

MAV Fit and Proper Policy – Fact Sheet

Why does MAV have a Fit and Proper Person Policy?

The MAV Rules 2022 (MAV Rules) include a requirement that the President and each of the ten Board Directors must meet the requirements set out in the Fit and Proper Person Policy before they can take office and are entitled to any allowances. This is because MAV is a holder of an Australian Financial Services Licence (AFSL) which is required for it to deliver insurance services to the local government sector.

Organisations that hold an AFSL have a range of regulatory requirements set out in the *Corporations Act 2001* (Clth) (Corporations Act), including a requirement that certain people including directors and specific employees, meet defined fit and proper criteria. The MAV's Fit and Proper Person Policy is consistent with the criteria in the Corporations Act and stipulated by the regulator of licenced financial services providers, the Australian Securities, and Investment Commission (ASIC).

The requirements in the Fit and Proper Person Policy are designed to ensure that the requirements on MAV due to its AFSL are consistent with the MAV's Rules and election processes for the President and Directors.

How is fit and proper demonstrated?

Fit and proper relates to a person's previous conduct. A fit and proper person is effectively someone who does not have the following attributes:

- They are or have been banned and/or disqualified by ASIC from managing corporations
- They have been convicted of a criminal offence
- Have been a bankrupt
- A serious professional sanction or been involved in various business failures, or refused to comply with certain legal requirements of financial service providers, which are further elaborated in the Statement of Personal Information.

There are 17 questions in the Statement of Personal Information, which is an annexure to the Fit and Proper Person Policy which ask questions about a person's professional history. If a person answers 'no' to all these questions and there is no evidence that these answers are incorrect, that person would be considered to be fit and proper to be the President or a Director of the MAV.

If a person answers 'yes' to any of the questions in the Statement of Personal Information, unless there are extenuating circumstances or evidence as to why the 'yes' response would not make the person fit and proper, it is unlikely that they would be assessed as eligible to take on the position of President or Director of the MAV.



As such, the key practical test of whether a potential President or Director is fit and proper is whether they can honestly answer 'no' to the 17 Statement of Personal Information questions. Potential candidates for the positions of President and Director of the MAV are therefore encouraged to closely review the Statement of Personal Information prior to nominating for the Board elections.

What is the process for demonstrating fit and proper?

A candidate for President or Director of the MAV will be asked to confirm on their nomination form that they meet the fit and proper person requirements as set out in the Policy.

Immediately following the Board elections, the successful candidates will be requested to complete the following at the MAV's expense:

- a police check, including an international police check if the candidate has resided outside of Australia for six months or more in the last decade
- a bankruptcy check
- completion and signing the Statement of Personal Information

In addition, the MAV will undertake searches of the ASIC's banned and disqualified register for each of the successful candidates.

Each of the above will be reviewed by the CEO or their delegate to confirm whether the person meet the criteria set out in the Fit and Proper Person Policy. If the successful candidates answer 'yes' to any of the questions on the Statement of Personal Information, further information will be sought on whether the 'yes' answer constitutes a failure to meet fit and proper requirements. This will depend on the nature of the 'yes' answer and whether this demonstrates conduct that would be viewed by ASIC as breaching fit and proper requirements.

It is important to note that until the fit and proper assessment is completed, the President-elect and Directors-elect will not be eligible to take up their positions or be remunerated for the roles.

If a candidate-elect is deemed to be not fit and proper, a by-election for the relevant Board position will be held.

Who will review the fit and proper information and how will it be stored?

The information provided is considered confidential by the MAV and will only be used by the MAV for the purposes of determining whether the Director- and President—elect meet fit and proper purposes. As part of the assessment process, the Chief Executive Officer or their delegate may assess fit and proper eligibility. In addition, the fit and proper information may be reviewed by the MAV's nominated legal adviser should further advice be required on the eligibility, regulators (such as ASIC) and auditors.

The information will be stored in soft-copy in a confidential folder on the MAV's document library with access restricted to the CEO and their delegate/s. The information will be retained for seven years after the President or Director has left office.

How often will fit and proper assessment be completed?

A fit and proper assessment will be completed prior to the President and Directors assuming their positions. Following this review, there will be annual assessments for all 'officers' of the MAV or when MAV makes an application for a variation to its AFSL.

Who else in the MAV is required to be fit and proper?

'Officers' as defined in the Corporations Act are required to be fit and proper. An officer under the Act is effectively someone who makes major decisions about the organisation or exercises influence on the organisation.

The MAV has interpreted this broadly and as a consequence requires the following persons to meet the fit and proper requirements:

- President and Directors of MAV
- Members of the MAV Insurance Board
- CEO
- Key executive members, which include the General Manager, MAV Insurance, CFO, Executive Director, Policy and Advocacy and the Manager Governance.

In addition, the Fit and Proper Person Policy also requires that members of the Audit and Risk Committee meet the Policy, but they are not formally required to do so under the AFSL obligations.

If you have any queries please contact Owen Harvey-Beavis, General Manager Insurance at oharvey-beavis@mav.asn.au

NOTE: Please refer to the [Fit and Proper Person Policy 2022](#) for the full details about the requirements which apply. This Fact Sheet is provided for information purposes only.

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