



Building Services Board Policy

Fit and proper person assessment criteria for the issue of registrations

OBJECTIVE

The policy is a tool for the Building Services Board (BSB) to determine the fitness and propriety of applicants for registration as building service practitioners under the *Building Services (Registration) Act 2011 (WA)* (BSR Act) and Building Services (Registration) Regulations 2011 (WA) (BSR Regulations).

SCOPE

This policy applies to all applications made for the registration, renewal and reregistration of building service practitioner registrations submitted to the BSB.

CONTEXT

Section 17(1)(c) of the *Building Services (Registration) Act 2011* requires the BSB to be satisfied that an applicant is a fit and proper person. Fitness and propriety has three components: knowledge, ability and honesty. This policy provides guidance on determining if a person meets the criterion of honesty.

POLICY PRINCIPLES

The decision making framework on fitness and propriety is based on the general principles in the Department of Mines, Industry Regulation and Safety *Standardised fit and proper person assessment policy (December 2018)*. The policy does not limit the BSB from making a decision outside the principles based on the individual circumstances of an applicant.

Criteria for Assessing Fitness and Propriety

A fit and proper person assessment for the registration or renewal of registrations is based on the information provided in the applicant’s National Criminal History Check (NCHC), an applicant’s response to the fitness and propriety questions, compliance and complaints history and adverse findings by the department.

The NCHC must be no more than three months old at the time of application unless otherwise approved by the BSB.

Those matters that may constitute a serious offence are shown in Table 1. Applicants who are deemed to have committed a serious offence are referred to the BSB to determine whether an applicant is a fit and proper person.

Table 1 Definition of a serious offence

Nature of offence	Potentially disqualifying offences	
	New applications	Renewal applications
Pattern	A pattern of offences over a long period.	A pattern of offences over a long period.
Serious	An offence with a prison sentence, suspended prison sentence or order in the ten years prior to the date of the NCHC.	An offence with a prison sentence, suspended prison sentence or order in the three years prior to the date of the NCHC.

Nature of offence	Potentially disqualifying offences	
	New applications	Renewal applications
Persons	An offence with a fine exceeding \$3,000 in the five years prior to the date of the NCHC.	An offence with a fine exceeding \$3,000 in the three years prior to the date of the NCHC.
Dishonesty Drug Property	An offence with a fine exceeding \$3,000 in the ten years prior to the date of the NCHC.	An offence with a fine exceeding \$3,000 in the three years prior to the date of the NCHC.

Where an applicant is deemed to have committed a serious offence, or where the behaviour shows a pattern of offending or a history of non-compliance or other improper behaviour relevant to the registered activity, Departmental Officers will seek additional information such as statements of material facts, contacting another jurisdiction or further information from the applicant.

An applicant has 14 days to provide a response. If the applicant does not respond within 14 days, the application can be referred to the BSB for decision.

BSB Decisions

The concept of “fit and proper” can be made based on the conduct of an individual and whether improper conduct has occurred, is improper conduct likely to occur and will the community lack confidence that improper conduct won’t occur (see Appendix Two).

Factors that should be considered in determining whether an applicant is a fit and proper person include whether the applicant:

- is an honest person;
- has a pattern of offending behaviour;
- has committed an offence in the course of their registered activity;
- has committed an offence against a person;
- has recently committed an offence;
- has committed a serious offence as compared to a minor offence having regard to the penalty imposed, the maximum available penalty and the facts of the offending behaviour;
- has a history of non-compliance, including where there are serious open complaints under investigation; or
- has a history of other improper behaviour relevant to the registered activity.

Mitigating factors can be taken into account when making a fit and proper assessment.

These factors include:

- demonstrated remorse and insight into their improper behaviour;
- committing the offence a long time ago or as a minor;
- eliminating the factors that gave rise to the offences, and
- a person’s character generally since the commission of the offences or non-compliance, including a lack of offending since and the applicant’s age, family support and character references.

A decision maker will not consider irrelevant factors such as:

- personal hardship caused by refusing or revoking a person's registration;
- personal characteristics such as rudeness during the application process; or
- information that does not directly relate to the application such as their gender, religious affiliation political views or known associates.

Application Assessment

If the BSB forms a preliminary view to refuse an application, the applicant will be notified in writing and given 14 days to respond.

Cancellation or Suspension of Registration during Registration Period

The BSB has the power to initiate proceedings with SAT to rescind a registration if a person is no longer deemed to be a fit and proper person.

Right of Review

If a new or renewed registration has been refused, the applicant must be informed in writing with the reason for refusal. An applicant who is aggrieved by the decision may apply to the SAT for a review of the decision.

OTHER RELEVANT POLICIES AND DOCUMENTS

Instrument of Delegation (Building Services (Registration) Act 2011 (WA) (BSR Act)

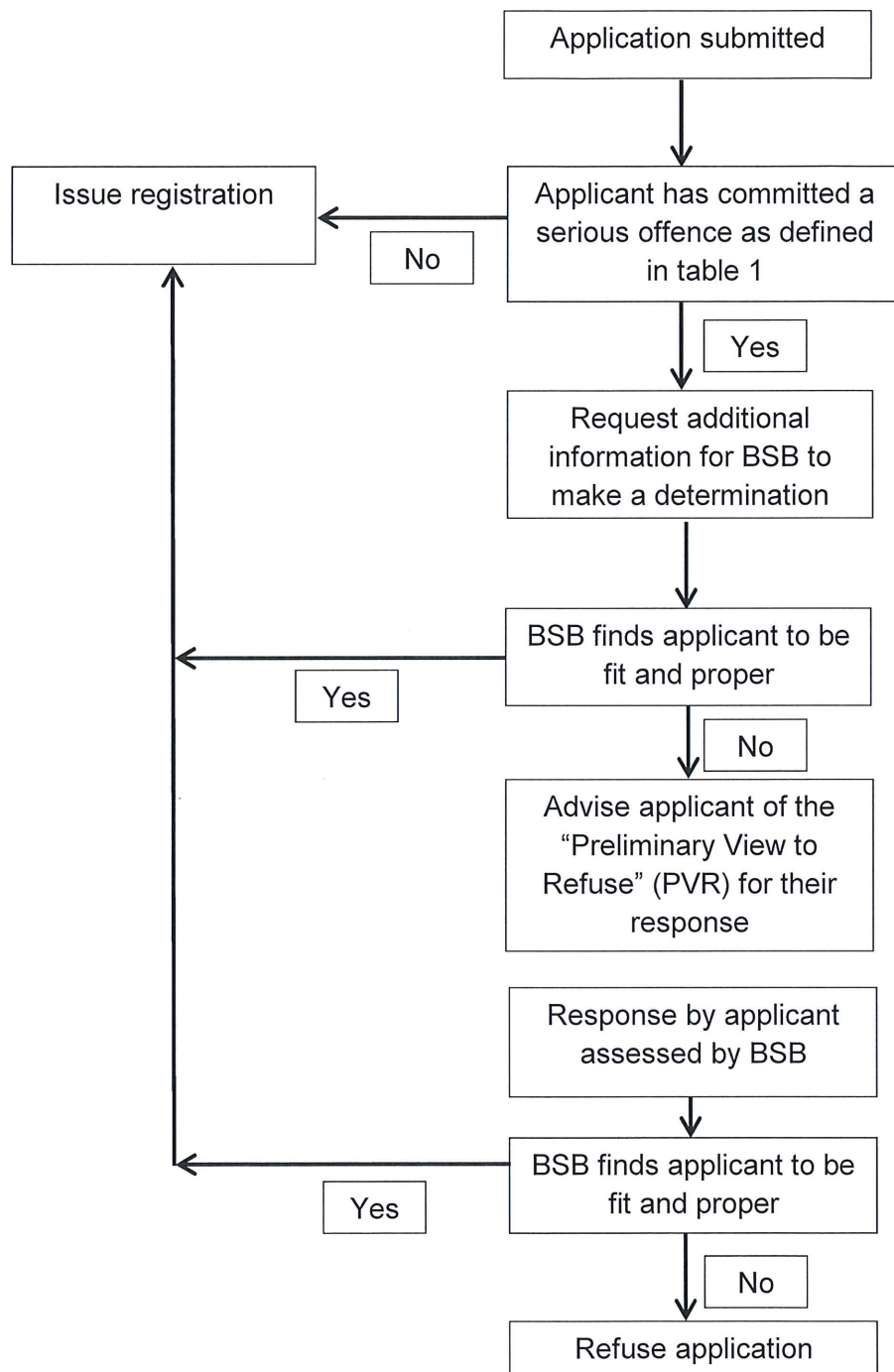
Building Services (Registration) Regulations 2011 (WA) (BSR Regulations)

Standardised fit and proper person policy (December 2018).

GOVERNANCE

Resolved by the BSB	Meeting Date 14 January 2020	Item Number: 5.1
Chairperson	Signature 	Date: 14 January 2020
Keywords	registration, assessment, fit and proper	
Next review	January 2023	

DECISION MAKING FOR FIT AND PROPER PERSON ASSESSMENT



Fit and proper person assessment

	YES	NO
Do you have a reasonable belief that the applicant:		
Is NOT an honest person?	<input type="checkbox"/>	<input type="checkbox"/>
Has a pattern of offending behaviour?	<input type="checkbox"/>	<input type="checkbox"/>
Committed an offence in the course of their registered activity?	<input type="checkbox"/>	<input type="checkbox"/>
Committed an offence against a person?	<input type="checkbox"/>	<input type="checkbox"/>
Recently committed an offence?	<input type="checkbox"/>	<input type="checkbox"/>

Mitigating factors

Demonstrated remorse and insight into their improper behaviour?	<input type="checkbox"/>	<input type="checkbox"/>
Committed the offence a long time ago or as a minor?	<input type="checkbox"/>	<input type="checkbox"/>
Has eliminated the factors that gave rise to the offences?	<input type="checkbox"/>	<input type="checkbox"/>
Has family support?	<input type="checkbox"/>	<input type="checkbox"/>
Is engaged in paid or voluntary work?	<input type="checkbox"/>	<input type="checkbox"/>
Has supporting character references?	<input type="checkbox"/>	<input type="checkbox"/>

Evaluation

Has improper conduct occurred?	<input type="checkbox"/>	<input type="checkbox"/>
Is improper conduct likely to occur?	<input type="checkbox"/>	<input type="checkbox"/>
Will the community lack confidence that improper conduct won't occur?	<input type="checkbox"/>	<input type="checkbox"/>