

# Fit and Proper Person Assessment Policy

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## Purpose

This policy outlines the Civil Aviation Authority (CAA) approach to Fit and Proper Person (FPP) assessments for:

1. Aviation Document issue and amendment,
2. Certificated organisation – Senior Person assessments.
3. Exit where there is cause to believe a person may not meet the ongoing condition to remain fit and proper

## Scope

This policy applies to:

- All CAA operational staff completing FPP person assessments,
- All Authority operational support staff involved with completing licensing and certification activities.

## Policy

The Director of Civil Aviation (the Director) under Section 9 of the Civil Aviation Act 1990 (the Act) must ensure that each applicant for the grant or renewal of an aviation document is a fit and proper person to have control or hold the document.

It is the condition of any aviation document that is granted that the holder and any person having control over the exercise of the privileges under the document continues to be fit and proper.

## Policy Statement/s

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.

The Act requires the Director to exercise control over entry into the civil aviation system through the granting of aviation documents.

### Fit and Proper Person (FPP) Assessment Policy

- The Director must ensure that each applicant is a fit and proper person to perform the functions and duties of the aviation document they have applied for or the senior person position they have been nominated to hold.
- Whether a person is fit and proper is determined through assessment of criteria prescribed in the Civil Aviation Act 1990.
- The FPP provisions are broad and must be applied on a case-by-case basis.
- The focus of the test is always forward-looking. The assessment cannot be used in a punitive way or be applied to hold someone to account for past conduct.

Before a person or organisation 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 a FPP to have such control or hold the document.

Whether a person is fit and proper is determined through assessment of criteria prescribed in 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 and the following factors listed in section 10 of the Act.

- a) the person's compliance history with transport (all modes) safety regulatory requirements;
- b) the person's related experience (if any) within the transport industry;
- c) the person's knowledge of the applicable civil aviation system regulatory requirements; and
- d) any history of serious behavioural problems and physical or mental health.

Section 10 also allows the Director to consider other matters and evidence as may be relevant. This may include information from any source.

The considerations listed in section 10 apply to every issue and every renewal of a certificate.

The Act provisions are broad and must be applied on a case-by-case basis. The Director can use discretion when deciding what weight should be given to each matter when applying the FPP test. When considering if a person is fit and proper the Director must consider the credibility of evidence, its relevance, significance, the source of the evidence, and the degree and nature of the person's involvement in the New Zealand civil aviation system

It is the condition of any aviation document that is granted that the holder and any person having control over the exercise of the privileges under the document continues to be fit and proper.

The intention of the FPP test is to provide assurance around the safety of participants operating within the system. The Act provides criteria against which to assess an applicant's competency and honesty, to protect the public from the risk of aviation activities being carried out incompetently or recklessly. It is designed to provide confidence that a person has undergone an appropriate and robust assessment of their attitude, character and competence.

The FPP test 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 making 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 fit and proper is on the applicant.

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

Any consideration of exit or the imposition of conditions on a document arising from potential concerns regarding an individual's FPP status must be carried out in a manner consistent with the CAA Regulatory Operating Model, its supporting Use of Regulatory Tools Policy, and the relevant provisions of the Act, e.g. section 11 relating to the rights of persons affected by proposed adverse decisions and sections 17 (Power of Director to suspend aviation document or impose conditions) and section 18 (Power to revoke document or impose conditions). Legal advice must be obtained in all such cases. The CAA Fit & Proper Person Assessment Handbook provides further details on these and other requirements.

### ***Fit & Proper Person Assessment Handbook***

The CAA Fit & Proper Person Assessment Handbook provides detailed requirements and guidance for CAA staff in making FPP assessments. Matters covered include:

- key principles that must be applied to decision making;
- exercising good judgment;
- procedural steps;
- gathering and assessing information for relevance, interpreting and weighting that information; and,
- steps to be followed in the advent of an proposed adverse decision.

### ***Definitions***

#### ***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.

Generally a person will be 'fit' if they:

- can demonstrate that they have the appropriate competence and ability to perform the privilege applied for; and

- 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.

### ***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 used as an indicator of future behaviour, and matters of propriety. Recidivist conduct or patterns of behaviour are particularly relevant to any assessment, because it can aid in assessing whether an applicant has learned from past mistakes, and can provide an insight into the applicant's likely future conduct.

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

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

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

### ***References***

[FPP Handbook](#)

[Regulatory Operating Model](#)

[Use of Regulatory Tools Policy](#)

[Certification Policy – Organisations](#)

[Oaths and Declarations Act](#)

[State Services Commission Code of Conduct](#)

[Privacy Act](#)