

Consideration of Criminal History

Policy

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1. Purpose

This policy provides guidance about the types of offences, charges and convictions that may be relevant to a determination by the Teachers Registration Board of Tasmania (the Board) and its Officers about an individual's good character and/or fitness to teach and consequently their eligibility for registration/continued registration with the Board.

This policy applies to all registered teachers and applicants for registration or renewal with the Board, as well as all holders of a limited authority to teach (LAT), whenever a determination about good character and/or fitness to teach is required in relation to an individual's criminal history. The policy aims to ensure consistent and proportionate responses to notifications of criminal history and their impact on teacher registration.

This policy gives general guidance only. Officers of the Board, and the Board will make determinations in line with this policy on a case-by-case basis according to individual circumstances.

2. Legislation

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

3. Policy statement

For a person's application under Section 12 (application for registration) or Section 17C (application for LAT) to be approved, the Board must be satisfied the person is, according to the provisions in Sections 17J and 17K of the Act, of 'good character' and 'fit to teach'.

Upon notifications and/or declarations of criminal history being received, the Board may refuse to grant registration or, if a teacher is already registered, undertake an inquiry to decide about their good character/fitness to teach.

There are a number of sections of the Act pertaining to an individual's record of convictions/criminal history:

- Section 17J of the Act specifies that the Board must take into account any conviction

or charge recorded against a person when making a determination about their good character and/or fitness to teach.

- Section 17K enables the Board to take into account a medical, psychological or psychiatric condition, competence or any other matter it considers relevant to determining whether a person is of good character and/or fit to teach.
- Section 17L enables the Board to obtain a report from Tasmania Police about charges or convictions recorded against an applicant or registered teacher as well as to provide relevant information to Tasmania Police.
- Section 18 requires a registered teacher who is charged with a prescribed offence to notify the Board within 28 days of being charged. A prescribed offence is an offence, committed in Tasmania or elsewhere, where a sentence of imprisonment may be imposed (whether it is imposed or not). Examples of prescribed offences include but are not limited to: driving under the influence, common assault, stealing, drug offences.
- Section 18A enables the Board to caution a person, impose conditions on their registration, amend existing conditions on registration, or cancel or suspend registration if a person is found guilty of a prescribed offence.

In considering criminal history matters notified to the Board, the Board and its Officers must have as the paramount consideration the welfare and best interests of students (Section 7A).

The Board acknowledges that not all incidents of offending or behaviour that constitute a breach of the law will render a person unfit to teach. When considering the registration of a teacher and their good character/fitness to teach, the Board will focus on offences that suggest a person:

- may pose a risk of harm to a student
- may impact their ability to discharge duty of care obligations in relation to students
- does not satisfy a standard of behaviour generally expected of a teacher, and/or has exhibited behaviour that is otherwise disgraceful or improper (Section 17J of the Act).

4. Definitions

'The Act' means the Teachers Registration Act 2000.

'Registered teacher' means a person who holds full registration, provisional registration or specialist vocational education and training registration 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 (LAT) (Section 3 of the Act).

5. Procedures and guidelines

In cases where a person is already registered with the Board and the Board receives a declaration, notification or criminal history report that includes a formal record of charges and/or convictions, the Board will need to determine, via Section 18A or inquiry, the good character and/or fitness to teach of that person.

In cases where a person is applying for registration (including applications to progress from provisional to full registration), renewing their full registration or applying for a LAT, the Board is authorised under Section 17L to obtain information including but not limited to a national criminal history check, and is authorised to provide any information that the Board considers relevant about an individual to the Commissioner of Police.

In every case where a charge or conviction may be relevant to a determination about good character and/or fitness to teach, the Board and its Officers will consider the circumstances and broader context of the offences and the person involved.

When considering criminal offences, factors the Board will consider include but are not limited to:

- the seriousness and/or frequency of offending
- the nature of any sentences imposed
- the age of the offences (i.e., how long ago they occurred)
- the age of the person who committed the offences when they occurred.

Below is a general guide setting out matters considered by the Board and its Officers regarding a range of offences:

- **A single traffic offence** will generally not give rise to a question of good character/fitness to teach although repeated offences may. Offences involving repeated driving while affected by alcohol or drugs will give rise to a question of good character and/or fitness to teach and may require further risk assessment.
- **A small number of traffic infringements** such as parking fines and/or speeding fines will generally not give rise to a question of good character/fitness to teach. However, repeat offending can indicate a pattern of behaviour where questions of good character and/or fitness to teach may arise.
- **Disorderly offences** include those involving inappropriate or offensive conduct such as swearing, public urination, public nuisance, public disturbance, or minor property damage. While some minor disorderly offences may not impact on a person's good character and/or fitness to teach, repeated behaviour and/or more serious offences may. Any such behaviour occurring within a school setting, while engaging with students, or in view of students will render it more serious.
- **Offences of dishonesty** including theft, fraud and/or forgery will vary in seriousness and will be assessed on the individual circumstances. Generally, if an offence of dishonesty results in a Community Based Order or higher penalty it may give rise to a question of good character/fitness to teach.
- **Possession of illicit drugs** will be looked at in relation to a person's good character and/or fitness to teach. Drug offences and the context within which they occur are complex. Minor drug offences may or may not impact on a person's good character and/or fitness to teach but other drug offences may. Offences of selling or supplying an illicit drug will give rise to questions around good character and/or fitness to teach.
- **Firearms offences** will be looked at carefully in relation to a person's good character/fitness to teach, particularly in relation to the welfare and best interests of students.

- **Offences of violence, offences of threatened violence and sexual offences** – Almost all offences and behaviours of violence or threatened violence including assaults, stalking, robbery, arson, and sexual offences against adults will give rise to questions around someone’s good character and/or fitness to teach and will be subject to further investigation and risk assessment. Depending on the outcome of the investigation and risk assessment, individuals in these circumstances may have their registration suspended, cancelled or refused, or the Board may impose conditions on their registration.
- **Family violence and child abuse** – Family violence in Tasmania is defined as violent, abusive, and controlling behaviour committed by a person against their current or former spouse or intimate partner. Child abuse includes neglect, physical abuse, psychological harm, sexual abuse and family violence (to reflect the fact that children are often victims via witnessing violence by a spouse or partner against another spouse or partner). These offences will be taken very seriously and assessed on their individual circumstances.

No attempt is made in this document to provide specific guidance on individual matters.

Note: The Board’s expectation is that teachers will disclose their record of convictions and provide full and frank disclosure, and that they will not provide false or misleading information. Failure to disclose offences and/or providing false or misleading information will in itself give rise to questions around someone’s good character and/or fitness to teach regardless of whether the offences themselves would have done so.

While the consideration of criminal history constitutes an important part of good character and/or fitness to teach determinations, it is not the only consideration. Consideration will also be given to misconduct and behaviour which is inappropriate, unprofessional, indicates incompetence, or is otherwise behaviour not expected of a teacher.

6. Related policies

Consideration of Medical Conditions Policy

7. Related documents

Safe Homes, Families and Communities

Visit <https://www.safefromviolence.tas.gov.au>.

8. Document history

Version	Details	Approved by	Approval date
1.0	Policy established	Board	27/10/2022

Appendix 1: Extracts from the Teachers Registration Act 2000

Teachers Registration Act 2000

Version current from 1 July 2022 (date accessed 14 October 2022 at 9:26)

17J. Determining whether person of good character

[Section 17J Inserted by No.79 of 2009, s. 8, Applied:01 Jan 2020] If at any time under this Act, including for the purposes of an inquiry, the Board is to determine whether a person is of good character, the Board –

- (a) is to take into account any conviction of, or charge made against, the person; and
 - (ab) *[Section 17J Amended by No.33 of 2016, s. 5, Applied: 02 Oct 2016]* is to take into account –
 - (i) whether the person has been refused registration under the Registration to Work with Vulnerable People Act 2013 ; and
 - (ii) if the person is, or has been, registered under that Act, whether the registration has been suspended or cancelled; and
 - (b) is to take into account any behaviour of the person that –
 - (i) does not satisfy a standard of behaviour generally expected of a teacher; or
 - (ii) is otherwise disgraceful or improper; and
 - (c) may take into account any other matter it considers relevant.
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17K. Determining whether person fit to be teacher

[Section 17K Inserted by No. 79 of 2009, s. 8, Applied:01 Jan 2010]

- (1) If at any time under this Act, including for the purposes of an inquiry, the Board is to determine whether a person is fit to be a teacher, the Board may take into account –
 - (a) any medical, psychiatric or psychological condition of the applicant; and
 - (b) the competence of the person as a teacher; and
 - (c) any other matter it considers relevant.
- (2) For the purposes of determining whether a person is fit to be a teacher, the Board may require the person –
 - (a) to undergo a medical examination, including a psychiatric, psychological or other examination; and
 - (b) to authorise the medical practitioner, psychologist or other person undertaking the examination to provide a copy of his or her report on the person to the Board.

Section 17J and K will be read together in making a determination about a person's criminal history and its impact on good character/fitness to teach.