

# Public Interest in a Matter Going to Inquiry

**Policy**

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## 1. Purpose

This policy provides a framework for the Board in determining when it is in the public interest for a complaint, professional conduct matter, criminal matter, or other matter to proceed to inquiry. It includes criteria that may be applied during such considerations in the form of a 'public interest test'.

This policy applies to registered teachers and holders of a Limited Authority to Teach (LAT).

## 2. Legislation

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

## 3. Policy statement

Section 20 of the *Teachers Registration Act 2000* (the Act) allows the Board to hold an inquiry into: any matter relating to a registered teacher or LAT holder; any matter notified to it by an employer under Section 31 of the Act; and any complaint made under Section 19 of the Act that relates to a teacher or LAT holder's 'professional conduct' (professional conduct entails whenever a teacher is conducting themselves in a professional capacity, and is not confined to conduct occurring within a school setting or when dealing with students or parents of students).

If the Board reasonably believes on the basis of information received in a complaint or other notification that an inquiry is in the public interest, it may hold an inquiry under Section 20 of the Act.

The Board may hold the inquiry itself or appoint a committee to hold the inquiry on its behalf.

Given that 'public interest' is not defined in the Act, this policy sets out criteria to be considered when applying a public interest test to complaints and other matters (see "public interest considerations").

## 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).

## 5. Public interest considerations

A public interest test will be applied by Board officers in deciding whether to progress a matter to inquiry, and by the Professional Conduct Committee (PCC) or Registration Oversight Committee (ROC) in deciding whether it is in the public interest for a matter to proceed to inquiry.

Below are questions to be considered in applying the public interest test. Not all criteria will be relevant to each matter:

1. **Safeguard the welfare and best interests of students.**
  - Is an inquiry necessary to safeguard the welfare and best interests of students (s7A)?
  - What is the risk of harm to students if an inquiry **is not** held (s7A)?
  - What is the risk of harm to students if an inquiry **is** held (s7A)?
2. **Address serious matters with appropriate escalation.**
  - How serious are the allegations?
  - Do they involve harm to a student (s7A)?
3. **Maintain public confidence in the teaching profession and meet community expectation.**
  - Is an inquiry necessary to maintain public confidence in the teaching profession?
  - Would there be a high level of public/community concern about the alleged behaviour?
4. **Determine the good character/fitness to teach/competence of the teacher concerned.**
  - Is an inquiry necessary to ensure children are taught by qualified and competent teachers? That is, is there any evidence about the teacher's competence that needs to be aired in an inquiry?
  - Are there medical and/or psychological conditions that may impact on the

person's competence that need to go to an inquiry?

- Has the teacher been subject to previous allegations of a similar nature?
- Has the Board dealt with any previous allegations?

#### **5. Achieve an outcome that is not available via any other process.**

- Given the public interest in ensuring efficiency and efficacy of Board processes and resources, what can be achieved from going to inquiry that cannot be achieved through any other process?
- Does the alleged conduct meet a threshold where suspension or cancellation are prospective outcomes from going to inquiry?
- If not, what is the availability and efficacy of alternatives to inquiry?
- What is the likely outcome of an inquiry if the alleged behaviour is found to have occurred?
- What is the likely length of time before an inquiry is held and makes a decision?
- Given the above, is the use of Board resources in holding an inquiry appropriate?

### **6. Related policies**

*Complaints Against Teachers and LAT Holders Policy*

### **7. Related documents**

*Code of Professional Ethics for the Teaching Profession in Tasmania*

## 8. Document history

<b>Version</b>	<b>Details</b>	<b>Approved by</b>	<b>Approval date</b>
1.0	Policy established	Board	14/12/2022
1.1	Policy amended	Board	08/03/2023

## Appendix 1: Extracts from the Teachers Registration Act 2000

Version current from 1 July 2022 to date (accessed 2 November 2022 at 10:06)

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### Appendix navigation:

- [Section 19. Complaints](#)
  - [Section 19A. Preliminary assessment of complaint](#)
  - [Section 20. Inquiries](#)
  - [Section 31. Employers to notify of disciplinary action taken and certain resignations and retirements](#)
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### 19. Complaints

*[Section 19 Substituted by No. 79 of 2009, s. 10 Applied:01 Jan 2010]*

- 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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### 19A. Preliminary assessment of complaint

*[Section 19A Inserted by No. 79 of 2009, s. 10, Applied:01 Jan 2010]*

- 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.

## 20. Inquiries

- 1) The Board may determine to hold an inquiry in respect of –
- a) *[Section 20 Subsection (1) amended by No. 79 of 2009, s. 11, Applied:01 Jan 2010]* any matter relating to a person who is or was a registered teacher or holder of a limited authority; and
  - b) *[Section 20 Subsection (1) amended by No. 79 of 2009, s. 11, Applied:01 Jan 2010]* any complaint made under section 19; and
  - c) *[Section 20 Subsection (1) amended by No. 79 of 2009, s. 11, Applied:01 Jan 2010]* any matter referred to in a notice under section 31.
- 2) The Board may –
- a) *[Section 20 Subsection (2) amended by No. 79 of 2009, s. 11, Applied:01 Jan 2010]* 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) *[Section 20 Subsection (3) amended by No. 79 of 2009, s. 11, Applied:01 Jan 2010]* . . . . .
  - 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) *[Section 20 Subsection (3) amended by No. 79 of 2009, s. 11, Applied:01 Jan 2010]* *[Section 20 Subsection (3) amended by No. 11 of 2013, Sched. 1, Applied:01 Jul]* 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) *[Section 20 Subsection (3) amended by No. 79 of 2009, s. 11, Applied:01 Jan 2010]* the person is no longer of good character or may no longer be of good character; or
  - f) *[Section 20 Subsection (3) amended by No. 79 of 2009, s. 11, Applied:01 Jan 2010]* the person is no longer fit to be a teacher or may no longer be fit to be a teacher.
- 4) *[Section 20 Subsection (4) amended by No. 79 of 2009, s. 11, Applied:01 Jan 2010]* 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.
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### **31. Employers to notify of disciplinary action taken and certain resignations and retirements**

*[Section 31 Substituted by No. 79 of 2009, s. 19, Applied:01 Jan 2010]*

- 1) In this section –

*[Section 31 Subsection (1) amended by No. 11 of 2013, Sched. 1, Applied:01 Jul 2013] [Section 31 Subsection (1) amended by No. 47 of 2016, s. 27, Applied:10 Jul 2017]* **employer** means the Department, TasTAFE, the Catholic Education Office, Hobart or the governing body, within the meaning of the Education Act 2016, of a school that is registered under that Act;

**unacceptable behaviour** means behaviour of a person that –

- a) does not satisfy a standard of behaviour generally expected of a teacher; or
  - b) is otherwise disgraceful or improper; or
  - c) shows that the person is unfit to be a teacher.
- 2) If an employer employs a person who is a registered teacher or holder of a limited authority to teach and that employer –
- a) considers any behaviour of the person to be unacceptable behaviour; and
  - b) because of that behaviour dismisses the person, or takes any other disciplinary action against the person –  
the employer must notify the Board, in writing and within 28 days after so dismissing or taking other disciplinary action against the person, of the action taken by the employer and the details of the relevant behaviour.

Penalty: Fine not exceeding 5 penalty units.

- 3) If a registered teacher or holder of a limited authority resigns or retires in circumstances which may have allowed his or her employer to consider any behaviour of the person to be unacceptable behaviour, the employer must notify the Board, in writing and within 28 days after the person has notified the employer of his or her resignation or retirement, of that resignation or retirement and the details of the relevant behaviour.

Penalty: Fine not exceeding 5 penalty units.