

Fit and Proper Person Requirements Policy

Effective: 9 May 2024

Version: 1.0

Policy Statement

This policy outlines the Training Accreditation Council's (TAC or Council) process for the assessment of Fit and Proper Person Requirements including for those who manage a Registered Training Organisation (RTO) including Executive Officers, High Managerial Agents, Legally Responsible Officers, Owners, or Persons of Control and Influence over the management or direction of an RTO.

The Council operates within the authority of the *Vocational Education and Training Act 1996* (VET Act), *Vocational Education and Training (General) Regulations 2009* (Regulations) and the *Standards for VET Regulators 2015*.

The *Standards for Registered Training Organisations Amendment (Fit and Proper Person) Instrument 2023* outlines the requirements that must be considered by the Council when determining whether a person is a fit and proper person for the purposes of registration, renewing registration, or maintaining registration as an RTO.

The aims of the policy are to:

- provide information on the role and responsibilities of the Council; and
- set out the process and procedure when assessing Fit and Proper Person Declarations (FPPD).

Meeting the FPPR is a requirement for registration with the TAC.

Scope

The Council is Western Australia's registering and course accrediting body and is responsible for the quality assurance and recognition of VET services in Western Australia. The TAC Secretariat (the Secretariat) supports the Council in the performance of its regulatory functions by assessing FPPD.

Organisations are required to submit a FPPD when:

- applying for initial registration; or
- applying for renewal of registration; or
- employing a new executive officer/s, legally responsible officer, high managerial agent/s, owner/s or person/s of control or influence; or
- when requested by the Council.

When assessing whether persons meet the FPPR, TAC may:

- conduct inquiries into any statement made in the Declaration; and
- conduct enquiries into any other matter it considers appropriate in relation to the fitness and propriety of the organisation and relevant persons associated with the organisation.

If TAC is not satisfied that an organisation or relevant persons associated with it meets the FPPR, TAC may:

- suspend or cancel the organisation's RTO registration; or
- refuse to register an organisation's initial registration application.

Document title	Version	Date Created	Document Number
Fit and Proper Person Requirements Policy	V01-24	09/05/2024	TWD/D24/0071745

Definitions

Associated entities	<ul style="list-style-type: none"> any entity (such as another company) that owns 15 per cent or more of your organisation; any entity that is entitled to receive 15 per cent or more of dividends paid from your organisation; or any person who may exercise control or influence on your organisation through their position in the associated entity.
Council	Training Accreditation Council
Executive officer/s	is any person who takes part in the management of your organisation or is partly responsible for the management or decision making for your organisation.
FPPD	Fit and Proper Person Declarations
FPPR	Fit and Proper Person Requirements
High managerial agent/s	is an employee or agent who represents your organisation in relation to the business of providing courses.
Persons of control and influence	associated entity or relevant person that exercises a degree of control or influence over the management or direction of the registered training organisation
Regulations	<i>Vocational Education and Training (General) Regulations 2009</i>
RTO	Registered Training Organisation
Standards	<i>Standards for Registered Training Organisations (RTOs) 2015</i>
Secretariat	TAC Secretariat
TAC	Training Accreditation Council
VET	Vocational Education and Training
VET Act	<i>Vocational Education and Training Act 1996</i>

Procedures

The roles and responsibilities of the Council are outlined in the VET Act, the Regulations and the *Standards for VET Regulators 2015*.

To be eligible for registration, renewal of registration or continuing registration, the Council must be satisfied that persons who are Executive Officers, High Managerial Agents, Legally Responsible Officers, Owners, or Persons of Control and Influence¹ satisfy the FPPR as outlined in Schedule 3 of the Standards for RTOs (2015) and the Regulations.

The Secretariat assesses Fit and Proper Person Declarations in accordance with the procedures.

¹ The Council may also request FPPD for those identified as 'associates' as per Regulation 12(1) of the Regulations.

STAGE 1 – SUBMISSION OF DECLARATION

Organisations are required to submit a FPPD when:

- applying for initial registration;
- applying for renewal of registration;
- employing a new executive officer/s, legally responsible officer, high managerial agent/s, owner/s or person/s of control or influence;
- when requested by the Council.

FPPD are to be made by completing the [Fit and Proper Person Declaration form](#) which can be accessed via the TAC website.

For Initial Registration Applications a current National Police Certificate or National Police History Check (issued within 6 months of submitting a FPPD) is requested for each FPPD.

Declarations can be submitted via:

- the RTO Portal as part of the evidence to support an application; or
- via email tac@dtwd.wa.gov.au

STAGE 2 – INITIAL REVIEW

Upon receipt of a FPPD the following actions are undertaken:

- The Secretariat will conduct a review of the FPPDs and any supporting information provided.
- The Secretariat will also review a range of other matters TAC may have regard to for the purposes of determining fit and proper, as per Schedule 3 of the Standards, including:
 - Compliance with the law;
 - Management history;
 - Financial record;
 - Provision of information;
 - Previous conduct and involvements; and
 - Additional considerations.
- In conducting its review, the TAC Secretariat may conduct:
 - inquiries into any statement made in the Declaration/s; and
 - inquiries into any other matter it considers appropriate in relation to the fitness and propriety of the organisation and relevant persons.
- Should issues with any of the above matters be identified relating to the person/s being assessed, then the review will consider fitness and propriety.
- Where the review has identified concerns relevant to the items identified in Schedule 3, and/or the Regulations in relation to FPPR and the registration of an RTO, applications will progress to Stage 3 – Further Information Required.
- Assessment of prior convictions is undertaken on a case by case basis. Prior convictions may not necessarily give rise to a person not meeting the FPPRs and is dependent on type of conviction, history and length of time since the conviction was recorded.
- Where no concerns in relation to fit and proper person requirements exist, applications will progress to Stage 4 – Council Consideration.

STAGE 3 – FURTHER INFORMATION REQUIRED

- The RTO/organisation will be formally advised in writing of the concerns identified and requested to provide a response within 10 business days.
- Where a response is not received in the required timeframe, the assessment will progress to Stage 4 – Council Consideration.

- The organisation's detailed response should address the identified issues and include any mitigation strategies, remedial actions, or any other measures proposed to manage the person/s involvement with the organisation.

STAGE 4 – COUNCIL CONSIDERATION

In making their decision, the Council will consider the FPPD, any supporting information provided, reviews undertaken by the Secretariat, and the organisation's responses including mitigation and management strategies (if applicable).

The Council will apply principles of natural justice in determining whether a person meets the fit and proper person requirements for the purposes of registration, renewing registration or maintaining registration.

In line with the WA VET Act, Regulations and Standards, the Council may take any of the following into consideration:

- whether issues of conduct are relevant to exercising duties required in relation to the registration of a Registered Training Organisation;
- the seriousness of the matter;
- if there is a pattern of offences;
- the length of time that has lapsed since the event occurred;
- any history of past conduct;
- any consequences for the applicant or any other person;
- the implications of the matter—that is, what does it show about the person?;
- whether the person demonstrates a readiness and willingness to comply with the requirements and standards; and
- the person's attitude to the matter.

This policy does not limit the Council from making a decision based on the individual circumstances of an applicant.

The Council's decision may include:

- finding the person/s satisfies the fit and proper person requirements for the purposes of registration, renewing registration or maintaining registration.
- finding the person/s does not satisfy fit and proper person requirements for the purposes of registration, renewing registration or maintaining registration.
- requesting further information.

If the Council is not satisfied that a relevant person/s satisfies the FPPR, TAC may:

- suspend or cancel the organisation's RTO registration; or
- refuse to register an organisation's initial or renewal of registration application.

Appeals

If you are dissatisfied with a Council decision and believe the Council has erred in its application of, or failed to apply criteria or procedures as outlined in the Council's established policies and procedures you may choose to lodge an appeal.

Appeals must be lodged in writing to the State Training Board within 21 calendar days from the date you were notified of the decision.

More information on appealing a Council decision is available in the [Appealing a Council Decision Information Sheet](#).

Related Policies, Legislation and Other Relevant Documents

- *Vocational Education and Training Act 1996*
- *Vocational Education and Training (General) Regulations 2009*
- *Standards for VET Regulators 2015*
- *Standards for Registered Training Organisations (RTOs) 2015*
- *Standards for Registered Training Organisations Amendment (Fit and Proper Person) Instrument 2023*
- *Fit and Proper Person Declaration*

Review Date

The review date will be 12 months from the date that the policy is endorsed by the Council, unless an earlier review date is required.

Contact Information

Manager, Regulation

Telephone: (08) 9224 6510

General Enquires: tac@dtwd.wa.gov.au