Proposed changes to TEQSA’s Fit and Proper Person Determination

TEQSA consultation paper, April 2024

## Fit and Proper Person Determination

The Tertiary Education Quality and Standards Agency Fit and Proper Person Determination 2018 (Determination) is a legislative instrument that sets out the information to specify matters that TEQSA may have regard to when determining whether a person is fit and proper under paragraph 21(1)(b), subsection 25A and paragraph 36(1)(b) of the *Tertiary Education Quality and Standards Agency Act 2011* (the Act).

You can view the Determination and the TEQSA Act by accessing the respective links: [Tertiary Education Quality and Standards Agency Fit and Proper Person Determination 2018](https://www.legislation.gov.au/F2018L01753/asmade/text) (legislation.gov.au) and [Federal Register of Legislation - Tertiary Education Quality and Standards Agency Act 2011](https://www.legislation.gov.au/C2011A00073/latest/text).

## Proposed amendments to the Determination

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| TEQSA proposed amendments |
| The proposal is that TEQSA amend the Determination so it states, in addition to what it covers already, that TEQSA may have regard to:* whether a relevant person has been found guilty of a foreign offence (within the meaning of section 85ZL of the Crimes Act 1914). With this change, TEQSA may have regard to whether a person has committed an offence or offences against a foreign law/s
* whether a relevant person has been found not to be a fit and proper person for the purposes of any law of the Commonwealth or of a State or Territory (other than those specifically listed in the Determination). With this change, TEQSA may have regard to fitness and propriety findings made by Commonwealth or State or Territory regulators (amongst other bodies)
* whether the public is unlikely to have confidence in a relevant person’s suitability to be a person who makes or participates in making decisions that affect the whole, or a substantial part, of a registered higher education provider’s affairs. With this change, TEQSA’s assessment of public confidence in persons’ suitability would be stated as a matter TEQSA may have regard to.
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## Reason for proposed amendments

Amending the Determination will mean that it appropriately aligns with:

* 1. the relevant content of Schedule 3 of the *Standards for Registered Training Organisations (RTOs) 2015* concerning the fit and proper person requirements in the vocational education sector, and
	2. the Higher Education Support (Fit and Proper Person) Instrument 2019 which sets out the fit and proper person requirements the Minister applies under the *Higher Education Support Act 2003*.

## Consultation process

This paper is being made available on TEQSA’s website ([www.teqsa.gov.au](http://www.teqsa.gov.au)) and has been sent directly to peak bodies for providers regulated by TEQSA under the TEQSA Act.

TEQSA requests that feedback on the proposed amendments to the Determination, along with any other relevant feedback, be submitted via email to review@teqsa.gov.au.

**Submissions close at 5:00pm (AEST) on Monday 20 May 2024.**

Interested parties can also email review@teqsa.gov.au with queries about this consultation, or to seek clarification regarding the proposed amendments.

Please note that TEQSA intends to publish a summary of submissions received. If you do not wish for your submission (or part of your submission) to be published, please indicate this in your response. TEQSA may alter the format or content of submissions before they are published, or decline to publish particular submissions, having regard to the requirements for Australian Government websites.