

## Preliminary Investigations Information for the Teacher or Authorised Person

## Factsheet

### *Teacher Registration (Northern Territory) Act*

The Teacher Registration Board of the Northern Territory (“the Board”) is established under the provisions of the *Teacher Registration (Northern Territory) Act* (“the Act”) to register persons as teachers and to facilitate the continuing competence of teachers in the Territory.

One of the legislative functions of the Board is to deal with complaints about teachers, hold Preliminary Investigations and Inquiries and take disciplinary action under Part 6 of the Act.

A copy of the Act can be downloaded from the Board webpage at [www.trb.nt.gov.au](http://www.trb.nt.gov.au)

### When is a Preliminary Investigation undertaken?

A Preliminary Investigation may be undertaken by the Board following information received from a number of sources. These sources include:

- Notifications from employers;
- Notifications from the Northern Territory Police;
- Written complaints received from parents, other teachers and members of the community;
- Information and declarations from Teachers;
- Notifications from other teacher registration authorities;
- Any information where the Board becomes aware of a matter that, in the Board’s opinion, calls into question the teacher’s eligibility for registration or if the person is a fit and proper person to teach.

### The purpose of a Preliminary Investigation

The purpose of a Preliminary Investigation is to assist the Board to decide whether or not the Board should do any of the following:

- (a) take further action under the Act in relation to the teacher or authorised person without first holding an Inquiry; or
- (b) hold an Inquiry in relation to the teacher or authorised person.

### Appointing an Investigator

If the Board decides to hold a Preliminary Investigation, it must appoint an Investigator to conduct the investigation, being:

- the Director of the Board; or
  - an investigation panel of 2 or 3 Board members; or
  - the Director and one or 2 Board members.

### Basis of the Preliminary Investigation

The basis of the Preliminary Investigation is the specific alleged conduct and whether or not the Teacher or authorised person to whom the Preliminary Investigation relates (“the Teacher”) is a fit and proper person to teach or competent to teach.

- a) Fit and Proper: section 32 of the Act sets out matters the Board must take into account in deciding whether a person is a fit and proper person to teach. These include:
  - the person’s criminal history;
  - any behaviour of the person that:
    - does not meet the standard of behaviour reasonably expected of a teacher; or
    - is not in accordance with the Board’s code of professional ethics; or
    - shows that the person is not of good character
  - Previous disciplinary matters in relation to the Teacher’s registration undertaken in the Territory or elsewhere; and
  - Any other matter the Board considers relevant.
- b) Competence to Teach: for investigations involving the competency of the Teacher the Board must assess competency against the teaching standards approved by the Board (Regulation 5(1) and 5(2) of the *Teacher Registration (Northern Territory) Regulations*). The standards approved by the Board are the Australian Professional Standards for Teachers.

### Notification of the Preliminary Investigation

Section 56 of the Act provides that the Board must give written notice of the Preliminary Investigation to the Teacher.

At this stage the Teacher should acknowledge receipt of the notice and may, if they wish to, take advantage of the opportunity to give the Investigator a written statement within 14 days of receiving the notice.

### Process of the Preliminary Investigation

The role of the Investigator is to investigate the matter and provide a report to the Board.

The Investigator may decide the procedure of the Preliminary Investigation and is not bound by the

rules of evidence. However, the Investigator must observe the principles of procedural fairness.

Section 57 of the Act provides that the Investigator may, by written notice, require a person to give information to the Investigator. This may include the Teacher, their employer, the Northern Territory Police, or any other person identified by the Investigator as holding information relevant to the investigation.

A penalty applies under the Act for failing to comply with a direction in the section 57 notice to give information.

Section 76A of the Act provides protection from liability for a person who, acting in good faith, gives information under the Act to the Investigator.

### Teacher's response to information collected by the Investigator during the Investigation

The Investigator will provide the Teacher with details of the allegations against them and will provide them with an opportunity to respond (i.e., to admit to, or refute, any of the information put forward by the employer or any other party).

The Teacher may be asked to provide statements or character references in support of their response. The Investigator may contact referees and other relevant parties during the investigation.

If the Teacher provides a response to the initial notice they will be given the opportunity to respond to any new adverse information that is received by the Investigator.

### Commencing an Inquiry before a Preliminary Investigation is finalised

At any stage before the Preliminary Investigation is completed, the Teacher may request, or the Investigator may decide to recommend to the Board, that the Board proceed to hold an Inquiry.

### Completion of the Preliminary Investigation

The Investigator will prepare a report for the Board providing a recommendation. The Board is not bound by the recommendation of the Investigator but must take it into account.

After receiving the recommendation the Board must decide to:

- (a) take no further action;
- (b) take further action under the Act in relation to the teacher or authorised person without first holding an Inquiry; or
- (c) hold an Inquiry in relation to the teacher or authorised person.

The further action which can be taken by the Board without proceeding to an Inquiry is to impose condition/s on the Teacher's registration or suspend registration (suspension will only apply to ensure that the Teacher meets a requirement prior to teaching again).

The Board cannot cancel registration or disqualify a person from registration without first holding an Inquiry.

If the Board is minded to make a decision which involves an adverse outcome, the Teacher will be provided with an opportunity to respond to the proposed decision.

### The 'public interest' test

The Board may only hold an Inquiry if it is reasonably satisfied that it is in the public interest to do so.

If a person no longer hold aspirations to teach in Australia/New Zealand he/she should advise the Board as this may impact on its decision to proceed with an Inquiry.

### Informing relevant parties of the Board's decision

The Director of the Board will write to the Teacher, and will provide an information notice which will set out the decision of the Board and the reasons for the decision.

If the matter related to a complaint the Board will also provide an information notice to the complainant.

The Teacher's employer and/or former employer will be notified of the action taken by the Board following the Preliminary Investigation.

### Appealing a decision of the Board

Both the Teacher and Complainant, who are provided with an information notice, can appeal the Board's decision to the Local Court. The appeal must be filed at the Local Court within 28 days of the date of the information notice.

### Relevant Publications

- Inquiries – Information for the Teacher or Authorised Person Factsheet

#### Disclaimer

This document has been prepared as a guide only to Preliminary Investigations conducted by the Teacher Registration Board of the Northern Territory under the *Teacher Registration (Northern Territory) Act 2010*. If you remain in doubt about your particular circumstances you should seek independent advice.