



Australian Government

Tertiary Education Quality and Standards Agency

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TEQSA

Guide to determining the fitness and propriety of a person

Please note that this guidance will be updated following the end of the caretaker period to reflect amendments to the *Tertiary Education Quality and Standards Agency Fit and Proper Person Determination 2018* made by the [Tertiary Education Quality and Standards Agency Fit and Proper Person Determination 2018 – Amendment No. 1 of 2025](#), which commenced on 5 April 2025.

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Principles for determining the fitness and propriety of a person

Overview

In 2017, the *Tertiary Education Quality and Standards Agency Act 2011* (the Act) was amended to include a 'fit and proper person' requirement at provider registration and renewal of registration, and as an ongoing condition of registration as a higher education provider.

This requirement is located in the following provisions of the TEQSA Act:

- Paragraph 21(1)(b) provides that TEQSA may grant an application for registration if it is satisfied that the applicant, and each person who makes or participates in making decisions that affect the whole, or a substantial part, of the applicant's affairs, is a fit and proper person.
- Paragraph 36(1)(b) contains an identical provision with respect to renewal of registration.
- Subsection 25A provides that a registered higher education provider, and each person who makes or participates in making decisions that affect the whole, or a substantial part, of the provider's affairs, must be a fit and proper person. This is a condition of registration.

In December 2018, the *Tertiary Education Quality and Standards Agency Fit and Proper Person Determination 2018* (the Instrument) came into effect. The purpose of the Instrument is to specify matters that TEQSA may have regard to when determining whether a person is fit and proper under paragraph 21(1)(b), subsection 25A and paragraph 36(1)(b) of the Act.

Section 7A of the *Educational Services for Overseas Students Act 2000* (ESOS Act) also specifies matters that TEQSA (as an ESOS agency) must have regard to in deciding whether a provider is fit and proper to be registered for the purposes of the ESOS Act.

This guidance sets out the principles and considerations that TEQSA will have regard to when assessing fitness and propriety for the purposes of the TEQSA Act.

What does it mean to be a 'Fit and Proper Person'?

'Fit and proper person' is not defined for the purposes of the Act. Read in the context of the Act, TEQSA considers that whether a person is fit and proper should be determined by reference to the person's character and ability, as well as the likelihood that the person will comply with (or reasonably assist compliance with) the obligations imposed by the Act and the *Higher Education Standards Framework (Threshold Standards) 2015* (Threshold Standards). Whether a body corporate is fit and proper should be determined by reference to the persons through whom the body corporate acts, as well as the body corporate's own history. These considerations are reflected in the Instrument.

The objects of the Act include, among other considerations, the protection and enhancement of Australia's reputation for quality higher education and training services and to protect students undertaking, or proposing to undertake, higher education in Australia by requiring the provision of quality higher education. These considerations underpin TEQSA's regulatory activities and inform the way in which fitness and propriety is assessed by TEQSA.

How does TEQSA assess fitness and propriety?

The evidence that is relevant to whether a person is fit and proper, and the weight that should be afforded to that evidence, will be considered in the circumstances of each case.

A finding by TEQSA that a person is not a fit and proper person is a serious determination. This could result in the applicant being precluded from registration as a higher education provider or the possibility (if registered) of the registration being cancelled.

Accordingly, when determining whether a person is fit and proper it is important that TEQSA give due regard to relevant considerations including a person's:

- a. compliance with the law and provision of information
- b. previous conduct and management history
- c. financial record.

The above matters can be considered in respect of the person (if an individual), a corporation and any of its officers (if a provider or prospective provider), including its directors, chief executive and managers, or other persons who are involved in making decisions that affect the whole, or a substantial part, of the provider's affairs.

Compliance with the law and provision of information

In determining whether the person is fit and proper, TEQSA considers, amongst other things, whether the person has been convicted of an offence involving dishonesty, fraud, money laundering, theft or any other crime, and whether the person has been ordered to pay a pecuniary penalty. TEQSA also considers whether the person is currently involved in proceedings before a court or tribunal.

TEQSA will take into account whether the individual presents with a record of any:

- a. criminal convictions
- b. professional denunciations and misconduct
- c. the provision of false or misleading information
- d. disqualification of registration, licence or accreditation.

Should any of the above be found against the individual being assessed, then the decision maker should take into account additional matters such as:

- a. whether the conduct in question was regarded as relevant to exercising duties required for the registration, licence, authorisation, certification (or equivalent) within the Higher Education Sector
- b. the seriousness of the matter
- c. the length of time that has lapsed since the event occurred
- d. any history of past conduct
- e. any consequences for the applicant or any other person
- f. the implications of the matter—that is, what does it show about the person?
- g. the person's attitude towards the matter—such as whether the person has learnt, changed and improved their behaviour and is unlikely to further offend in the future.

Previous conduct and management history

In determining a person's fitness and propriety, TEQSA will have regard to a person's past conduct, previous involvement and management history. This will include but not be limited to:

- a. whether the person has previously been found not to be fit and proper in relation to a relevant act, including those listed in subsection 10(1) of the Instrument
- b. whether the person's registration to provide higher education courses, accreditation of a course or registration as an RTO under the Act or a State or Territory law has been cancelled, revoked, restricted, not renewed or suspended
- c. whether the person's registration under the ESOS Act has been cancelled, revoked, restricted, not renewed or suspended

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- d. whether the person has had a condition imposed on a registration, approval or arrangement to provide higher education courses, accreditation of a course or registration as an RTO under the Act, ESOS Act or a State or Territory law
- e. whether the person has breached a condition listed at *d* above
- f. whether the person has been disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001*
- g. whether the person has the skills and experience relevant to govern and manage the affairs of a higher education provider
- h. whether the person has the technical knowledge and ability relevant to the specific duties for which they are engaged
- i. whether the person has a sound professional reputation (for example, based on the individual's professional history and the views of others from the relevant field/s)
- j. whether the person has the confidence of peers, colleagues, clients, and the public at large to not engage in improper conduct in the discharge of their professional duties. This could involve matters that fall short of convictions but call into question the person's judgement and integrity, such as whether the person represents as legitimate a qualification issued by an institution that is found to issue illegitimate qualifications (i.e. a degree or diploma mill).

Financial record

A person's financial record is an important element in determining their fitness and propriety.

When assessing the financial record of the individual, TEQSA will generally consider matters such as (but not limited to):

- a. whether there are any indicators that the individual will not be able to meet debts as they fall due
- b. whether relevant solvency requirements are met
- c. whether the individual has been subject to any judgment, debt or award that remains outstanding or has not been satisfied within a reasonable period
- d. whether the individual has made arrangements with creditors, filed for bankruptcy or been adjudged bankrupt or had assets confiscated
- e. whether the individual has been able to provide TEQSA with a satisfactory credit reference.

Next steps

If you have queries about TEQSA's application of the fit and proper person requirements, please contact the TEQSA Enquiries Management team at providerenquiries@teqsa.gov.au for assistance.

Document information

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