

# **Fit and Proper – Guideline for the Consideration of Criminal History**

GLD20

## 1. Purpose

This document provides information about the types of criminal offences that are most likely to give rise to a question about whether a person is fit and proper to become, or remain, a registered teacher, or whether conditions should be imposed on a person's registration. This guideline applies to all applications for registration and renewal.

## 2. Background

To be eligible for registration, a person must be a fit and proper person to be registered as a teacher. The Teacher Registration Board of Western Australia (Board) may not grant registration or renewal of registration unless it is satisfied that this requirement is met.

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 among other things, the criminal history of the person.

All applicants to the Board are required to consent to a criminal history check.

For further information in relation to fit and proper assessments undertaken by the Board, please refer to the Board's *Fit and Proper Policy*.

## 3. Relationship between offending and fitness

Not all offending will render a person unfit to be a teacher. The Board is likely to be most concerned about an offence/s that suggests that:

- a person might pose a risk to the safety of children;
- a person cannot be regarded as able to provide proper moral guidance to children for whom they may be responsible;
- a person's behaviour does not satisfy a standard of behaviour generally expected of a teacher; or
- a person's ability to practise as a teacher is likely to be affected by their use of, or dependence on, alcohol or drugs.

If a criminal history gives rise to a "question of fitness", an assessment of the individual case is undertaken to determine whether further information and/or assessment is required based on the nature, seriousness, and relevance of the offence(s) to the fitness and propriety of an individual.

## 4. Employer standards

To be a "fit and proper" person is a statutory pre-requisite to being registered. However, not all registered teachers will necessarily be suitable for employment in all schools and in all positions. Employers are entitled to set their own standards for their schools or for particular positions, and may take criminal history into account, where appropriate, even if the person is registered.

## 5. Particular offences

The Board has determined a threshold to guide decisions on the issue of which offences require further assessment and which are likely to be relevant to fitness and propriety. The threshold is based on categorising offences by the type of offence and the penalty incurred.

The types of offences that commonly arise for Board consideration are detailed below, as well as the likelihood that the offence will give rise to a question of fitness. In every case, the Board considers the particular circumstances of the offence and those surrounding the person involved.

Importantly, even where it is indicated that a particular type of offence is not likely to give rise to a question of fitness, it may do so in a particular case. For example, the circumstances of the

offence may be unusually serious (e.g. committed at a school, or in view of students) or a pattern of repeated offending, even if the offences are minor, may reveal a level of disregard for the law and for community standards which renders a person unfit to be registered as a teacher.

The guidance below, refers to the most common types of offences that may appear on an individual's criminal history:

- Lower level “disorderly” offences, involving inappropriate or offensive conduct or minor property damage, will generally not give rise to a fitness question.
- Offences of dishonesty (e.g. theft, fraud, forgery) cover a wide range of offending. The Board will consider the nature of the offence/s (including the sentence imposed) when considering whether the offending is such that would render a person unfit to be registered.
- Simple drug possession may not necessarily give rise to a question of fitness. The Board would consider the circumstances of the offence. Possession of a more addictive drug, such as amphetamines or heroin, may indicate the existence of an impairment, which would require further consideration. Most offences of selling or supplying a drug will give rise to a question of fitness.
- Some traffic offences may not give rise to a question of fitness, although offences of dangerous or reckless driving may do so. Offences involving driving while affected by alcohol or drugs may give rise to a question of impairment. Patterns of offending involving repeated traffic offences may give rise to a question of fitness.
- Offences of violence or threatened violence include assaults, stalking, robbery, arson and sexual offences against adults. Almost all such offences will give rise to a question of fitness.

### **Multi-offending**

For complex cases where a criminal history indicates that a person has a number of disparate offences and there is reason to be concerned about their character, this situation may give rise to a fitness question and will require further assessment.

### **Actionable offences**

Offences of this type are not within the scope of this document. Such offences are considered under sections 27 and 60 of the Act, and in the *Working with Children (Screening) Act 2004*.

## **6. Change History**

Approved	Version	Details	Approved By
19/06/2013	1.0	New guideline issued	Board
06/09/2016	1.1	References to CrimTrac removed	Board
08/09/2017	1.2	Title updated to Guideline for the Consideration of Criminal History	Board
22/03/2021	1.3	References to criminal record check updated to criminal history check	Board
16/08/2023	2.0	Guideline reviewed and updated	Board
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