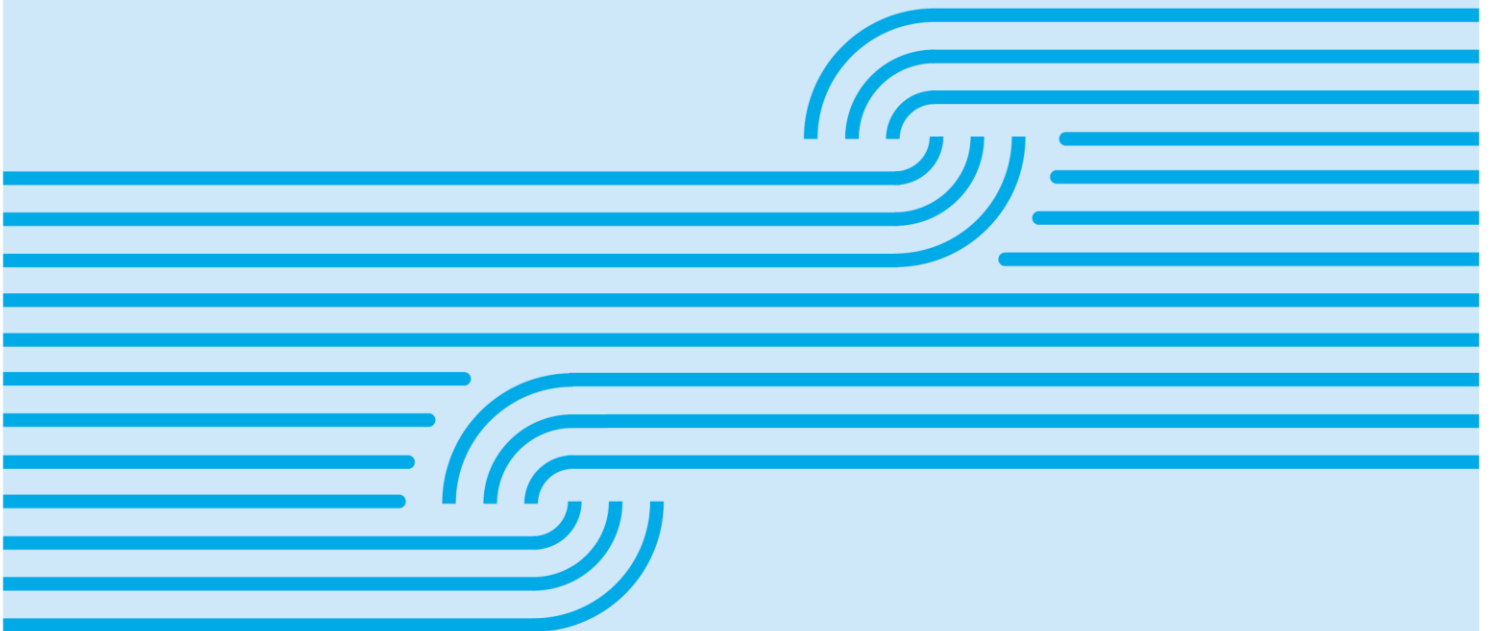


Fit and Proper Person Assessment Handbook



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1. Introduction

1.1 Purpose of this handbook

The purpose of this handbook is to guide Civil Aviation Authority (CAA) staff in conducting fit and proper person (FPP) assessments under the Civil Aviation Act 2023 (CA Act 2023).

This handbook should be read alongside the [Fit and Proper Person Assessment – Operational Policy](#), which provides more details into the CAA's approach to the FPP assessment and outlines the decision-making principles that must be applied when undertaking an FPP assessment.

This handbook provides a detailed procedure to support the FPP assessment process, and to:

- describe the matters that may be considered when assessing whether a person is fit and proper to exercise the privileges of an aviation document or performing their role as a senior person;
- ensure that the FPP assessment process is conducted in a consistent and principled way; and
- provide clear guidance and expectations for CAA staff to make a robust and objective assessment.

The handbook doesn't prescribe what regulatory decision 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.

1.2 Who this handbook is for

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

While the handbook focuses on how staff must undertake their assessment activities, the handbook is available to applicants, participants, and organisations. Therefore, the handbook may be used by applicants and others to understand CAA's expectations, how information is assessed, and how the process is applied.

1.3 What this handbook applies to

This handbook applies to any FPP assessment relating to an individual intending to exercise the privileges of holding an aviation document, ownership of an aircraft, or an individual intending to perform a senior person role within an aviation organisation. This includes initial applications and any relevant renewals or extensions of aviation privileges.

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

1.4 Definitions

Adverse decision: for this document, a decision of the Director to the effect that a person does not meet the test to be declared a fit and proper person under section 80 of the CA Act 2023.

Aviation document: any licence, permit, certificate, or other document issued under the CA Act 2023 to or in respect of any person, aircraft, aerodrome, aeronautical procedure, aeronautical product, or aviation-related service.

Aviation participant: a person who operates, maintains, services, or does any other act in respect of an aircraft, aerodrome, or aeronautical product. It also includes a person who provides an aviation-related service.

Civil aviation legislation: the CA Act 2023 and any secondary legislation (regulations, rules, transport instruments) made under this Act.

Contravention: the act of doing something that a law or rule does not allow, or omitting to do something that a law or rule requires.

Director: the person who is the Director of Civil Aviation under section 31 of the CA Act 2023. It also includes an Acting Director appointed under section 33 and those delegated under section 460 of the CA Act 2023.

Document holder: in relation to any aviation document, a document holder includes any person lawfully entitled to exercise privileges in respect of that document.

1.5 Why the FPP assessment exists

The CA Act 2023 requires the Director to exercise control over entry into the civil aviation system through granting aviation documents. Under section 75 of the CA Act 2023, the Director must ensure that each applicant for the grant or renewal of an aviation document is a fit and proper person to have control, hold, or continue to hold the document.

It is a condition of any aviation document that the holder and any person having control over the exercise of privileges under the document continues to be fit and proper (s 77 of the CA Act 2023). Whether a person is fit and proper is determined on a case-by-case basis under section 80 of the CA Act 2023.

The CA Act 2023 also requires the Director to exercise control over exit from the civil aviation system. In situations where there is cause to believe a person may not meet the ongoing condition to remain fit and proper, the Director may impose conditions on the aviation document, suspend the document, or revoke the document.

The FPP assessment aims to provide assurance that an aviation document holder can exercise their privileges in a way that maintains aviation safety and security. The FPP assessment also serves to protect public safety from the risks associated with conducting aviation-related activities.

1.6 Relevant legislation

Staff should familiarise themselves with the following provisions of the CA Act 2023 before undertaking FPP assessments:

- Section 13 – general requirements for aviation participants.
- Section 73 – application for aviation document.
- Section 75 – grant or renewal of aviation document.
- Section 77 – condition of aviation document that holder continues to satisfy fit and proper person test.
- Section 80 – fit and proper person test.

- Section 81 – disclosure of prejudicial information.
- Section 112 – failure to disclose medical information.

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 needed.

1.7 Delegations for FPP assessments

Within certain restrictions, the Director's powers to grant aviation documents are delegated to relevant staff, who act on behalf of the Director when they exercise their delegated powers.

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

Team member	Will typically conduct assessment and make recommendation to Team Leader/Operational Manager (Manager). Team members 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, or 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. Additionally, the power to revoke an aviation document under section 98 of the CA Act 2023 must be exercised by the Director and cannot be delegated.

1.8 Independence

The CA Act 2023 requires the Director, when issuing aviation documents, to act independently and not be subject to direction from the Minister, the Authority Board, or other stakeholders in individual cases. Any person exercising a delegation is similarly required to act independently and in accordance with the limitations and conditions of the delegation.

1.9 Responsibility and discretion

The CA Act 2023 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 helps ensure that any delegated person exercising the Director's powers does so consistently with the CA Act 2023, the decision-making principles set out in the [Fit and Proper Person Assessment – Operational Policy](#), and the process described within this document.

Team members are permitted to exercise discretion during the assessment process within the boundaries of their delegation. Team members should also make the necessary inquiries as required, and seek assistance from CAA's subject matter experts (SMEs) as appropriate.

2. Starting the process

2.1 Introduction

Under the CA Act 2023, every time an applicant applies for an aviation document, they are effectively applying for new aviation privileges. 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 FPP assessment will be influenced by:

- Whether the applicant is applying for an aviation document for the first time.
- Whether the applicant is applying to increase the level of their participation (e.g., by moving from a Private Pilot Licence to a Commercial Pilot Licence).
- Whether the applicant is nominated to become a senior person or changing roles or adding responsibilities within a certificated organisation.
- The nature and degree of the applicant's involvement in the civil aviation system.

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 for individual aviation documents

Applicants seeking the grant or renewal of a personnel licensing aviation document (Part 61 and 66) are able to apply online using MyAviation, the CAA's online portal for licensing requests. Submitting via MyAviation is equivalent to using a 24FPP Questionnaire or 24FPP Declaration form.

MyAviation

MyAviation requests 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 NZ Transport Agency Waka Kotahi (NZTA).

Participants who use MyAviation to apply for an aviation document are prompted to declare if they have previously completed a 24FPP Questionnaire and whether their circumstances have changed since they did so. 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.

An applicant's assessment cannot proceed unless the required online process or form is completed, and all relevant supporting documents have been provided. However, team members may, with approval from their Manager, waive any requirement to supply information that would ordinarily be supplied by the applicant. The reason for not requiring certain information must be recorded.

If there is a time delay in information being provided, an applicant may be required to complete a Statutory Declaration under the Oaths and Declarations Act 1957. 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, 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.

Existing document holders will be entitled to complete a shorter 24FPP Declaration instead of completing the full 24FPP Questionnaire if there has been no change in their circumstances since their last FPP assessment was completed. While the declaration option will be a default position, the decision-maker retains the discretion to require an applicant to complete an online 24FPP Questionnaire. Likewise, if the FPP assessment is being conducted as part of an organisation renewal, team members may require a nominee to complete a 24FPP Questionnaire.

An applicant may only use the 24FPP Declaration if:

- they have previously been determined fit and proper; and
- there has been no changes to the facts or information previously declared.

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 2023. 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 2017. In November 2018, Pilot B applied for and was issued with their CPL, completing a 24FPP Declaration. In November 2023, Pilot B applies for an ATPL. If Pilot B's circumstances have remained unchanged, Pilot B can complete the 24FPP Declaration using MyAviation.

24FPP Questionnaire using MyAviation:

Scenario 3

Pilot C holds a CPL issued in January 2021. Pilot C applies for an ATPL in November 2023. Pilot C was convicted of three driving offences, including a demerit points suspension between March 2021 and May 2023. Pilot C's circumstances have changed and, therefore, Pilot C must complete the 24FPP Questionnaire using MyAviation.

Pilots A, B, and C must, as document holders, ensure they continue to be fit and proper and notify CAA of any changes to their circumstances under section 77 of the CA Act 2023.

2.4 Information required for an assessment

Information for an assessment can be obtained from a wide range of sources, including (but not limited to):

- The applicant's personnel file.
- The applicant's medical certification file.
- CAA's internal business systems.
- Publicly available sources, including the internet.
- The relevant 24FPP form, via:
 - answers to questions; and
 - the information required to be supplied by applicants from other agencies.

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

3. Conducting a FPP assessment

3.1 Practical steps to follow

A useful way of approaching a FPP assessment is to:

- establish and identify the context in which the FPP assessment is to be applied;
- identify all the facts or evidence relevant to the FPP test set out in section 80 of the CA Act 2023;
- identify what those facts say about the behaviour, character and attitude of the applicant (both good and bad) to ascertain whether that information is relevant to the assessment; and
- deduce by weighing those facts against one another and what they may indicate about the nature and degree of the applicant's likely involvement in the aviation system in the 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 but rather guide a critical and objective assessment.

3.2 Establish the context

The starting point in assessing whether a person is, or continues to be, fit and proper is to consider the nature and degree of the person's 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. A person may be fit and proper for one level of involvement in the civil aviation system, but not fit and proper for a higher level of involvement in the system. For example, a person may be fit and proper to hold a PPL, but not to hold a CPL or a senior person position in an air transport operation.

In practice, determining the context involves considering:

- the type of aviation document being applied for; and
- what the aviation document will allow the applicant to do (e.g., identifying the privileges conferred by the aviation document).

Under section 13 of the CA Act 2023, the holder of an aviation document is required to carry out their activities safely and in accordance with relevant prescribed safety standards and practices. Beyond this underlying obligation, those assessing applications should consider:

- the responsibilities, duties, and functions of the aviation document;
- the attitudes, attributes, or characteristics needed to perform the privileges and responsibilities safely and lawfully;
- the skills, training and competence required; and
- 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, the activities the person is or will be engaged in, and the purpose of those activities. Identifying the context within which an individual is to be assessed as fit and proper is therefore the first step in undertaking the assessment.

Pre-application FPP advice or guidance

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. Team members may provide general advice about the nature of the information that CAA would consider in making FPP decisions but must not pre-empt the FPP assessment process by providing a personalised or individualised assessment or information.

3.3 Information gathering and assessing for relevance

The CA Act 2023 requires that the Director consider the factors set out in section 80. Team members conducting an FPP assessment must ensure that all the factors are addressed.

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

It is the responsibility of the applicant to obtain and supply certain information to the Director, including obtaining details of any convictions or safety offences. The 24FPP Questionnaire also provides further details on the information that the applicant must supply when completing their application.

Additionally, the Director is not limited to the factors set out in section 80 of the CA Act 2023 and may consider any other relevant matters. However, any wider considerations are expected to be of a type contemplated in or similar to the section 80 factors.

All assessments should be informed by:

- information that the Director seeks in every case via CAA's internal business system, relevant CAA forms or the interview process; and
- additional information that may be sought from the applicant or a third party where required.

3.3.1 Required information

The table below sets out the factors to be considered under section 80 of the CA Act 2023 and describes some of the sources of information:

Section 80 factors	Information source
The person's compliance history with transport safety and security regulatory requirements	CAA's internal business systems. NZTA 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. Relevant supporting information provided by the applicant.
The person's knowledge of the applicable civil aviation system regulatory requirements.	In addition to the FPP assessment, refer to the additional requirement for Senior Person Assessments (see 4.1-4.5).
Any history of physical or mental health or serious behavioural problems.	Current valid medical certificate. CAA medical records/information. In the submitted 24FPP Questionnaire: if yes to any questions k, l, or m, refer to the 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.
The person's use of drugs or alcohol.	Relevant supporting information provided by the applicant. CAA medical records/information. Other relevant information sought and received to inform the assessment. Results of DAMP testing (from 2027). MOJ Criminal record check. In the submitted 24FPP Questionnaire: if yes to question n, refer to the Manager and seek advice from the Medical Unit.
Conviction for any transport safety offence or an offence under the Health and Safety at Work Act 2015, whether or not – 1. The conviction was in a New Zealand court	CAA's internal business systems. NZTA Demerit points and suspension history. MOJ Criminal record check. Transport offence history from all countries of residence for six consecutive months in the past five years.

2. The offence was committed before the commencement of the CA Act 2023	When this history cannot be obtained or may take a long time to obtain, a Statutory Declaration may be required. In some cases, a conditional FPP may be granted. Any other external source of information to assist the assessment, including overseas information available.
Any evidence that the person has committed a transport safety offence or has contravened or failed to comply with any rule made under the CA Act 2023.	This provides a wide scope for any type of information relevant to the FPP assessment to be used. CAA participant's database – including any enforcement records.
Any other relevant matter.	Any other information that the Director sees as relevant, examples including: <ul style="list-style-type: none"> • Criminal records (in addition to transport regulatory requirements as per section 80). • MOJ reports. • The person's availability to discharge the obligations that relate to the assessment, especially if they hold multiple roles.

3.3.2 Additional information

The CAA's participant database must be checked for all first-time applicants, existing document holders, and senior person nominations. The purpose of checking the database is to ascertain any actions, participant notes or enforcement notes which may be relevant to the information sought via MyAviation.

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

3.4 FPP Questionnaire assessment

The information supplied by the applicant within the 24FPP Questionnaire is assessed alongside any other relevant information to help inform the FPP assessment.

3.4.1 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 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.

3.4.2 Assessing physical, mental, or serious behavioural problems

Where an applicant discloses a history of physical or mental health problems, or serious behavioural problems, the case must be referred to the Medical Unit for appropriate assessment. The applicant should be advised if the application is likely to be delayed while the investigation is carried out.

3.4.3 Use of drugs or alcohol

The assessment of an applicant's use of drugs or alcohol is focused on whether it has the potential to negatively affect their fitness to hold an aviation document. This may include assessing whether the drugs or alcohol are being used in a way that:

- negatively impacts the applicant's ability to safely exercise the privileges they are applying for, or perform the senior person role they are nominated for;
- endangers the applicant themselves or the lives, health, or welfare of others; and/or
- causes or worsens an occupational, social, mental, or physical problem or disorder.

The applicant may also need to disclose their use of prescription drugs if those drugs could affect their ability to exercise the sought privileges or endangers themselves or others.

This part of the FPP assessment is not focused on, for example, recreational use of drugs or alcohol that does not negatively impact or raise concerns around their application.

Where an application discloses a history of abusive or problematic drug or alcohol use, the case will be referred to the Medical Unit for appropriate assessment. The applicant should be advised if the application is likely to be delayed.

3.4.4 Traffic or other offence history/details (including under the Health and Safety at Work Act 2015)

If the applicant discloses that they have previously been charged or convicted of an offence, additional information may be required from the document holder or 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 tendency to commit traffic or other offences that may not be disclosed on the routine information provided by the applicant. This information could include 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. The applicant can obtain a fine summary via MOJ.
- **Traffic history report** – shows all enforcement activities connected to an applicant. 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 NZTA history). The applicant can obtain this report via the Police.

3.4.5 Confidential sources

The Director may receive information from confidential sources but note that this is subject to the Official Information Act 1992 and the Privacy Act 2020. The information may be received from:

- an unknown source; or
- from a known source who has requested confidentiality or anonymity.

Information from a confidential or anonymous source can be considered, with checks to confirm the information is credible (if possible). For example, if the identity of the submitter is known, team members will endeavour 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 can be placed on the information. If it is proposed that confidential information be considered in making any decision, the Legal Services Unit will be consulted.

3.4.6 Hearsay information

Hearsay information is information that:

- is provided by a third party about another person; and
- is based on that third party's belief about the other person; and
- belief is formed on the basis of information rather than their own observations or experiences.

For example: person X tells the CAA that person Y is a recreational drug user. Where person X bases this belief on information that they have not observed themselves (e.g., if person Z told them about the drug use), it will be hearsay. In order for person X's information about person Y's drug use to not be hearsay, person X must have observed the drug use themselves.

An FPP assessment may consider hearsay information. However, while hearsay information may be relevant to an assessment, the nature of the information will influence the credibility and weight that can be assigned to it. The Legal Services Unit will be consulted when dealing with hearsay information.

3.4.7 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 these situations, the Director can rely on that information at a later date, or as part of a new assessment. However, a previous decision or omission to take action may influence the weight of the information. Team members 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.

4. Conducting senior person assessments

4.1 Steps to follow

Additional steps apply to senior person assessments. The Team Leader, or their delegate, will assess each nominated senior person against the FPP test using the evaluation tools available. This process may include:

- Checking the 24FPP form for completeness, including required supporting documentation (CV, MOJ Criminal record check, NZTA Demerit points and suspension history, etc).
- Checking the nominated senior persons for "fit and proper" status with other relevant teams (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 CA Act 2023, Civil Aviation Rules, and Advisory Circulars applicable to the senior person position being sought.

4.2 Senior person interview

The senior person interview is one of many assessment tools available to seek assurance that the individual can perform the senior person role effectively. Additionally, the assessor may determine that they have enough information to conclude that the individual has the necessary competencies to perform the role without needing to conduct an interview. The senior person interview should be seen as an opportunity to seek additional information that is not in the assessor's possession.

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

- The applicant's qualifications 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 they have been nominated for.
- The applicant's knowledge of applicable Act and Rule requirements.
- The applicant's attitude towards safety and compliance. This will inform whether the application is suitable to influence, coach, mentor and manage employees and people working with the organisation.
- The applicant's integrity – senior persons will be expected to accurately complete documentation and records, and maintain honesty in meeting regulatory safety requirements.
- Any other relevant matters.

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

- 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.

Assessors are trained to carry out interviews in a structured manner using the PEACE interview model (Planning/Preparation, Engage/Explain, Account, Closure, and Evaluation). This interviewing technique seeks to provide the applicant with the best opportunity to demonstrate that they are suitable for the role, and obtain sufficient information on which to base a decision. For example, the planning phase may determine that the only area of focus will be the applicant's overall attitude towards safety, or it may look at other areas (as listed above). The interview will generally be digitally recorded, and the applicant will be entitled to a copy of the recording. If the interview is not digitally recorded, a summary of the interview will be created and provided to the applicant for their records.

4.3 Senior person assessment (renewal)

The onus is on the applicant to satisfy the Director that the senior person remains fit and proper. If an applicant's circumstances have changed since their last senior person application, they are required to submit a 24FPP Questionnaire form. If nothing has changed, they may submit a 24FPP Declaration form.

A senior person's FPP status, and their continuing suitability to hold a senior person position, is considered when reviewing an organisation's certificate, using an intelligence-led and risk-based approach. The scoping of the certification renewal will include determining which senior person to interview and what information is being sought from those interview's.

A senior person's interview during a certificate renewal should reveal information not already known, such as the candidate's knowledge of any rule or organisational changes since the last certification, focusing on their awareness of risk and their attitude towards compliance, safety, and security.

4.4 Temporary/acting approval to hold a senior person role

Team members may approve a person to hold a senior person role for a short-term period to address situations such as the absence of a previously approved senior person for reasons of leave, vacancy, or temporary absence from New Zealand. In general, this period should not exceed four weeks. If a longer period of time is required (over four weeks), then it is at the discretion of the appropriate Manager to approve a longer period.

A person nominated to hold a senior person role temporarily must complete a 24FPP Questionnaire or Declaration. The temporary nature of the appointment will be relevant when determining whether an individual can pass the FPP assessment. However, team members may determine that the individual completing the 24FPP Questionnaire is not required to supply a MOJ or NZTA Demerit points and suspension history. Team members may also determine that a full senior person interview is not required.

5. Interpreting the information

After collating all the information, analysis is needed to consider what the information means. 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.

5.1 Senior persons

Senior persons play a critical role in the aviation safety system. Therefore, senior persons must 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.

Any assessment of a senior person will need to be examined within a wider context, particularly 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. For 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 legislative requirements. The senior person application will then be declined based on capacity, not the individual's competency for the role. CAA will then engage with the operator to ensure that appropriate resourcing is supplied to 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 different operators. An assessment of fit and proper for one role will not automatically mean that someone is fit and proper for another role. Every situation will be examined separately, including whether multiple roles create an inability for the applicant to adequately manage each senior person 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 must ensure that the organisation or entity is sufficiently resourced to operate.

In practice, team members 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 CARs; and
- the organisation complies with the requirements of the applicable CARs.

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

5.2 Charges, convictions and other enforcement or disciplinary matters

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

5.2.1 Charges

The FPP assessment is forward looking and considers the likely future conduct of the applicant. This involves looking at past behaviour as an indicator or predictor of future behaviour. For example, evidence of previous non-compliance with the law, such as criminal conduct and transport related offending, can be relevant to the assessment.

Applicants are required to disclose the fact of being charged, irrespective of the outcome. The outcome of any charges is material in the weight that is placed on the information. Likewise, if the charge has not been concluded, then caution will be applied and legal advice sought on the weight that can be placed on the information supplied. There are a range of outcomes possible with any charge (i.e., charged and withdrawn, diverted, convicted, discharged without conviction, charge dismissed, discharged, or acquitted). This information will be interpreted 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 drugs or alcohol.
- **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 charge in an unrelated area. In such a case, team members can interpret information in different ways because one charge may be more likely to indicate relevant future conduct than another.

5.2.2 Transport safety convictions

Previous compliance with transport regulations is an indicator of future aviation safety behaviours. The FPP assessment specifically refers to transport safety convictions.

A transport safety conviction means a conviction for an offence that is relevant to a transport mode. 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 the aviation sector. Transport safety convictions may also include criminal offences with a transport component, such as endangering transport.

5.2.3 Dishonesty convictions

Honesty and integrity are critical to aviation safety and security. 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 occurrence reporting, and disclosing information to CAA that may be relevant to a person's medical certification and FPP status. The civil aviation system also relies 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 tendency to be dishonest.

5.2.4 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 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.¹ If a person is an eligible individual, team members must not use or refer to any conviction information as part of the assessment process. Team members 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.

6. Weighting the information

In considering information that is deemed relevant to a FPP assessment, the weight applied to the information will be based on 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.

¹ 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.

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 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, and decisions must be defensible and maintain civil aviation safety and security.

6.1 Patterns and trends

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

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

7. Completing the FPP assessment

Once the team member has completed the FPP assessment and the applicant has been found fit and proper, the team member should progress the application and save the result under the participant's file.

8. Reviewing FPP status

At entry, the onus is on the applicant to prove that they are fit and proper. At exit, unless the person is choosing to exit the system voluntarily, the onus is on the Director to provide the rationale for the determination that the person is not fit and proper.

An individual's FPP status can be reviewed at any time, especially if circumstances arise that bring into question the individual's continued FPP status. This could be due to an accident, incident or other occurrence, or a combination of circumstances. Where it is suspected that an individual no longer satisfies the FPP test to hold or exercise the privileges of an aviation document, the Director or their nominated delegate will promptly initiate work to ascertain the facts.

9. When a person is not fit and proper (adverse decision)

When a team member considers the applicant is not fit and proper, they will provide a recommendation to the Director (or delegated Manager in the case of entry control) for consideration and a decision using any templates recommended by the Legal Services Unit.

The Director deciding that a person is not fit and proper is defined as an adverse decision under section 82 of the CA Act 2023. Any proposed adverse decisions must be made in accordance with the relevant provisions of the CA Act 2023:

- Section 82 sets out the rights of persons affected by proposed adverse decisions. If the Director, or appropriate delegate, proposes to make an adverse decision in respect of any person, then the Director must follow the requirements set out in section 82 and 83 of the CA Act 2023.
- Under sections 96 and 97, the Director, or delegate, may suspend (in whole or in part) or impose conditions on an aviation document.
- Under section 98, the Director may revoke (in whole or in part) or impose permanent conditions on an aviation document. The power to revoke an aviation document must be exercised by the Director and cannot be delegated.

The Administrative Action policy and relevant procedure provides further details on when adverse decisions may be made, and the procedure that must be followed in the event of a proposed adverse decision. Legal advice must also be obtained in all cases of a proposed adverse decision.

