



## **TAFE COLLEGE GOVERNING COUNCIL MEMBERSHIP**

### **FREQUENTLY ASKED QUESTIONS**

(November 2022)

#### **What are TAFE colleges?**

TAFE colleges are colleges that have been established under section 35 of the *Vocational Education and Training Act 1996* (VET Act). Each college is a separate statutory authority as per Schedule 2 of the *Public Sector Management Act 1994*. There are five TAFE colleges throughout Western Australia with around 70 campuses stretching from Albany in the south to Wyndham in the north.

The TAFE colleges form part of an integrated system of publicly funded training providers in Western Australia and are responsible for implementing the State Government's policy objectives for vocational education and training (VET). Funded by the State Government, TAFE colleges offered almost 111,000 course enrolments in 2021.

TAFE colleges provide:

- publicly funded VET in Western Australia targeted to meet the State Government's economic and social development objectives, in particular those of industry sectors and regional areas;
- skills recognition (recognition of prior learning);
- nationally recognised qualifications and accredited courses;
- apprenticeship and traineeship training;
- entry and bridging courses and qualifications leading into mainstream courses and qualifications; and
- commercial training (fee for service) including customised training and short courses.

The planning, development, monitoring and reporting of publicly funded VET is negotiated with the Department of Training and Workforce Development (the Department) and formalised through a delivery and performance agreement between the Minister for Education and Training and each TAFE college annually.

#### **What is a Governing Council?**

The Governing Council is the governing body of the TAFE college. It is the highest level of decision-making within the college and has the authority to perform the functions of the organisation and govern its operations and affairs.

The success of each TAFE college, both as an educational institution and as a public body, is influenced by the effectiveness and efficiency of the Governing Council. The Governing Council is responsible for ensuring that clear management, effective decision-making and governance frameworks are in place and functioning for the organisation.

It is imperative that each Governing Council member understands both the nature of their responsibilities as well as the organisational and policy-making structures that exist within the TAFE college.

### **Why does the TAFE college need a Governing Council?**

Each college is required to have a Governing Council under section 39 of the VET Act.

The State Government wishes to ensure that local industry and the community have direct input into the strategic development of the TAFE colleges. With this in mind, Governing Council members are appointed for their experience and expertise in education and training, industry or community affairs and for their ability to contribute to the strategic direction of the organisation.

### **What are the functions of a Governing Council?**

Section 42 of the VET Act stipulates that the Governing Council:

- is the governing body of the college with authority in the name of the college to perform the functions of the college and govern its operations and affairs;
- may do all things necessary or convenient to be done for or in connection with the performance of its functions;
- may perform its functions in another State or a Territory if that is necessary or convenient for the performance of the function of the college; and
- in performing its functions, must ensure that the college's courses, programs and services are responsive to, and meet the needs of students, industry and the community.

The Governing Council, as the governing body of the TAFE college, is responsible under Division 2 of the VET Act for the following:

- Strategic plan;
- Annual business plans;
- By-laws;
- Delegations; and
- College employees.

### **Does the Governing Council have specified duties?**

Yes, under the VET Act the Governing Council is the governing body of the college and has the authority to perform the functions of the organisation and govern its operations and affairs. The Governing Council is responsible for:

- overseeing and governing the general operations and performance of the organisation;
- developing and approving the strategic directions of the organisation;
- ensuring the delivery of VET programs and the provision of related services to students and clients;
- ensuring the organisation performs its functions, as set out in the VET Act;
- ensuring training programs and services that are provided, are responsive to, and meet the needs of students, industry and the community; and
- ensuring compliance with State and Commonwealth legislation such as the *Commonwealth Competition and Consumer Act 2010*.

While the Governing Council is the governing body of the college, in practical terms (and in accordance with the intent and provisions of the *Public Sector Management Act 1994*), management of the day to day operations of the College, its students, staff, programs and resources is delegated to the Managing Director. Section 45 of the VET Act is the provision under which a Governing Council may delegate the performance of any or all of its functions under the Act, to the Managing Director.

### **What is my role as a Governing Council member?**

As a Governing Council member you have a duty to act in the best interests of the organisation as a whole and not for any particular group or section, even though you may contribute the view of a particular group to matters being considered by the Governing Council.

You have a duty to comply with the Governing Council's rules and regulations and code of conduct and to act with honesty and integrity in the discharge of your duties.

The activities you will be involved in may include (but are not limited to):

- contributing to the formation and/or review of the organisation's strategic plan and the annual business plan;
- contributing to the review and approval of the annual budget and the delivery and performance agreement (DPA);
- participating in Governing Council meetings and sitting on sub-committees of the Governing Council;
- representing the Governing Council at internal and external events, meetings and forums;
- reading reports and researching topics concerning the organisation; and
- undertaking projects on topics and issues concerning the organisation.

### **What are the benefits of being a council member?**

As a Governing Council member you have the opportunity to work with a significant public training enterprise; to know that the contribution of your particular expertise is valued by the organisation, and to have the satisfaction of participating in the growth and development of an important community and State resource.

### **Am I personally liable for Governing Council decisions?**

As a Governing Council member you are not personally liable in "actions in tort" as long as you have acted in good faith in the performance of your functions.

### **What do I need to know about potential or existing conflicts of interest?**

Governing Council members must declare any interests they may have in any matter coming before the Governing Council or its committees, or in any aspect of the organisation's operations.

Where a Governing Council member's private interests (such as investments, relationships, voluntary work, membership of other groups, the Governing Council member's family or friends) may conflict or even be perceived to conflict with the Governing Council member's public duty as a Governing Council member, then the Governing Council member must declare the matters to the Governing Council and record such issues to ensure they are transparent and capable of review.

Where a Governing Council member has any doubt, it is important to raise the matter with the chairperson and, if a conflict is confirmed, the Governing Council member is then disqualified from Governing Council discussions and decisions on that matter.

Similarly, Governing Council members must declare gifts or other benefits such as fees, favours, hospitality, rewards, gratuities or any form of remuneration which are likely to place members under an actual, potential or perceived obligation to other organisations or individuals who have interests with those of the Governing Council.

A Governing Council member who does have a personal interest in a matter being considered or about to be considered by the Governing Council but who does not disclose this interest is liable for a fine of \$10,000.

### **How much time is involved?**

Governing Council meetings typically take two to three hours and may occur in four, six, or eight week cycles, depending on the policy adopted by the Governing Council.

Each Governing Council member is likely to serve on at least one sub-committee. Sub-committee meetings normally occur between (or shortly before) full Governing Council meetings and usually last about two hours.

There is also time involved in reading agenda papers distributed before Governing Council meetings.

Governing Council members are encouraged to attend social activities and official functions, and to involve themselves in the life of the organisation.

### **How long is my term of office?**

As a Governing Council member you will be appointed for a term not exceeding three years and you will be eligible for re-appointment. As a matter of sound governance practice the membership of individuals should not exceed ten (10) years.

### **Can I be removed from the Governing Council?**

While this is not a common occurrence, the Minister has the power under the VET Act to terminate the appointment of a Governing Council member at any time.

You may also forfeit your membership if you are an undischarged bankrupt or your property is subject to an arrangement under the laws relating to bankruptcy, or if you are convicted of an indictable offence.

### **Has everyone on the Governing Council become a council member in the same way?**

Yes, all members of a Governing Council are appointed by the Minister and the appointment is endorsed by Cabinet.

### **Are all Governing Council members equal in status?**

Subject to a few procedural differences in relation to the chairperson and the deputy chairperson, all Governing Council members are equal in terms of their status, their term of appointment and the functions they perform.

### **What is the relationship between the Governing Council and the Managing Director?**

The Governing Council, as the governing body, is accountable for the performance of the organisation. There is an important distinction between governance and management, with the Governing Council usually formally delegating its authority to the Managing Director for the day-to-day management of the organisation, its students, staff and programs as well as financial, physical and other resources. The Governing Council retains accountability for the organisation under these arrangements.

### **Are members of Governing Councils remunerated?**

Yes, Governing Council service is remunerated. Section 63 of the VET Act includes provision for remuneration and allowances for Governing Council members.

Governing Council members are remunerated for their attendance at formal Governing Council meetings, based on the rates below. In addition, each Governing Council has a funding allocation that can be used to cover the cost of travel and accommodation for members attending meetings and other agreed college related activities and events.

Public Sector Commission guidelines for remuneration for Government Boards and Committees confirm that government board and committee members may be reimbursed for travel expenses incurred when travelling to and from meetings for business of the board, however, this does not include time taken in travel.

<b>Chairperson</b>	\$22,738 per annum	
	Full day meeting (over four hours in duration)	Half day meeting (under four hours in duration)
<b>Deputy chairperson</b>	\$682	\$443
<b>Members</b>	\$591	\$384

Current 1 August 2016

Governing Council members will be taxed at the appropriate rate and are eligible for superannuation. Payment is made to the individual.

### **If I am a Government employee do I receive remuneration as a member of a Governing Council?**

The *Premier's Circular 2022/02 State Government Boards and Committees* confirms that a member of a State Government Board or Committee is not eligible for fees (other than reimbursements for travel expenses) if they are:

- (i) on the public payroll, including all current full time State, Commonwealth and Local Government employees; Members of Parliament; current and retired judicial officers; and current non-academic employees of public academic institutions; or
- (ii) a person who was a Member of Parliament within the last 12 months.

Persons who are eligible for remuneration include:

- (i) part time public sector employees, where the relevant Minister is satisfied that the work relating to the board or committee will occur outside of their employment, and all other potential conflicts of interest are appropriately managed;
- (ii) University academics, defined as someone engaged primarily for the purpose of providing educational services and not administrative or other services; and
- (iii) elected Local Government councillors.

Section 102 of the *Public Sector Management Act 1994* which requires employees to obtain the prior permission of their employing authority to engage in activities unconnected with their functions also applies.

As a guide, an individual should not sit on more than two (2) State Government Boards and Committees.

**Do I need to obtain a National Police Certificate prior to my commencement on the governing council?**

The recommended applicant will be asked to consent to a criminal record check.

**Are there probity checks as part of the selection process for governing council members?**

Yes. Each Governing Council member is required to comply with the *Standards for Registered Training Organisations (RTOs) 2015* in accordance with the Act and the *Vocational Education and Training (General) Regulations 2009*.

In particular, clause 7.1(b) stipulates that, to be compliant with Standard 7, a training organisation must "ensure that its executive officers or high managerial agent ...meet each of the relevant criteria specified in the Fit and Proper Person Requirements in Schedule 3."

The selection process includes applicants signing a witnessed fit and proper person criteria for suitability certification.