

## ‘Fit and proper person’ registration requirement

This fact sheet explains how the VBA considers whether a person is a fit and proper person to practise as a building practitioner in Victoria.

### OVERVIEW

To grant an application to be registered as a building practitioner, or to renew a registration, the VBA must be satisfied the applicant is a fit and proper person to practise as a building practitioner in Victoria having regard to all relevant matters, including the financial and personal probity requirements set out in Sections 171D and 171E of the *Building Act 1993*.

A building practitioner must remain a fit and proper person to maintain their registration.

If the applicant is a company, the fit and proper person test will apply to the company and each director of the company.

If the applicant is an individual but intends to carry out their business as a member of a partnership, the fit and proper person test will apply to each member of the partnership.

### How does the VBA assess whether an applicant for registration is a fit and proper person?

Before granting an application, the VBA will consider all relevant matters including (but not limited to):

- whether the applicant is covered by the required insurance
- any adverse matter disclosed by the applicant, for example, having been convicted or found guilty of an offence involving fraud or dishonesty
- a failure to disclose an adverse matter described above that later becomes known to the VBA
- any licence, approval, certificate or other

authorisation as a building practitioner that was suspended or cancelled for any reason other than failure to renew

- whether the applicant is, or has been, an insolvent under administration, or a company under administration as defined in the *Corporations Act 2001*
- whether the applicant has been disqualified from managing corporations
- whether the applicant has provided any false and misleading information in support of an application for registration
- any past history of contraventions of the Act and/or Regulations
- any convictions or findings of guilt disclosed in the applicant’s police check
- any physical or mental infirmity that may affect the applicant’s ability to practise as a building practitioner.

### What if the VBA identifies a relevant matter during the application process?

When determining whether the applicant is a fit and proper person to be registered, the VBA considers **all** the circumstances relating to a relevant matter, including (but not limited to):

- whether the conduct is relevant to their fitness to practise as a building practitioner the attitude of the applicant in relation to the conduct
- any further instances involving the same or similar conduct by the applicant
- how recently or long ago the conduct occurred
- any other relevant or mitigating factors.

In most cases, a single matter will not mean the VBA will refuse to register an applicant. On the other hand, a pattern of conduct may indicate that a practitioner does not have the appropriate standards of conduct or honesty to be considered

a fit and proper person to practise as a registered building practitioner.

If the VBA needs more information to help it to consider the issue, it will write to the applicant.

#### **What if the VBA considers that a person is not be a fit and proper person?**

If after considering an application for registration or renewal of registration, the VBA **proposes** to refuse the application on grounds that it is not satisfied the applicant is a fit and proper person, the VBA will:

- notify the applicant in writing that it proposes to refuse the application and set out its reasons for the proposed refusal
- give the applicant a reasonable opportunity to respond to the VBA's proposed decision and reasons for decision, and invite the applicant to respond to the proposed refusal by expressing their views and/or providing further information to support their application.

#### **What if the VBA refuses an application?**

If the VBA decides to refuse the application on the ground that it is not satisfied the applicant is a fit and proper person to practise as a building practitioner in Victoria, the VBA will notify the applicant in writing that their application has been refused and set out its reasons for the decision.

The notice will include the applicant's review rights. These include the right to apply for a review of the decision.

Read more about the VBA **internal review process**.

#### **Want to know more?**

Please email [buildingreg@vba.vic.gov.au](mailto:buildingreg@vba.vic.gov.au) or call us on 1300 815 127.

[www.vba.vic.gov.au](http://www.vba.vic.gov.au)