

Suitability to Teach

Guidelines for applicants

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Introduction

Suitability to teach is one of the eligibility requirements for being a teacher in Australia. It involves consideration as to whether a person is suitable to work in a child-related field, is a fit and proper person, and is competent to perform the role of a teacher.

Suitability to teach will be rigorously assessed by the QCT on all applications for approval to teach including applications for teacher registration, renewal, restoration and permission to teach.

Suitability to teach is not defined in the *Education (Queensland College of Teachers) Act 2005* (the Act). This is because matters related to a person's suitability are generally specific and contextual. For this reason, it is not possible to provide detailed guidance for every personal circumstance nor is the QCT able to prescribe definitive outcomes for matters considered in assessing suitability to teach. Every applicant will be considered on their individual merits and will be afforded procedural fairness in terms of decisions regarding their eligibility to hold teacher registration.

While matters with similar factual circumstances will generally be dealt with by the QCT in an equivalent way, there will be occasions where factors are considered that may result in a different outcome from another applicant with factually similar suitability considerations.

These Guidelines explain how the QCT applies the *Suitability to Teach Policy* and makes decisions about teachers' suitability, including what factors are taken into consideration. They are general in nature and address common issues and misconceptions.

Why the QCT assesses suitability

To be eligible for registration or permission to teach in Queensland, a person must be suitable to teach, pursuant to ss8(1)(b), 9(1)(b) and 10(1)(c) of the Act.

Assessment of suitability to teach is important, because:

- teachers occupy a position of special trust and authority to act in the best interests of children and protect them from harm, as such they must be held to a high standard of professional and ethical behaviour including integrity, honesty and accountability both in their professional and personal lives
- teachers have responsibility for some of the most vulnerable members of the community and their actions have the potential to impact directly upon the community
- the QCT is responsible for the regulation of the teaching profession in Queensland and must ensure that only those persons who meet the eligibility requirements for registration are able to teach in Queensland school.

Suitability isn't just about work with children

Some applicants may consider that conduct that has occurred outside of a school setting, or is not directly related to children, is not a suitability matter. However, the Queensland Civil and Administrative Tribunal (QCAT) has routinely found that standards applied to the behaviour of a teacher apply both in their capacity as a teacher and to behaviour which occurs outside of school in a private capacity. This is because there is an expectation, by the community and the profession, that the trust and power afforded to teachers is not breached and is exercised appropriately.

This means that a suitability assessment must consider an applicant's character, conduct and criminal history including matters that relate to the person's personal life as well as their professional life, and particularly where that conduct fundamentally undermines the trust, safety and ethical responsibilities entrusted to teachers.

How the QCT assesses suitability

To meet the eligibility requirement that a person is suitable to teach, the QCT must reach a state of reasonable satisfaction in accordance with the provisions of the Act.

'Reasonable satisfaction' is a legal concept that requires the decision maker to reach an affirmative state of mind having regard to the nature and seriousness of the issues being contemplated and the consequences of the decision to be made. There is no presumption that a person is suitable to teach in the absence of evidence to the contrary.

The QCT needs to ensure that teacher registration is granted only to those people who are appropriately qualified and meet the three pillars of suitability: suitable to work in a child-related field, fit and proper and competent to teach, and requires a robust assessment of each and every application.

In circumstances where a person's criminal history includes a conviction for a serious or disqualifying offence, the QCT is required to find that person not suitable to teach unless satisfied that it is an exceptional case in which it would not harm the best interests of children for the person to teach (section 11(2) of the Act).

In circumstances where a person behaves in a way that does not satisfy a standard of behaviour generally expected of a teacher and shows that they are unfit to be granted registration or permission to teach, the QCT is required to find that person not suitable to teach (section 12(3) of the Act).

In all other circumstances, the reasonable satisfaction test will be undertaken. The following section sets out a non-exhaustive list of considerations that the QCT will give regard to when determining whether it can be reasonably satisfied a person is suitable to teach.

What the QCT considers

Information relevant to determining suitability to teach is set out in the *Suitability to Teach Policy*, and includes:

- a) a person's history of compliance with their teacher registration requirements including any conditions on their registration and any previous decision to refuse to grant, refuse to renew, suspend or cancel a registration or other authorisation to teach
- b) the person's point-in-time criminal history including information about the commission, or alleged or possible commission of an offence by the person, whether in Australia or overseas, the nature of the offence and its relevance to the duties of a teacher
- c) relevant information from entities including Queensland Police Service, Australian Federal Police, Blue Card Services and the Queensland Family and Child Commission such as reportable conduct allegations, pending criminal charges or convictions
- d) any behaviour that departs from the standard of behaviour reasonably expected of a registered teacher or shows the person is not of good character, including in a private capacity
- e) the outcome of any disciplinary proceedings by a practice and conduct body
- f) whether the person has contravened an order made by any teacher regulatory authority within Australia, New Zealand or any other country
- g) whether the person has a medical condition or impairment that may manifest in conduct or behaviours that may pose a risk of harm to children or impair the person's competence (professional knowledge, practice and engagement) to teach

- h) relevant information including from other teacher regulatory authorities, employing authorities, early childhood regulators and authorities including the Australian Children’s Education and Care Quality Authority (ACECQA), registration bodies, former employers (within Australia and from overseas) regarding any conduct that is likely to bring the teaching profession into disrepute, including conduct occurring outside of the teaching environment
- i) false or misleading information provided on application for registration or renewal of registration or a failure to disclose relevant information on an application for registration or renewal of registration
- j) any other matters that the QCT determines appropriate and relevant to consider.

You must disclose

Any information provided to the QCT which is determined to be false, incomplete or misleading including false, incomplete or misleading documents is an offence under the Act and may result in prosecution, disciplinary action or may impact the approval of the person’s application for registration or permission to teach.

The QCT conducts routine screening checks with a range of other Australian and overseas entities, including police, Blue Card Services, Queensland Family and Child Commission, other professional registration authorities.

The QCT is also able to make any relevant enquiries and obtain any information it considers relevant to consideration of your application.

It is therefore imperative that you read and disclose all required information when completing applications for teacher registration or permission to teach.

Criminal Offences

When you apply for approval to teach including registration, renewal, restoration or permission to teach, you will need to declare if you have ever been charged with, or convicted of an offence in Queensland, or any other state or Territory in Australia, or overseas.

All information required must be declared on application irrespective of:

- how long ago the conduct occurred
- the outcome of any charge or court proceeding
- whether or not a conviction was recorded
- how minor the applicant considers the matter to be (eg traffic or public order offences)
- what finding may or may not have been made in an investigation or disciplinary action.

As part of t criminal history check, the QCT will obtain information about:

- any and all charges, from any state or territory in Australia irrespective of whether the charge/s were discontinued¹ for any reason
- charges that were laid against a person as a minor
- convictions that are ‘spent’
- any matters finalised in a Court even where ‘no conviction was recorded’
- any charges that were subject to mediation or a diversion order
- any charges or convictions (including where no conviction was recorded) under legislation other than the *Criminal Code Act 1899* (Qld) or *Criminal Code Act 1995* (Cth) including but not limited to:
 - *Transport Operations (Road Use Management) Act 1995* (‘traffic offences’)
 - *Drugs Misuse Act 1986* (‘drug misuse offences’)
 - *Domestic and Family Violence Act 2012* (‘DV offences’)
 - *Bail Act 1980* (‘bail offences’)
 - *Regulatory Offences Act 1985 (Qld)* (‘minor offences’).

¹ This includes any charge that did not result in a finding including, but not limited to, where a *nolle prosequi* or No Evidence to Offer was entered.

The *Criminal Law (Rehabilitation of Offenders) Act 1986* (Qld) does not apply to applicants for teacher registration, as teaching is child-related employment. Applicants are expected to fully disclose information requested by the QCT.

Serious and disqualifying offences

Some criminal charges are so serious that they mandate a suspension of the person's approval to teach, and if convicted of the offence, the person is excluded from applying for teacher registration or PTT.

These charges are known as serious or disqualifying offences and are defined in sections 15 and 16 of the *Working with Children Check Act 2000*.

Some serious offences include:

- indecent treatment of a child
- manslaughter
- sexual assaults
- torture and other malicious acts involving adults
- coercive control
- robbery and burglary with circumstances of aggravation
- serious drug offences, including trafficking in dangerous drugs.

Serious offences also include attempting or conspiring to commit, or counselling or procuring the commission of, a serious offence.

Whilst each state and territory may not have the exact same offence, they have similar or equivalent offences and these offences are also serious and/or disqualifying offences in Queensland.

Where a person's criminal history includes a conviction for a serious or disqualifying offence, the QCT must decide the person is not suitable to teach unless the person has obtained an Eligibility Declaration.

Pending charges

The QCT's criminal history assessment includes consideration of any pending charges for serious or disqualifying offences. The QCT will consider:

- a. when the offence was committed, is alleged to have been committed or may possibly have been committed;
- b. the nature of the offence and its relevance to the duties of a teacher; and
- c. anything else the QCT considers relevant to deciding whether the person is suitable to teach.

The paramount consideration when considering suitability is the welfare and best interests of children. Having regard to the seriousness of the charge and the resulting mandatory suspension, unless and until the charges are resolved in the criminal jurisdiction, there is limited ability for the QCT to be reasonably satisfied that the person is, or continues to be, suitable to teach.

However, the applicant is able to provide any information which might be relevant to the suitability assessment including compelling evidence that the nature of the charge is not at all relevant to the duties of a teacher and that the welfare and best interests of children would not be harmed by the granting of registration or permission to teach.

All other offences that are not serious or disqualifying offences

All criminal offences will be considered when conducting a suitability assessment.

Where an applicant:

- declares the information on their application;
- provides information regarding the circumstances of the charge/conviction;
- demonstrates insight into the conduct and how it may reflect on the reputation of the teaching profession; and
- expresses remorse and provides evidence of steps taken to address prior criminal conduct,

the QCT will consider this favourably.

How the QCT considers criminal offending

Any charge and/or conviction for an offence will be scrutinised by the QCT.

Examples of the type of criminal conduct that will be treated particularly seriously even where it is merely alleged or where the charges did not result in a conviction are charges that:

- involve/s harm to children (sexual, physical, emotional, psychological, neglect)
- involve/s violence
- involve/s domestic and family violence and/or coercive control
- involve/s drug use
- involve/s behaviour that causes fear or apprehension such as stalking or harassment;
- involve/s fraud or dishonesty
- results/ed in a period of imprisonment within the last ten (10) years
- demonstrates/ed repeated instances of similar conduct where it is apparent that criminal sanctions have not been reformative
- has/have not been disclosed in the application for registration or renewal and is/are only uncovered through criminal history checks.

Specific QCT officers with the necessary expertise or experience hold delegations and may determine suitability where they are able to be satisfied that the applicant is suitable to teach based on the information provided in their application.

Delegated QCT officers may decide that a person is suitable to teach in circumstances such as where:

- The offending is once-off and out of character
- The applicant has been honest and disclosed the charge/conviction in their application and provided a satisfactory explanation
- The nature of the charge is relatively minor such as traffic offences, low level drug offences, public disorder offences or regulatory offences
- There is medical evidence, that the person has taken steps to mitigate any detriment caused by their conduct such as paying restitution or undertaking community service or where the person has demonstrated genuine remorse and there is low risk of further conduct occurring.

Reportable Conduct

Applicants must disclose if they have ever:

- been the subject of an allegation of reportable conduct; or
- been found to have engaged in reportable conduct

in Queensland or any other Australian state or territory.

Reportable conduct includes:

- a child sexual offence
- sexual misconduct committed in relation to or in the presence of a child
- ill treatment of a child
- significant neglect of a child
- physical violence committed in relation to, or in the presence of a child
- behaviour that causes significant emotional or psychological harm to a child.

How the QCT considers reportable conduct

Where an applicant has been the subject of an allegation of reportable conduct or has been found to have engaged in reportable conduct, the QCT will consider and balance a range of matters for suitability purposes including but not limited to:

- the nature and severity of the conduct – sexual misconduct, physical violence or grooming behaviour will be treated very seriously
- vulnerability of the victim – conduct directed at young children or grooming behaviour will be treated very seriously
- pattern or isolated incident – a pattern of conduct is significantly more serious than an isolated incident
- insight and remorse – whether the teacher has demonstrated a genuine understanding of harm caused and shows remorse
- findings and interventions by other agencies – whether eligibility and/or professional registration/licencing has been impacted in another jurisdiction
- response to intervention – cooperation with investigations, willingness to undertake professional development or remediation.

Cancellation, suspension or withdrawal of registration

Cancellation, suspension or withdrawal of registration, licensing, classification or eligibility for employment as a teacher are all matters that the QCT will consider as part of a suitability assessment.

Applicants must declare if they have ever had registration, licensing, classification or eligibility for employment as a teacher or any other entitlement to teach (including Permission to Teach or similar) cancelled, suspended or withdrawn in Australia or another country.

Applicants must also declare whether they are subject to any conditions in practising the profession of teaching in Australia or in any other country.

Allegations concerning incompetence, misconduct or fitness to be a teacher

The QCT application form provides that an applicant must declare:

- whether they have been subject to a preliminary investigation or resigned whilst the subject of any proceeding, or disciplinary action in respect to their professional conduct or competence in performing the role of a teacher
- whether they have ever been, or are currently, the subject of an allegation or action in response to an allegation concerning incompetence as a teacher; misconduct as a teacher; or fitness to teach, including any preliminary investigation or proceeding, either informal or formal, in any Australian or overseas jurisdiction.

It does not matter if the investigation or action:

- did not result in any grounds being established
- did not commence because the teacher resigned from their employment
- was considered to be unjustified or of no consequence or did not result in any findings
- resulted in an outcome which is in dispute or subject to review
- found that the matter was a vexatious complaint.

Applicants should provide the QCT with copies of any documentation evidencing the action taken and the outcome where possible.

How the QCT considers any previous issues with teacher registration or any investigation or disciplinary action

Delegated QCT officers, or in some circumstances, members of the QCT Board, may decide a person is suitable to teach in circumstances where:

- any conditions imposed were minor in nature and were fulfilled by the teacher
- any action taken against a teacher's registration was fully disclosed and the evidence provided indicates that those concerns were resolved and/or were a one-off occurrence
- any competence issue has been fully addressed through training and development, and the teacher meets the APST
- any misconduct was not child-related and did not cause harm to any person
- the result of any preliminary investigation or proceeding either established no grounds or resulted in no action or minor disciplinary action being taken against the teacher.

Delegated QCT officers, or in some circumstances, members of the QCT Board, may determine that they are not able to be reasonably satisfied that a person is suitable to teach in circumstances where:

- an applicant has not honestly declared information in their application that is later obtained by the QCT
- an applicant's registration or licencing in Queensland, or another state or country has been suspended or cancelled for:
 - any harm to children
 - serious misconduct
 - allegations of fraud or dishonesty
 - failure to comply with conditions imposed
 - repeated conduct of a similar nature.

These lists are not exhaustive and suitability to teach will depend largely on the extent of the applicant's transparency regarding the matter and the evidence provided by the applicant in support of their suitability to work as a teacher.

What applicants can do to advise the QCT of particular circumstances

Applicants must provide an honest and transparent account of any suitability issues by declaring them in their application.

If an applicant has previously disclosed the charge/conviction, investigation or disciplinary action to the QCT in an application for registration or renewal of registration, it is not necessary to do anything further (applicants must declare that they have been charged/convicted when asked but do not need to provide any explanation where the issue has previously been disclosed and dealt with).

If an applicant has not previously disclosed the information to the QCT, they need to provide a statutory declaration which:

- explains the circumstances of the charge/conviction/conduct, investigation, disciplinary action or details of the suitability issue
- advises the outcome of the charge/conviction/conduct or any action taken
- details of any reflections or insight you have gained in relation to the conduct since it occurred (if the conduct was not established you do not need to provide this but you may still wish to provide reflections on any insight you have gained through the process)
- any actions, behaviours, courses, training or treatment you have undertaken since the conduct occurred
- if the conduct or alleged conduct related to your employment as a teacher (investigation/disciplinary process), why you consider that you are a fit and proper person to be part of the teaching profession
- if the conduct or alleged conduct was conduct related to a child or children, why the QCT should consider you suitable to work in a child related field
- any mitigating factors you would like QCT to take into account when determining your application.

Applicants may annex to their statutory declaration anything they would like the QCT to take into account including professional and personal references from people who are aware of the circumstances giving rise to the suitability issue, proof of any additional training or courses they have undertaken and any relevant medical reports.

Suitability assessment is ongoing

Suitability to teach assessment occurs upon all applications for registration, permission to teach, renewal and restoration for registration or permission to teach.

However, maintaining suitability to teach is an ongoing obligation of an approved teacher in Queensland. This includes that the approved teacher is required to immediately disclose any change in police information to the QCT, even if the matter has not been resolved.

When a teacher is charged with an offence, no matter how minor, they are required to disclose this information to the QCT pursuant to section 68 of the Act. A failure to disclose this information to the regulator is an offence under the Act and may result in prosecution or grounds for disciplinary action. It will also be considered when assessing the teacher’s suitability to teach.

Where a person no longer holds teacher registration and seeks to become registered, any prior conduct which was considered by the QCT’s Integrity Unit (disciplinary matters), including where no disciplinary action has been taken, will form part of a suitability to teach assessment on reapplication.

Related documents

- Suitability to Teach Policy

Document details

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