



Fit and Proper Person Assessment Handbook

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1. Introduction

1.1 Purpose

The purpose of this handbook is to provide guidance to Civil Aviation Authority (CAA) staff in conducting fit and proper person (FPP) assessments for purposes under the [Civil Aviation Act 1990](#) (the Act).

From 5th April 2025, the Civil Aviation Act 2023 will replace the Civil Aviation Act 1990.

The handbook reflects the organisational approach for fair, consistent, and proportional FPP assessments.

The handbook records the overarching principles that must be applied in respect of FPP assessments undertaken by CAA.

The handbook contains instructions to staff about how FPP assessment activities are to be conducted, and details procedures to support the assessment process.

1.2 Key objectives

The objective of this handbook is to ensure that staff are aware of CAA's expectations of them when involved in the FPP assessment and decision-making process.

It is also the objective of this document to give practical guidance to staff by:

- describing the matters that may be taken into account when considering whether a person is fit and proper to exercise the privileges of an aviation document, or performing their role as a senior person
- providing a method, through easy-to-follow steps, to consistently, and in a principled way, approach determination of fitness and propriety
- providing clear guidance and expectations for staff to make a robust and objective assessment, approaching that task in a manner that will stand up to scrutiny.

The handbook cannot prescribe what outcome must be reached in any particular scenario. It does, however, provide a framework that enables a decision maker to consider each application on its own merits.

1.3 Intended audience

This handbook is intended to be used by staff in conducting FPP assessments.

While it is written in a way that is focussed on how staff must undertake their assessment activities, the handbook will be available to applicants, participants, and organisations. To that end, the handbook may be used by applicants and others to understand CAA's expectations and how information is assessed, and a transparent explanation of the process that is applied.

1.4 Application

This handbook is intended to apply to any FPP assessment relating to an individual intending to exercise the privileges of an aviation document, ownership of an aircraft, or an individual intending to perform a senior person regulatory role within an aviation organisation. This includes initial application and any relevant renewals or extension of aviation privileges.

Staff should also refer to this handbook in respect of FPP decisions that are made during the life of an aviation document, for example where there is cause to believe a person may not meet the ongoing condition to remain a fit and proper.

1.5 Why FPP assessment exists?

The aim of the FPP assessment is to provide public assurance regarding the safety of participants operating within the system. The Act establishes criteria by which to evaluate an applicant's attitude, character, and competence. The FPP test also serves to protect public safety from the risks associated with conducting aviation-related activities.

Under Section 9 of the Act, the Director is responsible for exercising control over entry into the civil aviation system by granting or renewal of an aviation document.

From 5th April 2025, the Director will perform this role under section 75 of the CA Act 2023.

Before a person may be issued with an aviation document, the Director must be satisfied that the applicant and any person who is to have, or is likely to have, control over the exercise of the privileges under the document is fit and proper to have such control or hold the document.

Whether a person is fit and proper is determined through assessment of criteria prescribed under section 10 of the Act. That assessment must be made having regard to the degree and nature of the person's proposed involvement in the New Zealand civil aviation system.

From 5th April 2025, the Director will perform this assessment and apply the prescribed criteria under section 80 of the Act 2023.

Every current aviation document holder must continue to satisfy the FPP test and relevant prescribed requirements.

This assessment incorporates considerations of honesty, knowledge, skills, and ability, as well as requiring assessment of an individual's behaviour, attitude, credibility, and past conduct to assist in determining an individual's likely future conduct. Any evidence of previous non-compliance with the law, such as criminal conduct and transport related offending, is highly relevant to the assessment.

The focus of the test is always forward-looking. A decision maker is to focus on the likely future conduct of the individual. In conducting that assessment, a decision maker may be informed by previous conduct to predict future behaviour or assess a person's attitude towards compliance. The assessment cannot however be used in a punitive way or be applied to hold someone to account for past conduct.

At entry, the onus of proving a person is fit and proper is on the applicant.

At exit, the onus of proving a person is not fit and proper is on the Director.

1.6 Legal compliance

When undertaking assessment activities, staff must ensure that they are familiar with, and apply, principles of natural justice and requirements of administrative law.

Staff must not undertake any assessment activities unless they are familiar with the operation of the Act, specifically the functions, duties, and powers of the Director to conduct entry certification. Staff must, at a minimum, be aware of:

- Section 7 - Requirement for aviation document
- Section 9 - Grant or renewal of aviation document
- Section 10 - Criteria for FPP test
- Section 12 - General requirements for participants in civil aviation system

From 5th April 2025, staff will adhere the following sections of the Civil Aviation Act 2023:

- Section 75 – grant or renewal of aviation document

- Section 80 – Fit and Proper test

Staff must also have regard to and act consistently with other relevant legislation including the [Criminal Records \(Clean Slate\) Act 2004](#), [Privacy Act 2020](#) and the [Oaths and Declarations Act 1957](#). Legal advice should be obtained where appropriate.

1.7 Information Management

All information will be recorded in the relevant information repository.

From October 2023, when applicants apply online via [MyAviation](#), the application will be automatically saved into Kapua, the Authority’s online regulatory system.

Note: CAA is gradually shifting to MyAviation for organisation approvals, which will happen over the next few years. In the meantime, the current business processes continue. For applications related to a senior person in an organisation, all forms should be entered on the organisation certification entry process sheet.¹

1.8 Delegations

Within certain restrictions, the Director’s powers to grant aviation documents are granted to relevant staff. Staff holding such delegations are effectively acting as the Director when they exercise their delegated powers.

In practice, while staff will be acting as the Director when conducting assessments and making decisions, the following decision-making hierarchy will typically apply:

Staff member	Will typically conduct assessment and make recommendation to Team Leader/Operational Manager (Manager) May be delegated to undertake both the assessment and make the FPP decision
Team Leader/Manager	Decision Maker, or may escalate to Manager/Deputy Chief Executive/Director
Deputy Chief Executive	May be decision maker if escalated from Manager, or escalate to Director
Director of Civil Aviation	May be decision maker if required ²

1.9 Independence

The Act requires the Director, when issuing aviation documents, to act independently and not be subject to direction from the Minister in individual cases. Any person exercising a delegation is similarly required to act independently of external influence, and in accordance with the limitations and conditions of the delegation.

¹ This is important because under s8 of the Act, the Director is required keep a record of this as part of the Civil Aviation Registry.

² The power to revoke under s 18 of the Act must be exercised by the Director and cannot be delegated.

1.10 Responsibility and discretion

The Act places the onus on the Director, or the person delegated, to be satisfied that all relevant requirements have been met before issuing an aviation document. This handbook is designed to ensure that any person exercising the Director's powers under a delegation, does so in a manner consistent with the principles and guidelines described within this document. Staff need to be mindful of the Act requirement that 'all things in respect of which the document is sought meet the relevant prescribed requirements' (s9(1)(a)).

From 5th April 2025, s9(1)(a) of the Civil Aviation Act 1990 will be replaced by Section 75(a)(1) of the Civil Aviation Act 2023.

However, not all certification matters are expressly covered by the Civil Aviation Rules (CARs) and policy and procedure. Certification personnel are permitted to exercise proper discretion within the boundaries of established procedure and their delegation. In doing so it is incumbent upon staff to make necessary inquiries as required, and to seek assistance from CAA's subject matter experts (SMEs) as appropriate.

2. Starting the process

2.1 Introduction

Under the Act every time an applicant applies for an aviation document, e.g., initial issue, or additional prime rating or to increase their level of participation in the system, they are effectively applying for a new aviation document. This means the Director is required to assess the applicant as fit and proper every time this occurs.

The Director is notified through either CAA's online portal or FPP forms.

The method by which staff must conduct FPP assessments will be influenced by whether the applicant is:

- applying for an aviation document for the first time
- applying to increase the level of their participation (i.e., by moving from a Private Pilot Licence to a Commercial Pilot Licence)
- nominated to become a senior person or changing roles or adding responsibilities within a certificated organisation.

The category that the person falls into will also determine the form they must complete and submit to CAA.

2.2 FPP online application process

From October 2023, applicants seeking the grant or renewal of a personnel licencing aviation document (Part 61 and 66) may apply online using MyAviation, the Authority's online portal for licensing requests and preferred method for submitting your application. Submitting via MyAviation is equivalent of using a 24FPP Questionnaire or 24FPP Declaration form.

Note: CAA is gradually shifting to an online portal system for organisation approvals, which will happen over the next few years.

Where it is not practicable to apply online, applicants may contact CAA to request a form.

MyAviation

MyAviation request information from the applicant for the FPP assessment via questions and a requirement to supply information held by third parties, including the New Zealand Ministry of Justice (MOJ) and Waka Kotahi NZ Transport Agency (Waka Kotahi).

Participants who use MyAviation to apply for an aviation document is prompted to declare whether they have previously completed a 24FPP Questionnaire, and whether their circumstances have changed since. If a participant declares that they have not previously completed a questionnaire, or that their circumstances have changed, MyAviation will present the 24FPP Questionnaire to complete.

24FPP Questionnaire is used for first-time applicants, senior person nominations, and document holders who are ineligible to complete a 24FPP declaration.

24FPP Declaration is used for applicants whose circumstances remain unchanged.

An applicant's assessment cannot proceed unless the required online process or form is completed, and all supporting documents have been supplied.

Staff may, with the approval of their manager, waive any requirement to supply information that would ordinarily be required to be supplied by the applicant. The reason for not requiring certain information must be recorded and the risk assessed. This may occur where it is not possible for the applicant to provide an overseas conviction history or time constraints are such that it is impracticable to await the supply of required information.

If there is a time delay in information being provided, an applicant can be required to complete a Statutory Declaration in accordance with the Oaths and Declarations Act. As soon as the outstanding information is received it should be recorded as having been received, be reviewed, and added to the assessment documentation. If any information received is inconsistent with the statutory declaration, this should be escalated to the relevant manager for assessment.

2.3 Existing document holders and senior persons

A person holding any aviation document will have already completed a FPP assessment. However, this assessment is based on the nature and degree of their participation at a particular point in time. Therefore, it cannot be assumed that someone who is fit and proper to hold one type of document automatically qualifies as fit and proper to hold another type. A separate assessment is still required.

CAA has decided that a person will however be entitled to complete a 24FPP Declaration in lieu of completing the 24FPP Questionnaire. The person can complete a declaration to the effect that there has been no change in their circumstances since their last FPP assessment was completed. CAA has also decided that while the declaration option will be a default position, staff may, if there is cause to do so in a particular case, still require an applicant to complete an online 24FPP Questionnaire using MyAviation.

This option is also available to eligible senior person position holders. If the FPP assessment is being conducted as part of an organisation renewal, staff may require a nominee to complete a 24FPP Questionnaire.

An applicant may only use the 24FPP Declaration if:

- they have previously undergone a FPP assessment, and
- there has been no change in their FPP status (they must review the previous 24FPP Questionnaire to check that none of the criteria now apply).

Three scenario-based examples using the online application process

24FPP Declaration Form using MyAviation:

Scenario 1

Pilot A applied for their PPL on 1 January 2020. Six months later they apply for their CPL. Nothing has changed in Pilot A's circumstances. Pilot A does not need to complete the 24FPP Questionnaire because they meet the criteria to complete the 24FPP Declaration.

Scenario 2

Pilot B holds a CPL. They were issued their PPL in February 2015. In November 2016, Pilot B applied for and was issued with their CPL, completing a 24FPP Declaration. In November 2021 Pilot B applies for an ATPL. If Pilot B's circumstances have remained unchanged, Pilot B needs to complete the 24FPP Declaration using MyAviation.

24FPP Questionnaire using MyAviation:

Scenario 3

Pilot C holds a CPL issued in January 2018. Pilot C applies for an ATPL in November 2020. Pilot C was convicted of three driving offences including a demerit points suspension between March 2018 and May 2020. Pilot C's circumstances have changed; therefore Pilot C must complete the 24FPP Questionnaire using MyAviation.

The holder of the aviation document must ensure they continue to be fit and proper by notifying CAA of any changes to their circumstances (5.11) under Section 9(3) of the CA Act 1990.

2.4 Information required for an assessment

Information for an assessment is sourced from:

Information already held by CAA (if held), including:

- on the applicant's personnel file
- on the applicant's medical certification file
- in CAA's business systems
- publicly available sources, including the internet
- the relevant 24FPP form, via
 - answers to questions
 - the information required to be supplied by applicants from other agencies.

All readily available sources of information within CAA should be accessed.

3. Key principles and guidance

3.1 What is the FPP test?

The FPP test is not unique to aviation. It applies in many other occupational and licensing fields. The test is also required under other transport legislation, such as s159 of the Land Transport Act 1998 and s41 of the Maritime Transport Act 1994. Importantly, however, every piece of legislation differs in their prescribed requirements for meeting the test. Some specify criteria, while others do not. These differences account for the fact that the test must be applied in the context of the activity being proposed. In other words, a FPP test under the Land Transport Act is not identical to the test under the Act and the determination for each must be made independently of the other. This is why the Act requires the Director to have "... regard to the degree and nature of the person's proposed involvement in the New Zealand civil aviation system..."

Anyone holding or applying for an aviation document, or anyone who has control over the exercise of the privileges of an aviation document, must satisfy the Director that they are fit and proper to do so. Aviation documents include, for example, a licence, a rating, or an air operator certificate.

3.2 The Act

Under the Act, the Director must be satisfied that an applicant and any person likely to have control over the privileges of an aviation document is fit and proper to hold and exercise the privileges of the document.

Once an applicant is assessed as fit and proper, they must continue to remain so as a condition of continuing to exercise the privileges of their document.

FPP assessments are always to be made on a case-by-case basis. There is no 'one size fits all' universal standard to be deemed fit and proper.

The criteria by which the Director assesses whether an applicant is fit and proper are specified in s10 of the Act. When assessing whether a person is fit and proper the Director must consider the person's degree and nature of involvement in the aviation system:

- the person's compliance history with transport safety regulatory requirements
- the person's related experience (if any) within the transport industry
- the person's knowledge of the applicable civil aviation system regulatory requirements
- any history of physical or mental health or serious behavioural problems
- any conviction for any transport safety offence, whether
 - the conviction was in a New Zealand court
 - the offence was committed before the commencement of the Act
- any evidence that the person has committed a transport safety offence or has contravened or failed to comply with any rule made under this Act
- in the case where a New Zealand AOC with ANZA privileges applies, the person's compliance with the conditions specified in section 11G(4)
- the Director shall not be confined to consideration of the matters specified above and may consider such other matters and evidence as may be relevant.

The Act provisions are broad and must be applied on a case-by-case basis. The Director must consider the evidence in terms of its credibility, its relevance, its significance, and its source, all of which should be weighed against the degree and nature of the person's proposed involvement in the civil aviation system.

The Director can use discretion when deciding what weight should be given to each matter when applying the FPP test.

While the application of the FPP test requires a case-by-case approach, where each case is considered on its own merits, this handbook can be used to guide the assessment.

While the Act provide specific criteria that must be considered when conducting a FPP assessment, it is necessary to understand what the words "fit" and "proper" mean within that context.

3.3 What it means to be 'fit'

Fitness is about ensuring the applicant:

- is physically and mentally fit to perform the privilege being sought

- is competent and able
- has the appropriate qualification, training, experience, and skills needed to perform the responsibilities, functions, and duties of the aviation document they want to hold.

The FPP process is directly focused upon the fitness and the propriety of the applicant to exercise the responsibilities and perform the functions and duties of the aviation document they have applied for, or the senior person position they have been nominated to hold.

It is not simply a question of assessing competence to fly an aircraft or do a particular activity, it requires consideration of the applicant's conduct and attitude measured against the responsibilities, functions, and duties of the holder of an aviation document required under civil aviation legislation.

Generally, a person will be 'fit' if they:

- can demonstrate that they have the appropriate competence and ability to perform the privilege applied for
- have the necessary skills, knowledge, competence, diligence, and soundness of judgment to undertake and fulfil the obligations and responsibilities associated with the privilege being conferred.

3.4 What it means to be 'proper'

Propriety is about a person's character and personal attributes. It involves an assessment of a person's behaviour to consider things such as their:

- attitude
- integrity, credibility, and honesty
- judgment
- propensity or willingness to disregard the law.

Past behaviour is often considered as an indicator of future behaviour and matters of propriety. Participants with a history of poor conduct or recurring patterns of misbehaviour are particularly relevant in any assessment. This is because it helps determine whether an applicant has learned from past mistakes and provides insights into their probable future conduct.

Behaviour also provides insight into a person's attitude and character.

In assessing attitude, it is important to identify any hazardous attitudes or character attributes that may lead to an unsafe situation. These may present as:

- a cavalier or uncaring attitude towards the law and/or compliance
- a willingness to disregard the law
- an anti-authoritarian behaviour
- impulsiveness
- invulnerability, over-confidence, or arrogance
- resignation or a lack of confidence.

The FPP process is directly focused upon the fitness and the propriety of the applicant to exercise the responsibilities and perform the functions and duties of the aviation document they have applied for, or the senior person position they have been nominated to hold.

It is not simply a question of assessing competence to fly an aircraft or do a particular activity, it requires consideration of the applicant's conduct and attitude measured against the responsibilities, functions, and duties of the holder of an aviation document required under civil aviation legislation.

3.5 Assessing relevance and weight

A critical part of conducting an FPP assessment is determining what relevance each piece of information has to the assessment, and how much weight should be placed on that information in making a decision. The relevance and weighting steps are addressed later in this handbook.

4. Principles that must be applied to every decision

4.1 Natural justice and fairness

Staff must ensure an applicant is afforded natural justice³ and procedural fairness when making a decision. Decision makers must act in good faith and decisions should have regard to both substantive and procedural fairness. Substantive fairness is the idea that an outcome is proportionate to what one deserves. According to these principles:

- the applicant must be allowed the right to know the case to meet
- the applicant must be allowed an opportunity to make representations
- only relevant factors should be considered.

Therefore, in practice staff must avoid:

- consideration of irrelevant factors
- actual or perceived bias
- predetermination
- unreasonableness.

5. Conducting a FPP assessment

5.1 Practical steps to follow

A useful way of approaching a FPP assessment is to apply the following steps:

- Establish and identify the context in which the test is to be applied
- Identify all facts or evidence relevant to that context – with particular emphasis on the criteria set out in s10 (From 5th April 2023, s10 of the CA Act 1990 will be replaced by s80 of the CA Act 1990)

³ **natural justice** has been said to be “fairness writ large” and “fair play in action”.

- Identify what those facts say about the behaviour, character and attitude of the applicant (both good and bad) to aid an assessment about whether that information is relevant to the assessment
- Deduce by weighing those facts against one another what they may indicate about the applicant's likely involvement in the aviation system in future.

These steps are intended to provide a consistent, principled approach to the assessment of applicants. They are not intended to be a check box exercise, rather to guide a critical and objective assessment.

5.2 Establish the context

The starting point in assessing whether a person is, or continues to be, fit and proper is to consider the person's nature and degree of participation in the civil aviation system.

This is because the relevance and weight given to any matter (or information) may vary, depending on the document that has been applied for and the level of involvement in the aviation system. It is entirely possible that a person may be fit and proper for one level of involvement in the civil aviation system, for example to hold a private pilot licence, but not fit and proper for a higher level of involvement in the system, such as holding a commercial pilot licence or a senior person position.

In practice determining the context involves considering:

- The type of aviation document being applied for
- What the aviation document will allow the applicant to do – i.e., identify the privileges that would be conferred

Under s12 of the Act the holder of an aviation document is obliged to carry out their activities safely and in accordance with relevant prescribed safety standards and practices. Beyond this underlying obligation, you should consider:

- The responsibilities, duties, and functions applying to the document
- The attitudes, attributes, or characteristics needed to perform the privileges and responsibilities appropriately, that is safely and lawfully
- The skills, training and competence required
- The applicant's current role or level of participation and their level of experience or familiarity with the civil aviation system.

The term "fit and proper person" takes its meaning from its context, from the activities which the person is or will be engaged in and the ends to be served by those activities. Identifying the context within which an individual is to be assessed as fit and proper is therefore the first and primary step in undertaking the assessment.

Pre-application FPP determinations or indication

CAA may be approached by individuals or organisations seeking a pre-application indication of whether they would be assessed as a fit and proper person.

Staff may provide general advice about the nature of information that CAA would consider in making FPP decisions but must not provide any personalised or individualised assessment in the absence of an application for an aviation document.

5.3 Information gathering & assessing for relevance

The Act requires that the Director consider the factors set out in s10(1). Staff conducting a FPP assessment must ensure that all criteria are addressed.

It is essential that all the information available to CAA is considered in the assessment, and that the recommendation is clearly and logically supported by the information that is used.

The primary pool of information for the assessment process will be obtained through the form completed by the applicant and any information arising from an interview (if one is required).

The Director is not limited to the factors set out in s10(1) but may consider any other relevant matters. It is unreasonable to attempt to establish a comprehensive list of all the items that could be considered. Case law does provide some insight into factors that may be relevant. Other factors that may be considered are the conduct and attitude of the person under review.

All assessments should be informed by:

- routine information, that the Director seeks in every case via Kapua, relevant CAA form or interview process
- additional information that may be sought from the applicant or a third party where there is cause to do so.

5.3.1 Routine information

The table below sets out the information that is routinely sought from an applicant:

s10 CRITERIA	Information source
The person's compliance history with transport regulatory requirements.	CAA's internal business systems. Waka Kotahi Demerit points and suspension history. MOJ Criminal record check. Any other external source of information to assist the assessment.
The person's related experience (if any) within the transport industry.	Any prior experience in the aviation, road, rail or marine industries.
The person's knowledge of the applicable civil aviation system regulatory requirements.	In addition to this FPP Test refer to the additional requirement for Senior Person Assessments in Sections 3.12 to 3.16 (below) of this handbook.
Any history of physical or mental health or serious behavioural problems.	Current valid medical certificate. In submitted 24FPP Questionnaire; if yes to any questions k, l, or m refer to Manager and seek advice from the Medical Unit. The applicant should provide all relevant supporting information. The advice from the Medical Unit may include seeking additional information from the applicant.

<p>Conviction for any transport safety offence whether or not –</p> <ol style="list-style-type: none"> 1. The conviction was in a New Zealand court 2. The offence was committed before the commencement of the Act 	<p>CAA’s internal business systems.</p> <p>Waka Kotahi Demerit points and suspension history.</p> <p>MOJ Criminal record check.</p> <p>Transport offence history from all countries of residence for six consecutive months in the past five years.</p> <p>When this history cannot be obtained or may take a very long time to obtain, a Statutory Declaration may be required. In some cases, a conditional FPP may be granted.</p> <p>Any other external source of information to assist the assessment including overseas information available.</p>
<p>Any evidence that the person has committed a transport safety offence or has contravened or failed to comply with any rule made under this act.</p>	<p>This provides wide scope for any type of information relevant to the FPP assessment to be used.</p> <p>CAA participant database – including any enforcement records.</p>
<p>Any other relevant matter</p>	<p>Any other information that the Director sees as relevant, examples including:</p> <ul style="list-style-type: none"> • Criminal records [in addition to transport regulatory requirements as per s10(1)] • MOJ reports • the person’s availability to discharge the obligations that relate to the assessment, especially if they hold multiple roles.

Other information that is sought on a routine basis is whether the applicant has been charged with a criminal, traffic, or other regulatory offence. The purpose of seeking routine information allows CAA to reassess the applicant’s FPP status and make a fit and proper determination, if necessary. This includes whether they have been charged with, irrespective of the outcome (i.e., diversion, acquitted, withdrawn, discharged, convicted etc). The purpose of this is to enable staff to explore a particular matter to determine relevance. The outcome of a particular matter will be relevant to the weighting of the information.

5.3.2 Additional information

Even if the applicant is a first-time applicant, staff will check whether the applicant’s name appears on CAA’s participant database.

The database must be checked for all existing document holders and senior person nominations.

The purpose of checking the database is to ascertain the presence of any actions, participant notes or enforcement notes, which may be relevant to the detail sought via MyAviation.

Where the routine information indicates something that may be of concern, additional information can be sought from the applicant, or from a third party (including open source), either via the applicant, or relying on an authorisation from the applicant.

5.4 FPP Questionnaire assessment

Where negative (no) responses have been given to all questions on the 24FPP form, and no relevant actions, participant notes or enforcement notes appear on the database, staff will continue the assessment. For most applicants, the absence of any 'yes' answers at this stage is taken to mean that there is sufficient information on which to conduct the assessment.

Where any positive (yes) responses have been made to any of the questions on the 24FPP application form, or details obtained from the database indicate that further processing is necessary, staff will take appropriate actions e.g., request for further information.

5.4.1 Past suspension or revocation of an aviation document

If CAA has previously refused to issue or renew an aviation document, or any suspension or revocation is indicated in the questionnaire, the applicant's personal file will be referred to the relevant Manager. Each such application will be considered on its merits in accordance with these procedures and a decision made as to the appropriate action to follow.

Information regarding charges, convictions and other enforcement or disciplinary matters can be found in section 6.2.

5.4.2 Assessing physical or mental health

Where an applicant discloses a history of physical or mental health or serious behavioural problems which are likely to affect their application, the case will be referred to the Medical Unit for appropriate investigation.

The applicant should be advised if the application is likely to be delayed while the investigation is carried out.

5.4.3 Traffic or other offence history or details of prosecution

If the applicant discloses that they have previously been charged or convicted of an offence, additional information may be required from relevant prosecuting agency. Such information may include the Summary of Facts for the charge(s), charge sheet(s), or other relevant documents produced by a court. The Legal Services Unit should be consulted before any request is made.

In some cases, additional information can be sought from third party agencies if there is concern about an applicant's propensity to commit traffic or other offences that may not be disclosed on the routine information provided by the applicant. This includes information about unpaid court-imposed fines and traffic offences that do not attract demerit points.

Additional information can be sought if it is necessary in a particular case:

Fine summary - A fine summary shows all unpaid traffic fines older than eight weeks and may demonstrate a poor attitude toward compliance or the law, and/or give an indication around the applicant's external financial commitments and pressures. A fine summary can be obtained via MOJ.

Traffic history report – a traffic history report will show all enforcement activities connected to a particular individual. For example, a traffic history will show all infringement notices issued to a person irrespective of whether they attract demerit points or not (unlike the Waka Kotahi history). This report can be obtained via Police.

5.4.4 Confidential sources

The Director may receive information from confidential sources. This will be managed carefully.

Two different scenarios exist:

1. the information is received from an unknown source, or

2. the information is received from a known source who has requested confidentiality or anonymity.

An assessor is entitled to consider and rely on information received from a confidential or anonymous source. If the identity of the submitter is known, staff will use best endeavours to ensure the provided information is credible and, where possible, corroborated. If the Director considers information from a confidential source, the anonymity or confidentiality of the information may affect the weighting that he can place on the information. If it is proposed that confidential information be considered in making any decision the Legal Services Unit will be consulted.

5.4.5 Hearsay statements

FPP assessments may receive and consider hearsay information; generally viewed as having been received from other people and which cannot be substantiated or is in the nature of rumour. Hearsay information is best thought of as one person's report of another person's words, which is usually disallowed as evidence in a court of law. While this information may still be relevant to an assessment, the hearsay nature of the information will influence the weight that can be assigned to that information. The Legal Services Unit will be consulted when dealing with such information.

5.4.6 Previous non-actioned Information

If information is identified that indicates a concern or problem, it does not matter that the Director has not previously acted on that information or evidence. In such a case the Director is not stopped from relying on that information at a later date, or as part of a fresh assessment. Any such information is likely to be relevant, a previous decision or omission to take action may, however, influence the weight to be attached to the information. Staff who identify information falling within this category will report the matter to their Manager and consult the Legal Services Unit to identify any legal risks in relying on the information.

6. Conducting senior person assessments

6.1 Steps to follow

Additional steps apply to senior person assessments.

The Certification Team Leader, or their delegate, will assess each nominated senior person against the FPP criteria using the evaluation tools available. This process includes:

- checking the form 24FPP for completeness, including required supporting documentation (CV, MOJ Criminal record check, Waka Kotahi Demerit points and Suspension history etc.)
- checking nominated senior persons for "fit and proper" status with Investigation and Response Unit as appropriate (for knowledge of any current CAA regulatory actions)
- checking for appropriate qualifications and experience against the supplied CV
- checking with the referees that the CV is accurate
- interviewing the senior person to ensure that they understand the requirements of their organisations, exposition, their role in the organisation, and the Act, CARs, and ACs applicable to the senior person position being sought.

6.2 Senior person interview

A senior person interview is recorded and could explore the following areas:

- the applicant's qualification and experience for the role
- the applicant's knowledge of their organisation, its activities, and its exposition

- the applicant’s knowledge of the duties and responsibilities of the role for which they have been nominated
- the applicant’s knowledge of applicable Act and Rule requirements
- the applicant’s knowledge of applicable standards and best practices
- the amount of time the applicant will be dedicating to their senior person role, and discussions of any other commitments that might interfere in exercising their responsibilities
- where the applicant lives in relation to the location of the organisation’s operation, and any impact this may have on the applicant’s ability to fulfil their role effectively
- any issues raised during the review of the senior person application (24FPP) and associated documentation, including offence history
- the applicant’s attitude towards safety and compliance
- who will perform the duties of the role in times of absence
- where an applicant is nominated for multiple senior person roles, the time resource available and any potential conflicts of interest (e.g., holding a QA role and a senior management role)
- what other commitments the nominated senior person has that may impact on their ability to fulfil their roles effectively with a particular focus on their aviation-related commitments including the requirements of any other senior person roles they hold in other organisations.

Where the person has been nominated as Chief Executive (CE), the following could be explored:

- the extent of their authority to make decisions for the organisation
- the level of resources available to the organisation to conduct operations under the certificate, and their assessment of their adequacy.

Note: Senior person interviews are considered part of the “assessment” phase but may be conducted during the “inspection and demonstration” phase for convenience.

Interviews must be conducted in a structured manner with the objective of providing the applicant with the best opportunity to demonstrate that they are suitable for the role. The PEACE (Planning/Preparation, Engage/Explain, Account, Closure, and Evaluation) model (a structured interviewing technique) will be applied to achieve this objective and obtain sufficient information on which to base a decision. The interview will be digitally recorded, and the applicant will be entitled to a copy of the recording.

6.3 Senior person assessment (renewal)

The renewal of an organisation also includes a requirement for reassessment of senior persons’ FPP status and their continuing suitability to hold a senior person position.

The FPP assessments must be conducted as if the applicant is entering the system for the first time. That is, the onus is on the applicant to satisfy the Director they are fit and proper. The fact that an applicant is already operating within the civil aviation system is relevant to the assessment process, but this process must not assume that the person is fit and proper simply because they already hold a senior person position.

The senior person interviews for renewal could test the candidate’s knowledge of any rule and organisational changes since initial certification, their awareness of risk, and their attitude towards safety and compliance. Senior persons are required to submit appropriate forms on application for renewal.

6.4 Deputy senior persons

An applicant who is seeking to be approved as a deputy senior person, to step into the shoes of a senior person during times of absence or personnel change, must be subject of the regular senior person assessment process.

6.5 Temporary/acting approval to hold a senior person role

Staff may approve a person to hold a senior person role for a short-term period to address situations such as absence of a previously approved senior person for such reasons of leave, vacancy, or temporary absence from New Zealand. In general, this period should not exceed four weeks, but it is at the discretion of the appropriate Manager to approve a longer period. A person nominated to hold a senior person role on a temporary basis, i.e., greater than four weeks, must complete a 24FPP application.

A person nominated to hold a senior person role on a temporary basis must complete a 24FPP Questionnaire via MyAviation. However, staff may determine that they are not required to supply MOJ or Waka Kotahi Demerit points and suspension history. Staff may also determine that a full senior person interview is not required. The temporary nature of the appointment will be part of the consideration when determining the depth and breadth of the assessment to demonstrate whether an individual can pass the fit and proper person test.

7. Interpreting the Information

This involves asking what the information means. While this overlaps both the relevance assessment and the weighting, it is about establishing what the information says about the person's likely conduct in future.

Interpreting the information is directed at establishing whether an applicant is likely to comply with the minimum requirements and standards of the civil aviation regulatory system and their legal, regulatory, and professional obligations.

7.1 Senior persons

Senior persons play a critical role in the aviation safety system.

Senior persons need to demonstrate an appropriate attitude to safety and compliance such that the Director can rely upon them to set, promote, and model the high standards of safety expected from a senior person in a certificated organisation.

When assessing whether a senior person is fit and proper, in addition to the items identified above, particular focus is likely to be placed on:

- **Attitude to safety and compliance** – whether the applicant is suitable to influence, coach, mentor and manage employees and people working within the organisation.
- **Their integrity** – senior persons will be expected to accurately complete documentation and records and maintain honesty in meeting regulatory safety requirements.

Any assessment of a senior person will need to be examined within a wider context, in particular the nature and extent of the role, and the approach taken by the operator. It includes examining factors that the senior person may not have any direct influence over. As an example, an operator often determines the extent of resources that they are willing to invest for a particular senior person role. On review CAA may conclude that that level of resourcing is insufficient to satisfy the requisite provisions of the legislation. The senior person application will then be declined based on capacity, and not necessarily the individual's competency for the role. CAA will then engage with the operator

to ensure that appropriate resourcing is applied to ensure that they meet the requisite certification requirements.

In addition, some individuals being nominated for a particular senior person role may also perform multiple senior person roles on contract for differing operators. An assessment of fit and proper for one role will not automatically result in confirmation that someone is fit and proper for another role. Every set of circumstances will be examined separately, including whether multi roles create an inability for the applicant to adequately manage each senior person's position that they hold.

In some roles, such as the CE, other considerations may include whether the applicant has sufficient financial literacy. This is because a CE has an obligation to ensure that the organisation or entity is sufficiently resourced to operate.

In practice, staff should assess whether the CE nominee will be able to ensure that:

- the aviation activities carried out by the organisation can be financed
- those activities are carried out in accordance with the applicable Rule Part
- the organisation complies with the requirements of the applicable Rule Part

The applicant's past activities are likely to indicate their performance in these areas.

7.2 Dealing with charges, convictions and other enforcement or disciplinary matters

Staff will be interpreting information relating to convictions, charges and other enforcement activities or disciplinary matters.

7.2.1 Charges

The FPP test is forward looking. Past behaviour is used as an indicator and predictor of future behaviour. Participants with a history of poor conduct or recurring patterns of misbehaviour are particularly relevant in any assessment.

Applicants are required to disclose the fact of being charged, irrespective of the outcome. The outcome of any charges is clearly material in the weight that is placed on the information. Likewise, if the charge has not been concluded then caution will be applied and potentially legal services advice sought on the weight that can be placed on the information supplied. There are a range of outcomes possible with any charge. The common outcomes are charged and withdrawn, diverted, convicted, discharged without conviction, charge dismissed, discharged, or acquitted.

Depending on the nature of the charge and the outcome of that charge, how this information will be interpreted is based on:

- **The nature of the charge** - It may not always be immediately obvious as to what the nature of the charge is. For example, an assault charge may not on its face be incompatible with an applicant being granted an aviation document. However, on examination of the circumstances of the assault charge it might be established that the individual has an anger management problem or a problem with the use of alcohol or drugs.
- **The context of the charge** - A charge in one context may be less relevant than another. For example, previous serious charges in a maritime or land transport safety setting are likely to be more relevant than a minor charge in an unrelated area. In such a case staff are entitled to interpret information in different ways because one charge may be more likely to indicate relevant future conduct than another.

7.2.2 Transport safety convictions

Previous compliance with transport regulations are indicators of future aviation safety behaviours. The FPP criteria specifically refer to transport safety convictions.

A transport safety conviction means a conviction for an offence that is relevant to one of the various transport modes. This could include convictions for offences in a land transport setting, whether as a driver of a vehicle or a bike or in other industries such as rail. It also includes the maritime setting, and obviously the aviation sector.

Transport safety convictions may also include criminal offences with a transport component, such as endangering transport.

7.2.3 Dishonesty convictions

Honesty and integrity are critical to aviation safety. The civil aviation system relies on its participants being responsible for meeting the statutory safety and security standards. The system also relies on self-reporting, particularly in the case of occurrence reporting and the disclosure of information to CAA that may be relevant to a person's medical certification and FPP status. The civil aviation system also relies heavily on the accurate completion and maintenance of documents and records.

Evidence of charges or convictions that involve dishonesty may disclose information that is relevant to assessing a person's credibility or propensity to dishonesty.

7.2.4 Criminal Records (Clean Slate) Act 2004

Under the Criminal Records (Clean Slate) Act 2004, an eligible individual is deemed to have no criminal record for the purposes of any question asked of them about their criminal record. An applicant can confirm whether they are an eligible individual under that legislation by contacting the Privacy Assistant at MOJ.⁴ If a person is an eligible individual, staff must not use or refer to any conviction information as part of the assessment process. Staff should take particular care where information is already held by CAA, for example where historic information is held on electronic or hard copy files, or where information submitted with previous applicants has been retained on files.

8. Weighting the information

In considering information that is deemed relevant to an applicant's proposed involvement in the civil aviation industry, due weight must be applied to each item of information. The weight applied to such information will apply both to its relevance and its seriousness in the context of the privileges of the aviation document sought or held.

The weight given to each factor depends on the circumstances of each case. However, certain factors have overriding importance. For example, if the balance of consideration lies between public safety and the individual's right to earn a living, then public safety must override the individual interest.

A useful approach to weighting information is to consider and compare both favourable and unfavourable factors disclosed by the assessment to identify any facts that are outweighed by others. For example, while the favourable aspect of youth may diminish or excuse the severity of the past

⁴ An eligible individual is defined in the Criminal Records (Clean Slate) Act 2004. In general terms a person must have been conviction free for at least 7 years, however people convicted of certain serious offences and/or who have had a custodial sentence imposed are never eligible.

offending (due to immaturity) it may also diminish the ability of an applicant to argue that they now possess the maturity to make informed and responsible decisions in the aviation sector.

The information that the Director relies upon to make the assessment must be reasonable, reliable, and credible. However, the Director does not need to be convinced by evidence to the criminal law standard (i.e. beyond a reasonable doubt); the Director operates to at least “a balance of probabilities” standard, which means that he must be satisfied that something is more likely than not (i.e. the Director must be satisfied that there is greater than 50 percent chance that the proposition is true or that a particular matter occurred).

8.1 Patterns and trends

A single rule breach may carry less weight than a number of breaches. However, if the single breach is associated with a consistent pattern of inappropriate behaviour that is directly relevant to the exercise of the aviation privileges, then it should be given more prominence in the weighting of the factors.

A number of repeated incidents of misbehaviour or non-compliance carry more weight than only one such incident. However, if there is evidence of a pattern of seemingly individual, isolated, and unrelated events, they may collectively carry a lot of weight.

Evidence of a persistent pattern of poor behaviour or an attitude that suggests unsafe practices may also be sufficient to outweigh other considerations, as this may support the inference that future conduct is unlikely to improve.

The application of the principles above must be underpinned at all times by the observance of the principles of natural justice.

9. Making an adverse decision

When staff consider the applicant not fit and proper then a recommendation to that effect will be passed to the Director (or delegated Manager in the case of entry control) for consideration.

It is important that a delegation holder who recommends an adverse decision closely follows the procedures set down in the Act and all appropriate CAA processes. The Director cannot delegate the power to revoke an aviation document. Before any staff member makes a recommendation to the Director to make an adverse decision they will discuss it with the appropriate Manager, have it reviewed by the appropriate Deputy Chief Executive, and reviewed by the Legal Services Unit.

An individual’s FPP status can be reviewed at any time. Normally this occurs if circumstances arise that bring into question the individual’s continued FPP status. This could be occasioned by an accident, incident or other occurrence, or a combination of circumstances. Where it is suspected that an individual no longer satisfies the FPP criteria to hold or exercise the privileges of an aviation document, the Director or his nominated delegate will promptly initiate an investigation to ascertain the facts.

In all cases where an adverse decision is proposed (i.e., where a person has been assessed as not being fit and proper) the Legal Services Unit will be requested to review the proposed decision and any correspondence notifying the individual of the proposed decision. Legal advice should be sought at any time it is proposed that CAA rely on adverse information, make an adverse decision, or decline an application.

10. The exercise of discretion requires the exercise of good judgement

Regulatory processes require delegated officers to make decisions as part of their routine duties. In the case of CAA, the Act, provides the lawful authority for regulatory decisions to be made.

Regulatory decisions often include the exercise of discretion, which provides the decision maker the power to choose whether to, or how to act, in a particular situation.

The exercise of discretion requires good judgement, good sense, prudence and knowledge of the boundaries or the freedom to act. It also includes being reasonable, impartial, considering the impact on others, and ensuring the decision reflects the purpose and scheme of the Act.

For CAA, the exercise of good judgement in discretionary decision-making means acting consistently with the:

- provisions of the Act
- goal of a safe and secure civil aviation system
- regulatory principles and approaches set out in the CAA Regulatory Safety and Security Strategy:
 - Public safety and security is paramount
 - A safe and secure aviation system is a shared responsibility
- Collective learning and continuous improvement are critical behaviour outlined in the regulatory strategy:
 - Uses rigorous logic and honest analysis to solve problems
 - Makes well-reasoned evidence based decisions
 - Does not make hasty assumptions
 - Considers the implications of decisions and actions
 - always aware of the effect of his/her actions on the Authority’s reputation.

10.1 Key components

To ensure good judgement is exercised when using discretion to make regulatory decisions, decision makers should consider these 10 key components.

Key steps	The decision maker:
The right person exercises the power	<ul style="list-style-type: none"> • has the power to act or make the decision • holds the appropriate delegation to act • has appropriate experience, qualifications, competence and training to make the decision • is clearly identifiable.
Timeliness and responsiveness	<ul style="list-style-type: none"> • makes decisions in a timely manner • acts quickly to address issues that involve a significant risk to public safety.
Follows statutory, administrative and CAA procedures	<ul style="list-style-type: none"> • follows statutory and administrative procedures, the overarching regulatory principles and CAA’s approach defined by the CAA Regulatory Safety and Security Strategy • follows any requirements defined prior to exercising discretion e.g. consultation with key people, the management level, the timing • uses discretionary powers in good faith and for proper, intended and authorised purpose

	<ul style="list-style-type: none"> • does not act outside of their powers • acts reasonably, and considers the right evidence, for the right purpose; no decision maker has an unfettered discretionary decision making power • exercises discretionary powers lawfully.
Use information and evidence to establish fact	<ul style="list-style-type: none"> • gathers necessary information and evidence to establish facts • reviews documents • seeks specialist advice where necessary • identifies any relevant equivalent standards where appropriate.
Analysis and evaluation	<ul style="list-style-type: none"> • ensures that decision making criteria is explicit, clear and transparent • takes a systematic approach to analysis and applies a systems-based approach to analysis responses • determines facts and weights evidence according to risk.
Consider the standard of proof to be applied	<ul style="list-style-type: none"> • considers the standard of proof to be applied (for CAA administrative considerations the test is normally “on the balance of probabilities.”)
Act reasonably, fairly, and consistently without bias	<ul style="list-style-type: none"> • acts reasonably, impartially, fairly, and without bias, prejudice and improper motive • acts independently and in the public interest • acts consistently and in accordance with the principles of natural justice • does not handle cases posing a real or perceived conflict of interest. Applies the values that the legislation and organization promotes, professional values and the values of the agency.
Consider the merits of the case and make a judgement	<ul style="list-style-type: none"> • considers the matter primarily on its merits • may use policies, previous organisational decisions and court/tribunal decisions to guide decision making • considers whether peer review of particular discretionary decisions is needed prior to finalising • ensures final judgements are logical, well-reasoned, and evidence-based, considering the circumstances of the situation • Proposes appropriate and proportionate outcomes consistent with the risks and potential for harm posed in any given situation.
Communication (Informing and updating participants, advising outcomes, and providing reasons for the decision)	<ul style="list-style-type: none"> • keeps participants informed during the decision making process • gives adversely affected participants a fair opportunity to comment before making a final decision. Appropriateness and extent of consultation will depend on the facts of the case, and the particular legal requirements

	<ul style="list-style-type: none"> • advises participants of the outcome decision making is transparent so that participants can easily understand how the decision was reached • provides participants with reasons for the decision reached • works to achieve enduring safety improvements by working collaboratively with participants to identify and address safety risks.
Document the process and the decision	<ul style="list-style-type: none"> • creates and maintains contemporaneous records of the decision-making process and the final decision (e.g., the issues taken into account, why, the weight given to the evidence and the reasons for the decisions made).
If in doubt seek legal advice before a decision is made.	

11. References

- [Ombudsman Western Australia Exercise of discretion in administrative decision-making](#)
- Ombudsman New South Wales – Discretionary powers November 2012 Public Sector Agencies Fact Sheet 4
- [Crown Law Office – Judge Over Your Shoulder](#)
- [Good decisions are lawful](#)
- [Department of Internal Affairs - Achieving compliance = A guide for compliance agencies in New Zealand](#)
- [CAA Certification Policy – Organisations \(6.4 delegations and 6.6 Discretion\)](#)
- CAA Monitoring Policy
- [CAA Regulatory Safety and Security Strategy](#)
- [New Zealand Bill of Rights Act 1990 No 109 \(as of 30 August 2022\), Public Act Contents – New Zealand Legislation](#)

12. Document control

Title	Fit and Proper Person Assessment Handbook
Effective date	13 October 2023
Author	Mark Boyle, Team Leader Licensing and Safety Liaison
Approver	Mark Boyle, Manager Licensing and Standards
Quality approver	Hannah de Waal, Advisor Quality Systems and Assurance
Owner	Manager Licensing and Standards
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Revision	Date	Description of change
2.0	13 October 2023	Update of titles Transfer to new template Review of content including adding references to the implementation of MyAviation, the Authority's new online application portal