

Complaints against Teachers and LAT Holders

Policy

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1. Purpose

This policy provides Board officers with a set of principles for managing complaints against teachers and LAT holders, including conducting preliminary assessments of complaints, and defines key concepts that are not defined in the *Teachers Registration Act 2000* (the Act).

2. Legislation

For relevant sections of the *Teachers Registration Act 2000* (the Act), see [Appendix 1](#).

3. Policy statement

A complaint brought under Section 19 of the Act must relate to the 'professional conduct' of a person to be within the authority of the Board. This term is not defined in the Act but is assisted by relevant Tasmanian case law (see 'Procedures' in this document for details).

An inquiry into a complaint can only be held if the complaint relates to a person's professional conduct **and** the Board is reasonably satisfied it is in the public interest to do so (see 'Procedures' in this document for clarification of the 'public interest', which again is not defined in the Act).

The Board will dismiss a complaint if it is of the opinion that the complaint is vexatious, misconceived, frivolous or lacking in substance, or an investigation into the matter is better undertaken by another agency.

In applying this Policy, the Board will consider the welfare and best interests of students to be of paramount importance.

Section 45 of the *Anti-Discrimination Act 1998* (Tas) permits a person to discriminate against a person based on a disability if they are unable to carry out the inherent requirements of employment.

4. Definitions

'**The Act**' means the *Teachers Registration Act 2000*.

'**Registered teacher**' means a person who is fully registered, provisionally registered or specialist vocational education and training registered and whose name appears on the register of teachers (Section 3 of the Act).

'**Holder of a limited authority**' means a person who holds a current notice of Limited Authority to Teach (Section 3 of the Act).

'**Complainant**' is a person who complains to the Board about the professional conduct of a registered teacher or LAT holder.

'**Vexatious**' Macquarie Dictionary:

1. Causing vexation; vexing; annoying.
2. Law (of legal actions) instituted without sufficient grounds, and serving only to cause annoyance, *adverb* – vexatiously, *noun* – vexatiousness.

'**Frivolous**' (Macquarie Dictionary):

1. Of little or no weight, worth, or importance; not worthy of serious notice: a frivolous objection.
2. Characterised by lack of seriousness or sense: frivolous conduct.
3. Given to trifling or levity, as persons. [Latin: frivolous, silly, trifling, paltry] *adverb* – frivolously, *noun* – frivolousness.

5. Principles

Principles for managing complaints

The Board will manage complaints under Section 19 of the Act according to the following principles:

- The welfare and best interests of students is of paramount importance (Section 7A of the Act).
- A complaint should, wherever practicable, be raised with the teacher's employer (school) or other relevant agency in the first instance to give them the opportunity to act on the complaint (the Board will require evidence of this).
- A complaint containing any allegation of a criminal nature should also be raised by the complainant with Tasmania Police.

- Decisions about a complaint will be made on an individual basis by weighing the information at hand to ensure an appropriate decision is reached as part of a preliminary assessment.
- Procedural fairness and natural justice are key elements throughout the complaint process.
- All complaints will be treated with respect and without bias.
- If a complaint is received about a person, that person has the right to know the details of the complaint as well as who the complainant is, and be given the opportunity to make a statement of reply.
- All people involved in the complaint process have the right to be supported by an appropriate third party.

What is meant by ‘professional conduct’?

To proceed to an inquiry, a complaint against a teacher or LAT holder must concern that person’s ‘professional conduct’. This concept is not defined in the Act but is assisted by relevant Tasmanian case law.

According to *M v Rolfe* [2013] TASMC 21 (11 June 2013)¹, professional conduct is not confined to conduct that occurs within a school setting or when dealing with students or parents of students. Nor is it confined to matters regarding the education of students. It can encompass any situation where a teacher is conducting themselves in a professional capacity, in recognition of the many types of professional duties and different position descriptions that registered teachers hold.

In the case above, the Magistrate found that a meeting between local residents and the teacher (in this case the school principal) about the construction of a building on school grounds was professional conduct because the principal was conducting himself in a professional capacity on behalf of the school.

Thus, a complaint brought against the principal’s behaviour in that situation would be permissible under Section 19 of the Act.

What is meant by ‘public interest’?

If a complaint is determined to relate to the ‘professional conduct’ of a teacher or LAT holder, it can proceed to an inquiry but only if the Board is reasonably satisfied it is in the public interest to do so. Further details about what is meant by the ‘public interest’ are outlined in the Board’s *Public Interest in a Matter Going to Inquiry Policy*.

In the case above, the Magistrate confirmed the ‘public interest’ was to be interpreted predominantly in light of the interest of the community in the education, safety and security of children, and to ensure they are taught by qualified and competent teachers.

Using this public interest definition, the welfare of students is paramount.

In weighing the public interest and the welfare and best interests of students, relevant factors the Board will consider in determining whether a complaint should go to inquiry include evidence or lack thereof about a teacher’s competence, their history and propensity to behave inappropriately and the subsequent risk to students, and/or any medical, psychological, or psychiatric conditions the teacher may have.

Privacy and confidentiality

Board Officers will only have access to the information that is necessary for them to carry out their work functions. All Board Officers are bound by confidentiality requirements.

Section 22D of the Act sets out clear responsibilities regarding the confidentiality of any information related to an inquiry into conduct by a registered teacher. A person must not publish any information in respect of an inquiry if it could identify the person who is the subject of the inquiry unless the Board deems it to be in the public interest. Further, no information can be published that may identify a student related to an inquiry.

¹ www.austlii.edu.au

Further information on privacy can be found in the Board's *Personal Information Protection Policy*.

6. Related policies

Personal Information Protection Policy

Public Interest in a Matter Going to Inquiry Policy

7. Related documents

Code of Professional Ethics for the Teaching Profession in Tasmania

8. Document history

Version	Details	Approved by	Approval date
1.0	Policy established	Board	27/08/2020
2.0	Hyperlinks updated	N/A	21/10/2022
3.0	Policy established to replace existing Board policy	Board	14/12/2022

Appendix 1: Extracts from the Teachers Registration Act 2000

Teachers Registration Act 2000

Section 19 of the Act states:

Complaints

- 1) A person may complain to the Board about the professional conduct of a person who is or was –
 - a) a registered teacher; or
 - b) a holder of a limited authority.
 - 2) A complaint is to –
 - a) be in writing; and
 - b) disclose the name and address of the complainant; and
 - c) be signed by the complainant.
 - 3) As soon as reasonably practicable after receiving a complaint, the Board, in writing –
 - a) is to provide notice of the making of the complaint, the name of the complainant and the contents of the complaint to –
 - (i) the person who is the subject matter of the complaint; and
 - (ii) if the employers of that person, both current and at the time the behaviour that constitutes the basis of the complaint occurred, are identifiable from the details of the complaint or otherwise known to the Board, those employers; and
 - b) may require the complainant to provide information or documents, as the Board considers appropriate, to the Board within the reasonable period specified in the requirement.
 - 4) If a complainant changes his or her name or address, the complainant is to notify the Board, in writing, of that change.
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Section 19A of the Act states:

Preliminary assessment of complaint

- 1) On receiving a complaint, the Board is to conduct a preliminary assessment of it for the purpose of determining whether an inquiry should be held in respect of the complaint.
- 2) In conducting the preliminary assessment, the Board may make such inquiries, and obtain such information and documents, as it considers necessary.
- 3) On completing the preliminary assessment of the complaint, the Board may –
 - a) determine that an inquiry should be held in respect of the complaint if reasonably satisfied that it is in the public interest to do so; or
 - b) dismiss the complaint if –
 - (i) the Board is of the opinion that the complaint is vexatious, misconceived, frivolous or lacking in substance; or
 - (ii) the behaviour complained about has been the subject of a previous complaint that has been dismissed; or

- (iii) the behaviour complained about has been the subject of a previous complaint that has been dismissed; or
 - (iv) the behaviour complained about is the subject of an existing complaint in respect of which an inquiry has been or is being held; or
 - (v) information or documents required by the Board under section 19(3)(b) have not been provided to the Board; or
 - (vi) the Board is not reasonably satisfied that it is in the public interest to hold an inquiry; or
 - (vii) the Board is of the opinion that the complaint should be made to another person, body or Agency within the meaning of the State Service Act 2000; or
 - (viii) the Board is of the opinion that it is impossible or inappropriate to hold an inquiry after considering the circumstances surrounding the behaviour complained about and the making of the complaint, including the time elapsed since the behaviour occurred.
- 4) If the Board dismisses the complaint, it is to notify, in writing, the complainant and all persons notified of the making of the complaint under section 19(3)(a) of the reasons for dismissing it.
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Section 20 of the Act states:

Inquiries

- 1) The Board may determine to hold an inquiry in respect of –
 - a) any matter relating to a person who is or was a registered teacher or holder of a limited authority; and
 - b) any complaint made under section 19; and
 - c) any matter referred to in a notice under section 31.
- 2) The Board may –
 - a) hold an inquiry under this section itself; or
 - b) appoint a committee of inquiry to hold the inquiry on its behalf.
- 3) The Board may also hold an inquiry in respect of a person who is or was a registered teacher or has or had a limited authority if it reasonably believes that –
 - a)
 - b) the person's registration in another State to teach has been cancelled or suspended; or
 - c) the person's employment in another State to teach has been terminated because the person's employer was reasonably satisfied the person was not competent or fit to teach; or
 - d) the person was or may have been registered or obtained or may have obtained a limited authority on the basis of false or misleading information; or
 - e) the person is no longer of good character or may no longer be of good character; or
 - f) the person is no longer fit to be a teacher or may no longer be fit to be a teacher.
- 4) The Board may hold an inquiry under this section in respect of a person only if reasonably satisfied that it is in the public interest to do so.