



Electrical Licensing Board Policy

Fit and proper person assessment criteria for the issue of licences and permits

OBJECTIVE

The Electrical Licensing Board (Board) is required to determine the fitness and propriety of applicants for licences and permits under the Electricity (Licensing) Regulations 1991 (ELR). The policy provides guidance for the Board in making that determination.

SCOPE

This policy applies to all applications made for the issue of:

- a. an electrician's licence;
- b. an electrician's training licence;
- c. a restricted electrical licence; and
- d. a permit.

This policy also applies to applications for the restoration of an electrician's licence or a restricted licence in circumstances where the Board considers it necessary to reassess a person's fitness and propriety to be licensed.

CONTEXT

Regulation 24(1) of the ELR requires the Board to be satisfied that an applicant is a fit and proper person to hold a licence endorsed to the effect sought in the application.

Regulation 23(1b) requires that an initial application for an electrical worker's licence or permit include or be supported by any information, certificate or documentation that the Board may require so as to satisfy itself that the applicant is a fit and proper person.

Where a person fails to apply to renew their electrician's licence or restricted licence within 30 days of its expiry, they may apply to have their licence restored to the register under regulation 56(3). Regulation 56(4) provides that the Board, at its discretion, may require such an applicant to demonstrate that they satisfy the requirements prescribed for the initial grant of an electrician's licence or restricted licence, including that they are a fit and proper person to be licensed.

Fitness and propriety requirements are commonly used in occupational licensing legislation and generally comprise three components: knowledge, ability and honesty.

POLICY PRINCIPLES

The decision making framework on fitness and propriety includes 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 or inhibit the Board's discretion in taking a decision outside these principles, based on the individual circumstances of an applicant.

Criteria for Assessing Fitness and Propriety

A fit and proper person assessment for the issuing of licences and permits 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 Board.

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 Board to determine whether an applicant is a fit and proper person.

Table 1 Definition of a serious offence

Nature of offence	Potentially disqualifying offences
Pattern	A pattern of offences over a long period.
Serious	An offence with a prison sentence, suspended prison sentence or order in the 10 years prior to the date of the NCHC.
Persons	An offence with a fine exceeding \$3,000 in the five years prior to the date of the NCHC.
Dishonesty Drug Property	An offence with a fine exceeding \$3,000 in the 10 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, 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 Board for decision.

Board Decisions

Determination of “fit and proper” can be made based on the conduct of an individual and whether improper conduct has occurred, is likely to occur and/or whether the community would lack confidence that improper conduct won’t occur (**see Appendix 1**).

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;
- has a history of other improper behaviour relevant to the registered activity;
- is addicted to alcohol or any drug, or suffers from any mental or physical disorder, to a degree that may at any time affect the applicant’s ability to carry out electrical work in a safe and satisfactory manner; or
- is for any other reason unable to carry out electrical work in a safe and satisfactory manner.

The Board can take mitigating factors 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;
- 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; and
- the worker is working under supervision.

The Board will not consider irrelevant factors such as:

- personal hardship caused by refusing a person's licence;
- 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 Board 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 Licence or Permit

There is proper cause for disciplinary action in respect of a person who is the holder of a licence or permit if the person is deemed to be not a fit and proper person to be the holder of a licence or permit to which the Director of Energy Safety has the power to initiate disciplinary proceedings with State Administrative Tribunal to rescind a licence or permit.

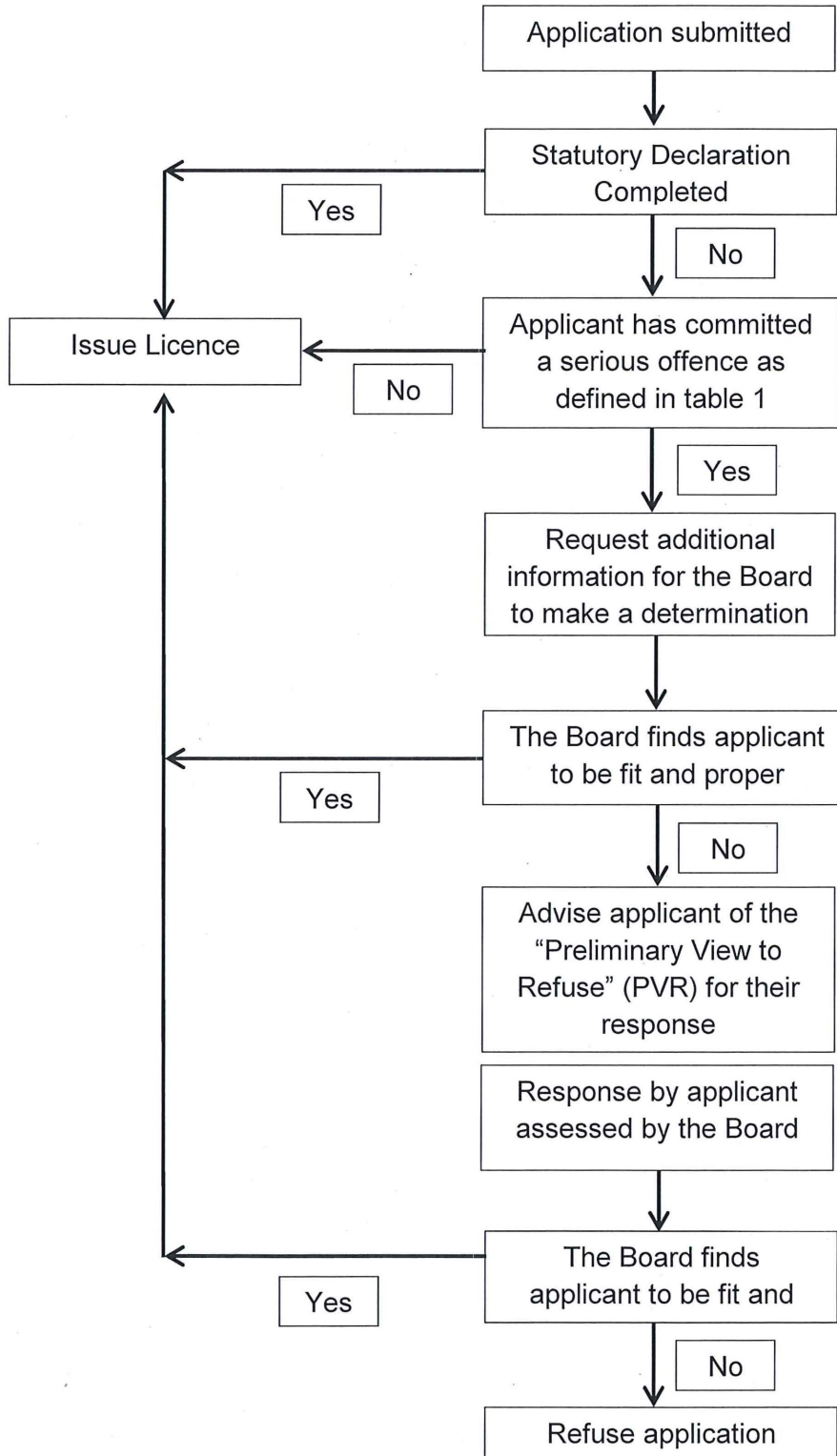
Right of Review

If a licence or permit 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 Supreme Court of Western Australia for a review of the decision.

GOVERNANCE

Resolved by the ELB	Meeting Date	Item Number:
Chairperson	Signature 	Date: 17/12/20
Keywords	fit and proper	
Next review	July 2023	

DECISION MAKING FLOWCHART 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 licenced 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"/>
Is addicted to alcohol or any drug to a degree that may at any time affect the applicant's ability to carry out electrical work in a safe and satisfactory manner?	<input type="checkbox"/>	<input type="checkbox"/>
Suffers from any mental or physical disorder to a degree that may at any time affect the applicant's ability to carry out electrical work in a safe and satisfactory manner?	<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"/>