

January 14, 2008

To: All LCLB staff

This Bulletin replaces No: 06-03

Re: Enhanced Fit and Proper Suitability Review Process

Purpose:

This operational bulletin provides an overview of the workflow process for determining applicant and licensee suitability. The intent of the applicant suitability or “fit and proper” policy, procedures, and enhanced suitability reviews is to ensure an applicant or licensee is, and remains, a “fit and proper” person eligible to hold a liquor licence pursuant to Section 16(1) of the Liquor Control and Licensing Act.

It is important to note that any file can be referred to the investigative process detailed below, if at any point there are concerns regarding applicant suitability.

This bulletin provides an overview of the processes for:

1. Standard applicant suitability reviews.
2. Enhanced applicant suitability reviews.
3. Enhanced licensee suitability reviews.

Terms of Reference

This bulletin should be read in conjunction with Policy Directive 08-01 Enhanced Fit and Proper Suitability Review Process. This Policy Directive provides detailed information on Licensing and Compliance and Enforcement policies regarding the determination of whether an applicant or licensee is a “fit and proper person” eligible to hold, or continue to hold, a liquor licence.

1. Overview of Processes for Standard Applicant Suitability Reviews

The following outlines the standard process for determining applicant suitability. This process will be used where a review of the applicant’s criminal record and/or past compliance history indicates the applicant may not be a fit and proper person suitable to hold a liquor licence:

- The Case Manager (Senior Licensing Analyst (SLA) or Licensing Clerk) will check the “Applicant Suitability under Review” check box under the Suitability tab for both the job and legal entity in POSSE.

- This will cause the tab to light up (purple) providing notification to other Case Managers should additional applications be received during the suitability review process.
- Licensing Clerks will refer the file to the Manager of Licensing and will enter the POSSE process “review by higher authority”.
- The Manager of Licensing will write a staff report for referred files.
- SLAs will enter the POSSE process “review by higher authority” and write a staff report for the Manager of Industry and Local government Relations.
- The Case Manager will send the applicant (by registered mail) the staff report and a covering letter, giving the applicant 15 calendar days to respond or the application will be terminated– the Manager of Investigations will be provided a copy of this correspondence.
- The Case Manager will hold the application pending the outcome of the suitability review.
- After the staff report has been sent to the applicant for response there are two possible outcomes. The applicant may choose not to respond at all or the applicant may respond by way of a written submission. The next part of the process varies depending on the response.
- **If the applicant does not respond after 15 calendar days** from when the letter was received, the Case Manager will terminate the application. The Case Manager will prepare a letter informing the applicant the application has been terminated as the LCLB was unable to make a complete determination of applicant suitability. The Suitability tab will remain lit to notify Case Managers should future applications be received.
- **If the applicant responds by way of a written submission.** The Deputy General Manager of Licensing will make a determination of applicant suitability based upon the staff report and the written submission of the applicant.
- In exceptional cases, as determined by the General Manager, the applicant may be invited to attend a Liquor Licensing Committee hearing to discuss their suitability with panel members.
- Written decision issued to the applicant.
- **Applicant is fit and proper suitable to hold a liquor licence.**
- The Case Manager will uncheck the “Applicant Suitability under Review” check box under the Suitability tab for both the job and legal entity in POSSE and continue processing the application.
- **Applicant is not fit and proper to hold a liquor licence.**
- The Case Manager will enter the following in the notes tab for the legal entity “Applicant deemed not fit and proper MMM / DD / YYYY”. The Suitability tab will remain lit to notify Case Managers should future applications be received.
- The Case Manager will terminate the application.

2. Overview of Processes for Enhanced Applicant Suitability Reviews

The following outlines the enhanced process for determining applicant suitability. While any file may be referred to the investigative process detailed below, most enhanced fit and proper suitability reviews will be conducted on applicants who have been previously identified as potentially not fit and proper to hold a liquor licence.

Case Manager has primary responsibility for the file

- The Case Manager deems the application complete with respect to elements that speak to applicant suitability.
- If the Suitability tab for the legal entity is lit up (purple) this indicates there may be suitability issues with the applicant requiring an enhanced suitability review.
- The Case Manager will check the notes tab on the legal entity to determine if the applicant has been deemed **not** fit and proper to hold a liquor licence. The following will appear in the notes tab “Applicant deemed not fit and proper MMM / DD / YYYY”.
- Where the applicant has been deemed **not** fit and proper within the past 5 years the application will be terminated and the applicant will be notified in writing by the Case Manager.
- Where a determination of an applicant’s suitability has not yet been made or where an applicant has been deemed not fit and proper more than 5 years ago the following process will be followed.
- The Case Manager will check the “Applicant Suitability under Review” check box under the Suitability tab for the job in POSSE.
- Licensing clerks will refer the file to the Manager of Licensing.
- The DGM of Licensing will review the file and determine whether the issues identified warrant further investigation.
- The Case Manager will enter into POSSE “Investigation – Fit and Proper” and will note on POSSE the referral date and monitor the timelines.
- The SLA or Manager of Licensing will hold the application pending the outcome of the investigation.
- The Manager of Investigations will assign an Investigator to the file.
- The Case Manager photocopies pertinent documents, including CPIC consent forms, corporate documents to send to the Investigator as a working file only. The original application must stay at headquarters. SLA or Manager of Licensing sends the working copy to the assigned Investigator.
- The Case Manager is to provide a covering memo with the working file with general details, such as the POSSE job number.
- The Case Manager will send a letter to the applicant informing them that the application has been referred for a fit and proper investigation (Template Letter 1).

Investigator has primary responsibility for the file

- Upon receipt of the working file the Investigator enters the relevant information into the tracking sheet and confirms date of receipt of the file with an email to the

SLA or Manager of Licensing.

- The Investigator has 30 calendar days to verify the information provided by the applicant. If additional time is required, the Investigator will notify the SLA or Manager of Licensing by email with the estimated timelines. Generally, while the investigation is in progress, if issues arise that will affect timing; the Investigator should notify the SLA and the Manager of Industry and Local Government Relations or the Manager of Licensing.
- Investigator is responsible for obtaining CPIC's (including those from spouses of applicants if applicable). If the CPIC or other criminal record enquiry (PIRS/PRIME) shows activity not declared on the Personal History form the Investigator must contact the relevant police agency to obtain further information on criminal history and also contact the applicant and give him/her an opportunity to disclose any further criminal involvement not included at the time of application.
- The Investigator will use the appropriate tools to determine the accuracy of the information provided by the applicant on the Personal History Summary form (LCLB 0004).
- To facilitate the background checks the Investigator will cross reference applicant information using:
 - Equifax credit, finance and fraud checking services,
 - BC Online Corporate Registry, BC Assessment, Land Titles and Personal Property searches,
 - police database inquiries, and
 - any other follow up investigation necessary to validate the information provided by the applicant within the scope of informed consent. Follow up may include communication with the applicant to confirm or clarify information.
- Should the Investigator need to request additional information from the licensee, the Investigator copies the SLA or the Manager of Licensing on the correspondence.
- Upon completion of the background investigation the Investigator must document and submit the results of the background investigation in one of two ways depending on what is discovered.

No issues regarding suitability

- If the information collected by the application forms, particularly the Personal History Summary form, provided by the applicant is found to be accurate and complete, and there are no issues with regard to applicant suitability, the Investigator must:
 - Inform the SLA or Licensing Manager by email. Suggested wording is Re: Application #xxxxxxx
An enhanced suitability check has been conducted on this application. The following persons have been found to be suitable (list relevant individuals associated with application).
 - The Investigator must also complete, and submit to the Case Manager for the file, the checkbox sheet on what types of investigative searches were

done and include on the sheet the location of the investigative file for future and FOI reference. The Investigator may also choose to add notes into POSSE at this time.

- The Licensing Managers will uncheck the “Applicant Suitability under Review” check box under the Suitability tab for both the job and legal entity in POSSE and the Case Manager will continue processing the application.

Issues regarding suitability

- If there are inconsistencies or issues with the applicant(s) or application with regard to “fit and proper” the Investigator must compile a full fit and proper staff report. The Investigator must notify the SLA or the Manager of Licensing by email if s/he anticipates any issues with regard to the application. The report will contain all relevant information gathered during the background check (criminal involvements or associations, compliance history, financial and/or business information, communication with the applicant, and/or additional relevant information from other governmental departments such as health or city licensing). This report is submitted to both the Deputy General Managers (DGM’s) and the Manager of Investigations (MI). The DGM’s and MI review the report for content and to ensure the issues presented by the Investigator warrant further investigation.
- The DGM’s may approve disclosure of the report to the applicant (with or without modifications) or decide the issues do not warrant further attention.
- **If the issues do not warrant further attention** the Investigator will notify the SLA or Manager of Licensing by e-mail and the regular licensing process will resume.
- The Licensing Managers will uncheck the “Applicant Suitability under Review” check box under the Suitability tab for both the job and legal entity in POSSE and the Case Manager will continue processing the application.
- **If further investigation is warranted**, once the investigation is complete and the report has been approved to the satisfaction of the DGM(s) and MI and the DGM(s) and MI agree it can be disclosed, it is forwarded to the SLA or the Manager of Licensing.

Case Manager has primary responsibility for the file

- The staff report and a covering letter, giving the applicant 15 calendar days to respond or the application will be terminated, will be sent by registered mail to the applicant – the Manager of Investigations will be provided a copy of this correspondence.
- After the staff report has been sent to the applicant for response there are two possible outcomes. The applicant may choose not to respond at all or the applicant may respond by way of a written submission. The next part of the process varies depending on the response.
- **If the applicant does not respond after 15 calendar days** from when the letter was received, the Case Manager will terminate the application. The Case Manager will prepare a letter informing the applicant the application has been

terminated as the LCLB was unable to make a complete determination of applicant suitability. The Suitability tab will remain lit to notify Case Managers should future applications be received.

- **If the applicant responds by way of a written submission.** The Deputy General Manager of Licensing will make a determination of applicant suitability based upon the staff report and the written submission of the applicant.
- In exceptional cases, as determined by the General Manager, the applicant may be invited to attend a Liquor Licensing Committee hearing to discuss their suitability with panel members.
- Written decision issued to the applicant.

- **Applicant is fit and proper suitable to hold a liquor licence.**
- The Case Manager will uncheck the “Applicant Suitability under Review” check box under the Suitability tab for both the job and legal entity in POSSE and continue processing the application.

- **Applicant is not fit and proper to hold a liquor licence.**
- The Case Manager will enter the following in the notes tab for the legal entity “Applicant deemed not fit and proper MMM / DD / YYYY”. The Suitability tab will remain lit to notify Case Managers should future applications be received.
- The Case Manager will terminate the application.

3. Overview of Processes for Enhanced Licensee Suitability Reviews

The following outlines the enhanced process for determining licensee suitability. This process will be used where intelligence, from informed sources such as police, indicate that a licensee may not be a “fit and proper person” eligible to continue to hold a liquor licence.

- Manager of Investigations will assign an investigator to the file.
- Investigator will present the intelligence to the Deputy General Managers (DGM’s) and the Manager of Investigations (MI). The DGM’s and the MI will undertake a preliminary assessment of the intelligence and decide whether the issues raised require further attention. If the issues do not warrant further attention the Investigator will close the file.
- If the issues raised warrant further attention the Investigator will conduct an investigation of the licensee.
- Where the investigation reveals compliance related activities, such as the licensee authorizing or permitting any unlawful activities or conduct in the licensed establishment, the enforcement hearing process will be utilized and the investigator will be a witness. In these cases the LCLB will generally be seeking the cancellation of the licence through the enforcement hearing process.
- The investigator will check the “Applicant Suitability under Review” check box under the Suitability tab for the legal entity in POSSE.

- This will cause the tab to light up (purple) providing notification to licensing Case Managers should any applications be received during the enhanced suitability review process.
- The Investigator photocopies (or requests photocopies from the Manager of Licensing) all pertinent documents, including CPIC consent forms, corporate documents, etc to build a working file. The original establishment file and documents must stay at headquarters.
- The Investigator enters the relevant information into the tracking sheet.
- Investigator is responsible for obtaining CPIC's (including those from spouses of licensees if applicable). If the CPIC or other criminal record enquiry (PIRS/PRIME) shows activity not declared on the Personal History form the Investigator must contact the relevant police agency to obtain further information on criminal history and also contact the licensee and give him/her an opportunity to disclose any further criminal involvement not included.
- The Investigator will use the appropriate tools to determine the accuracy of the information provided by the licensee on the Personal History Summary form (LCLB 0004).
- To facilitate the background checks the Investigator will cross reference licensee information using:
 - Equifax credit, finance and fraud checking services,
 - BC Online Corporate Registry, BC Assessment, Land Titles and Personal Property searches,
 - police database inquiries, and
 - any other follow up investigation necessary to validate the information provided by the licensee within the scope of informed consent. Follow up may include communication with the licensee to confirm or clarify information.
- Should the Investigator need to request additional information from the licensee, the Investigator copies the Manager of Investigations on the correspondence.
- Upon completion of the background investigation the Investigator must document and submit the results of the background investigation in one of two ways depending on what is discovered.

No issues regarding suitability

- If the information collected, particularly the Personal History Summary form, provided by the licensee is found to be accurate and complete, and there are no issues with regard to licensee suitability, the Investigator must complete, and submit for the headquarters establishment file, the checkbox sheet on what types of investigative searches were done and include on the sheet the location of the investigative file for future and FOI reference. The Investigator may also choose to add notes into POSSE at this time.
- The Investigator will uncheck the "Applicant Suitability under Review" check box under the Suitability tab for the legal entity in POSSE and will enter the following in the notes tab for the legal entity "Licensee deemed fit and proper MMM / DD / YYYY".

Issues regarding suitability

- If there are inconsistencies or issues with regard to the “fit and proper” status of the licensee the Investigator must compile a full fit and proper staff report. The report will contain all relevant information gathered during the background check (criminal involvements or associations, compliance history, financial and/or business information, communication with the licensee, and/or additional relevant information from other governmental departments such as health or city licensing). This report is submitted to both the Deputy General Managers (DGM’s) and the Manager of Investigations (MI). The DGM’s and MI review the report for content and to ensure the issues presented by the Investigator warrant further investigation.
- The DGM’s may approve disclosure of the report to the licensee (with or without modifications) or decide the issues do not warrant further attention.
- **If the issues do not warrant further attention** the Investigator will uncheck the “Applicant Suitability under Review” check box under the Suitability tab for the legal entity in POSSE and will enter the following in the notes tab for the legal entity “Licensee deemed fit and proper MMM / DD / YYYY”.
- **If further investigation is warranted**, once the investigation is complete and the report has been approved to the satisfaction of the DGM(s) and MI and the DGM(s) and MI agree it can be disclosed, it is forwarded to the Manager of Licensing.
- The Manager of Licensing will send (by registered mail) the staff report and a covering letter, giving the licensee 15 calendar days to respond or the licence may be cancelled. The Manager of Investigations will be provided a copy of this correspondence.
- After the staff report has been sent to the licensee for response there are two possible outcomes. The licensee may choose not to respond at all or the licensee may respond by way of a written submission. The next part of the process varies depending on the response.
- **If the licensee does not respond after 15 calendar days.** The Deputy General Manager of Licensing will make a determination of applicant suitability based upon the staff report.
- Written decision issued to the licensee.
- **If the licensee responds by way of a written submission.** The Deputy General Manager of Licensing will make a determination of licensee suitability based upon the staff report and the written submission of the licensee.
- In exceptional cases, as determined by the General Manager, the licensee may be invited to attend a Liquor Licensing Committee hearing to discuss their suitability with panel members.
- Written decision issued to the licensee.
- **Licensee is fit and proper suitable to hold a liquor licence.**
- The Licensing Manager will uncheck the “Applicant Suitability under Review”

check box under the Suitability tab for the legal entity in POSSE and will enter the following in the notes tab for the legal entity “Licensee deemed fit and proper MMM / DD / YYYY”.

- **Licensee is not fit and proper to hold a liquor licence.**
- The Licensing Manager will enter the following in the notes tab for the legal entity “Licensee deemed not fit and proper MMM / DD / YYYY”. The Suitability tab will remain lit to notify Case Managers should future applications be received.
- The Licensing Manager will cancel the licence.

Further Information

See also Operational Bulletin 05-05: Interim Renewals During Fit & Proper Reviews.

Policy questions regarding the Enhanced Fit and Proper Suitability Review Process should be directed to Barry Bieller at 250-387-3934 or barry.bieller@gov.bc.ca. Questions or clarification regarding these changes in operational procedures should be directed to:

- Theresa Killoran, Manager of Industry and Local Government Relations at 250-387-6542 or Theresa.Killoran@gov.bc.ca
- Rebecca Villa-Arce, Manager of Licensing, at 250-387-6617 or Rebecca.VillaArce@gov.bc.ca
- Shahid Noorani, Manager of Investigations at 604-586-2646 or Shahid.Noorani@gov.bc.ca



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