whether the person is able to practise as a teacher capably and safely.

Not all medical conditions and impairments are considered to be relevant to the issue of fit and proper. Therefore, 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.

5.2 Factors that may be considered by the Board when determining fit and proper in relation to medical conditions and impairments

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 that 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 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 capably and safely, and if so, what these are
- whether recent written advice from a medical practitioner or specialist is available

When considering matters of fit and proper the best interests of children will always be paramount.

5.3 Decisions of the Board

The Board may grant or renew registration with conditions. It is also open to the Board to refuse the grant of registration because it is not satisfied that a person is fit and proper. The Board may only apply conditions to a teacher's registration that are reasonable and relevant to ensuring the professional, competent and safe practice of teaching by the registered teacher. The Board may impose a condition to apply indefinitely or for a specific period of time.

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

- *Teacher Registration Act 2012*
- *Teacher Registration (General) Regulations 2012*
- *Fit and Proper Policy – Criminal History*
- *Conditions of Registration Policy*
- *TRBWA Privacy Policy*

7. Change History

Approved	Version	Details	Approved By
08/02/2017	1	New Policy Issued	Board
12/04/2017	1.1	Minor amendment – reference to s.13(2) added.	Board
12/07/2017	1.2	Minor Amendment	Board
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