

Obligations of TAFE Institute Boards Under the Financial Management Act 1994

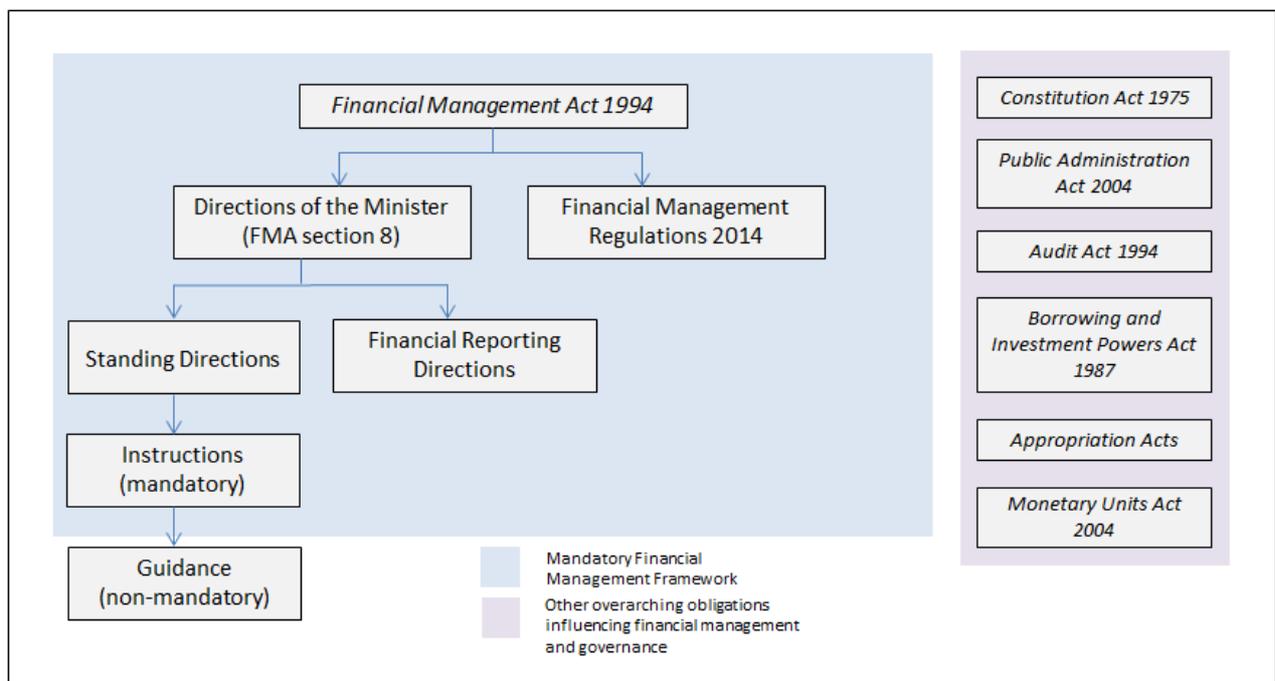
The Financial Management Act 1994 (the Act) applies to TAFE Institutes as public entities. The purposes of the Act are to improve financial administration of the public sector, make provision for better accountability of the public sector, and to provide for annual reporting to parliament by departments and public sector bodies.

The Act empowers the Minister to make *Directions* and also provides for the Minister to delegate the Minister's powers under the act to another person employed in the administration of the Act. This delegation is made by the Minister to the Secretary of the Department of Treasury and Finance who issues directions and makes rules for agencies to assist in the implementation of the Act.

In accordance with the Act, Institutes must fulfil a list of requirements including keeping proper financial accounts, risk management, audit requirements, financial reporting, annual reporting to Parliament and responding to Ministerial requests for information.

In addition to matters in the Financial Management Act, the Minister for Finance has issued a number of Standing Directions applicable across the Victorian public sector.

The Victorian Financial Management Framework



FINANCIAL MANAGEMENT ACT – KEY REQUIREMENTS FOR TAFE INSTITUTES

- Establishes the accountabilities of the public entity and provides the Minister with power to make Directions for the implementation and maintenance of appropriate financial management practices and the achievement of a consistent standard of accountability and financial reporting.
- The Chief Executive Officer (CEO) of a public entity is the accountable officer under the Financial Management Act. The CEO must appoint a Chief Finance and Accounting Officer (CFAO) whose duty is to ensure that proper accounting records and systems and other records are maintained in accordance with relevant regulations and directions.
- The public entity must maintain an assets register and develop, implement and review a risk management strategy.
- The CEO must keep proper accounts and records of transactions and records which explain the finances of the public entity.
- The CEO must provide the portfolio Minister or the Minister for Finance with any financial information they ask for.
- As soon as practicable after the end of each financial year the public entity must prepare a report of its operations for the year and the CEO must prepare financial statements for the public entity.
- The CEO must deliver the financial statements to the Auditor-General within 8 weeks after the end of the financial year (or calendar year where reporting is on a calendar year basis) unless the public entity is exempt from having accounts audited by the Auditor-General. The public entity must submit the report of operations to the Auditor-General as soon as practicable after it is prepared.
- The portfolio Minister tables the financial statements and the report of operations in each House of Parliament within a set time frame.
- The Minister for Finance can ask for additional information to that included by the CEO to be included in the financial statements. The portfolio Minister can ask for additional information in both the financial statements and the report of operations.
- The Minister for Finance can, if it is in the public interest, direct the public entity to prepare and submit within 4 weeks, financial statements and other information for any part of a financial year.
- The Minister for Finance may issue written directions about any of the matters about which regulations can be made under the Act.

FINANCIAL MANAGEMENT REGULATIONS

Provide for the efficient and fair investigation of losses of or deficiencies in public money and loss or destruction of, or damage to, other property of the State.

FINANCIAL REPORTING DIRECTIONS

Financial Reporting Directions aim to:

- prescribe the accounting treatment and disclosure of financial transactions in circumstances where there are choices in accounting treatment, or in the absence of guidance and/or requirements in existing accounting pronouncements; and
- achieve consistency and improved disclosure in financial reporting for Victorian public sector entities by eliminating and/or reducing divergence in accounting practices.

The Directions adopt and apply Generally Accepted Accounting Principles (GAAP) terminology and meaning and are to be read and used in conjunction with:

- financial reporting requirements of the Financial Management Act 1994;
- pronouncements issued by the Australian Accounting Standards Board;
- Framework for the Preparation and Presentation of Financial Statements;
- Australian Equivalents to International Accounting Standards and Urgent Issues Group Interpretations including those as listed in AASB 1048;
- pronouncements of other national accounting standard setting bodies that use a similar conceptual framework;
- other accounting literature; and
- accepted industry practices to the extent that they do not conflict.

STANDING DIRECTIONS OF THE MINISTER FOR FINANCE

The Directions support the FMA by specifying responsibilities of Agencies, Portfolio Departments and DTF to ensure:

- effective governance and accountability in the Victorian public sector regarding financial and risk management, financial sustainability and financial performance;
- the achievement of statutory functions and/or government objectives and priorities in a financially efficient and responsible manner;
- that the community and Parliament have confidence in the financial management and long-term financial sustainability of Agencies and the State; and
- that the information provided to Parliament and the public about the management of finances and resources is clear, accurate and readily understandable.

In addition, the Directions:

- specify responsibilities of Portfolio Departments to support their Responsible Minister in the financial oversight of Portfolio Agencies.
- specify responsibilities for DTF as the central agency supporting the Treasurer and Minister for Finance on whole of State financial performance matters.

Accountability for specific requirements in these Directions is generally linked to one of the three key financial management governance positions within an agency, namely the Responsible Body (henceforth called the Board), Accountable Officer (henceforth called the CEO) or Chief Finance Officer. These positions are likely to delegate implementation of certain requirements to Agency officers under Direction 3.3. However, ultimate accountability for the requirements still remains with the position specified in the Direction.

The Board of a TAFE Institute must implement the requirements set out in the Directions and Institutes may tailor their implementation of the Directions, having regard to their circumstances, including their risk profile, size, and the nature and complexity of their operations. The Directions require the Board to:

- Establish a framework for financial management compliance to ensure compliance with the FMA, Directions, applicable laws industry codes and standards relating to financial management
- Conduct an annual assessment of compliance with the Directions and Instructions ;
- Include a periodic review of compliance in the strategic audit plan
- Make a compliance attestation which has been reviewed by Audit Committee, in the Annual Report

The Directions came into force on 1 July 2003 and were revised in 2016 . A copy of the 2016 Directions is Available on the [Department of Treasury & Finance](#) website.

Transition to the 2016 Directions

Please note that a transition to compliance with the requirements of the new Directions is in place for the 2015-16, 2016-17 and 2017-19 financial years.

The following table summarises the applicable Directions and requirements for internal and public attestation, for the 2015-16, 2016-17 and 2017-18 compliance years:

	2015-16 compliance year	2016-17 compliance year	2017-18 compliance year
Directions 2003	All Directions applicable	n/a	n/a
Directions 2016	n/a	All Directions applicable, subject to transitional arrangements under 2016 Direction 1.4 whereby the deadline for compliance with some elements is extended for agencies which were not compliant as at 1 July 2016.	All Directions applicable, subject to transitional arrangements under 2016 Direction 1.4 whereby the deadline for compliance with some elements is extended for agencies which were not compliant as at 1 July 2016.

	2015-16 compliance year	2016-17 compliance year	2017-18 compliance year
Compliance reporting/ Internal attestation	2005 Financial Management Compliance Framework	Compliance reporting as required under 2016 Instruction 5.1, including trial attestation.	Compliance reporting as required under 2016 Instruction 5.1.
Public attestation in Annual Report	2003 Direction 4.5.5 <i>Risk management framework and processes</i>	2003 Direction 4.5.5 <i>Risk management framework and processes</i>	Attestation in relation to all applicable Directions and Instructions under 2016 Direction 5.1.4.

Structure of Directions, Instructions and Guidance

The Directions, Instructions and Guidance are structured³ as follows:

- **Directions** are issued by the Minister for Finance, and are **mandatory**;
- **Instructions** are issued by DTF, and are **mandatory**; and
- **Guidance** is issued by DTF, and are **non-mandatory**.

The **Directions** set out key financial management controls. Agencies may tailor their implementation of the Directions, having regard to their circumstances, including their risk profile, size, and the nature and complexity of their operations.

The **Instructions** are made by the DTF Deputy Secretary under a delegation of the Minister for Finance's power. The Instructions are linked to specific Directions through corresponding numbering. The Instructions provide more detailed mandatory requirements, in specific areas of risk. They specify processes or procedures that may require more regular update than the Directions.

Guidance provides supporting information in relation to the interpretation and implementation of the Directions and Instructions. The Guidance is linked to specific Directions through corresponding numbering. It is not mandatory.

KEY COMPONENTS OF THE DIRECTIONS

Roles and Responsibilities

- Responsible Body
- Accountable Officer
- Chief Financial Officer
- Portfolio Agency Accountable Officer
- Delegations

Governance and oversight

- Effective financial governance
- Oversight and assurance
- Financial authorisations
- Internal control system
- Fraud, corruption and losses
- Purchasing and prepaid debit cards
- Managing Risk
- Pricing

Delivering Services

- Planning and managing performance
- Using and managing public resources

Compliance and Reporting

- Financial management compliance
- Annual reporting
- External reporting and information provision

KEY ROLES AND RESPONSIBILITIES

Overview of Roles

Under these Directions:

- the Board is ultimately responsible for the Agency's financial management, performance and sustainability, and is responsible to the Responsible Minister;
- the CEO is responsible to the Board, and in some respects to the Responsible Minister;
- the CFO is responsible to the CEO, and in some respects to the Responsible Minister; and
- Responsible Bodies, CEOs and CFOs have various responsibilities to their Agency, to their Portfolio Department or Portfolio Agency, and to DTF.

Board - the general responsibilities of the Board (as the Responsible Body) are to:

- ensure that government objectives and priorities, and relevant statutory purposes and functions, are furthered in a financially efficient, effective and economical way through:
 - setting the Agency's strategic Direction and priorities;
 - approving related plans, budgets and policies;
 - approving major decisions related to strategic initiatives and policies;
 - overseeing the Agency's delivery of services and agency objectives and performance; and
 - approving key accountability reports including the Annual Report and performance reports.
- establish appropriate and effective financial governance and oversight arrangements and regularly review the effectiveness of those arrangements;
- ensure the Agency implements Victorian government policy frameworks relating to the requirements of the FMA and the associated directions issued under section 8 of the FMA (including these Directions, the Instructions and the Financial Reporting Directions);
- keep the Responsible Minister informed of Agency activities and strategic issues with potential financial implications for the State;
- conduct an annual assessment of their financial governance performance;
- Board, or a member of the Board, in the Agency's Annual report, in relation to the relevant financial year, must attest to compliance with applicable requirements in the FMA, Directions and Instructions, and disclose all Material Compliance Deficiencies.

CEO - the general responsibilities of **the CEO** (as the Accountable Officer) are to:

- promote and regularly review the proper use and management of public resources for which the Agency is responsible;
- establish and maintain an effective internal control system;
- identify and manage the Agency's risks;
- manage the Agency's financial information;
- ensure the Agency plans and manages performance to achieve financial sustainability;
- ensure the Agency's financial management compliance;
- meet internal and external reporting and information provision requirements;

- provide assurance to the Agency's Audit Committee on:
 - the integrity of information relevant to financial management, performance and sustainability in the Annual Report; and
 - compliance with relevant legislation, standards and government requirements for attesting in the Annual Report;
- consult with the Board in relation to the appointment or the dismissal of the CFO;
- provide assurance to the Audit Committee on the integrity of the Agency's:
 - budgets and financial projections; and
 - financial and performance reports;
- provide the CFO, Audit Committee and internal audit function with access to the CEO, to enable those positions to carry out their responsibilities; and
- ensure that exemptions from these Directions and Instructions are sought and dealt with appropriately.
- provide a compliance report to the Portfolio Department by 15 September following the year reviewed.
- Provide information relating to financial performance and sustainability required, and notify the Minister of any significant issue of which the CEO is aware that has affected or may affect the Agency's or State's financial management, performance, sustainability or reputation.

CFO - the must be suitably experienced and qualified and must:

- Must have access to the CEO and the Board in carrying out their responsibilities;
- prepare accurate information relevant to financial management, performance and sustainability;
- establish and review accounting and financial information systems, governance and internal controls to safeguard the Agency's resources;
- provide assurance to the Audit Committee and the CEO that:
 - financial reports (estimates and actuals) present fairly, and in accordance with applicable Australian Accounting Standards and the FMA, the Agency's financial position and operating results;
 - financial reports (estimates and actuals) are founded on a sound system of risk management and internal compliance and control that implements the policies adopted by the Agency; and
 - the Agency's systems and controls for financial management, performance and sustainability are operating efficiently and effectively in all material respects;

- provide strategic advice and options to support informed decision making and organisation strategy concerning the Agency's:
 - financial implications of, and risks associated with, current and projected services and assets; and
 - future financial sustainability;
- develop the Agency's financial management capability; and
- maintain a constructive relationship within the Agency, and with the Victorian Auditor-General's Office and other CFOs in related Ministerial portfolios.
- provide quality and timely information to the relevant Portfolio Department CFO to meet portfolio reporting obligations; and
- establish and maintain an effective relationship with the relevant Portfolio Department CFO to promote the purposes of the relevant Ministerial portfolio

Delegations

The Board, CEO and CFO may delegate, in writing, powers and responsibilities under these Directions and the Instructions, other than this power of delegation and the requirements under Directions 5.1.4, 5.2.2 and 5.2.3. Where a delegation is made the Board, CEO or CFO must:

- retain accountability for the requirement;
- oversee the relevant actions of their delegates;
- ensure that the delegation is appropriate for the efficient and effective conduct of the business of the Agency;
- ensure that the delegation is assigned to a position and that position is appropriate in relation to the powers and responsibilities being delegated;
- keep a record of all delegations made under this Direction; and
- ensure that delegations are kept current and appropriate and regularly reviewed and updated as required.

KEY GOVERNANCE OBLIGATIONS FOR THE BOARD

Several of the Standing Directions cover matters relating to governance. Key financial governance responsibilities of the Board under the directions are:

Effective financial governance

The Board must establish and maintain effective financial governance that includes:

- an appropriate internal management structure and oversight arrangements for planning, managing and overseeing the financial operations, risks and opportunities of their Agency to achieve performance and compliance;
- appropriate levels of resourcing and capability (including succession planning) to deliver their Agency's financial management, performance and sustainability obligations;
- clear roles, responsibilities, accountabilities and delegations that are documented and communicated;
- the development and implementation of policies and procedures to support the internal control system, in a way that is consistent with, and appropriate for, the sound financial management of their Agency's business operations;
- the effective management and oversight of the Agency's financial management activities that are undertaken externally, including shared services arrangements and outsourcing to private sector providers;
- effective relationships between stakeholders, committees of the Board and management;
- cooperation with external parties, including other Agencies, to achieve common objectives; and
- consideration of the effect of compliance burdens when developing and imposing requirements.;
- the Board must formally review the Audit Committee's performance and membership at least once every three years

Audit Committee

The Board must establish an Audit Committee to:

- independently review and assess the effectiveness of the Agency's systems and controls for financial management, performance and sustainability, including risk management;
- oversee the internal audit function under Direction 3.2.2, including to:
 - review and approve the internal audit charter;
 - review and approve the strategic internal audit plan prepared under Direction 3.2.2.2(b);
 - review and approve the annual audit work program prepared under Direction 3.2.2.2(c);
 - review the effectiveness and efficiency of the function;
 - advise the agency on the appointment and performance of the internal auditors; and
 - meet privately with internal auditors if necessary;
- review annual financial statements and make a recommendation to the Board as to whether to authorise the statements before they are released to Parliament;
- review information in the report of operations on financial management, performance and sustainability before it is released to Parliament;
- review and monitor compliance with the FMA, these Directions and the Instructions, and advise the Board on the level of compliance attained;³⁶
- review and monitor remedial actions taken to address Compliance Deficiencies;
- maintain effective communication with external auditors (including the Auditor-General and the Auditor-General's duly appointed agents and representatives), including by:
 - understanding the external audit strategy and internal audit activities;
 - considering the external auditor's views on any issues, including accounting issues that may impact on the financial statements, financial management compliance issues and other relevant risks impacting the Agency's finances;
 - considering external audit outcomes, including financial and performance audits;
 - providing a standing invitation to the external auditor to attend Audit Committee meetings; and
 - meeting privately at least once each year to ensure frank and open communication;

- consider recommendations made by internal and external auditors relating to or impacting on financial management, performance and sustainability and the actions to be taken by the Agency to resolve issues raised; and
- regularly review implementation of actions in response to internal or external audits, including remedial actions to mitigate future instances of non-compliance.

Audit Committee charter, skills and independence

The Audit Committee must:

- report to the Board;
- have an Audit Committee charter approved by the Board and reviewed and re-approved by the Board at least once every three years;
- be constituted by members with appropriate skills and experience to discharge the Audit Committee's responsibilities, with at least one member having appropriate expertise in financial accounting or auditing;
- exercise independent judgement and be objective in its deliberations, decisions and advice;
- have access to the Agency's CEO, CFO, internal auditors and external auditor in carrying out the Committee's responsibilities;
- be independent, with:
 - at least three members, the majority being independent members (where the Board is a statutory board, at least three members must be non-executive directors of the board);
 - an independent member as Chair (this must not be the Chair of the Board);
 - self-assess its performance annually and report this assessment to the Board; and
- not include the CEO, CFO, or the internal auditors as members:

Internal Audit function

The Board must establish and maintain, and may dismiss, the internal audit function which may be sourced internally or externally.

The Board must ensure that the internal audit function:

- is independent of management;
- has suitably experienced and qualified internal auditors;

- has access to the Board, Audit Committee, CEO and CFO, and has sufficient information, to enable it to perform its function; and
- is subject to a protocol to manage conflicts of interest for internal auditors.

Financial authorisations

The Board must establish and maintain authorisations covering the creation of financial liabilities and obligations (including contingent liabilities and obligations).

The Board must ensure that their Agency's financial authorisations are:

- given a financial amount limit;
- appropriate for the efficient and effective conduct of the business of the Agency;
- assigned to a specific position and that position is appropriate in relation to the amount being authorised;
- given so as to cease immediately upon a substantial material change in the duties of the position;
- given to employees;
- kept current and appropriate and regularly reviewed and updated as required; and comprehensively maintained in a central record.

Fraud, Corruption and Other Losses policy

The Board must take all reasonable steps to minimise and manage the risk of fraud, corruption and other losses, and establish a Fraud, Corruption and Other Losses prevention and management policy that is implemented across the Institute.

Risk management framework and processes

The Board must ensure that the Agency applies the [Victorian Government Risk Management Framework](#).

Treasury and investment risk management

The Board must establish and maintain policies and procedures to identify, assess, monitor, report on and mitigate its treasury and investment risks. These policies and procedures must address, at a minimum:

- interest rate risk;

- liquidity risk;
- foreign exchange risk;
- counterparty risk;
- commodity price risk;
- credit risk;
- treasury operational risk; and
- investment risk.

Borrowings, investments and financial arrangements

The Board must ensure that all borrowings, investments and financial arrangements are transacted with a financial institution that:

- is a State owned entity; or
- has a credit rating, assigned by a reputable rating agency, that is the same as or better than the rating assigned by the same agency to the State of Victoria.

This does not apply where:

- the investment is cash on hand in a transactional bank account with an Authorised Deposit-Taking Institution;
 - an Agency is operating a bank overdraft as part of its normal transactional banking operations;
 - amounts invested by an Agency with an Authorised Deposit-Taking Institution, do not in aggregate exceed \$2 million, excluding cash on hand in a transactional bank account;
 - the investment is money, other than money held on trust for the State or a public body, invested pursuant to a statutory function to hold it on trust for a known beneficiary;
 - the financial arrangement is a foreign currency hedging transaction of less than \$1 million undertaken with an Authorised Deposit-Taking Institution; or
 - the Treasurer has provided a written statement under Direction 1.5(b).
- The Board must ensure the Agency checks the credit rating of financial institutions before transacting; and ensure the Agency reports all borrowings, investments or financial arrangements outside of TCV and VFMC to the Portfolio Department CFO annually.

Financial arrangements – foreign exchange risk

Where a transaction required to hedge an exposure is:

- greater than \$1 million, the transaction must be undertaken with Treasury Corporation of Victoria; and
- less than \$1 million, and the Board considers the transaction to be material to the Agency, the transaction must be fully hedged with Treasury Corporation of Victoria or an Authorised Deposit-Taking Institution.

This does not apply where the relevant funds in relation to the foreign currency exposures incurred by the Agency are managed by Victorian Funds Management Corporation (VFMC), or by VFMC acting as trustee of VFMC Trusts on behalf of an Agency; or the Treasurer has provided a written statement under Direction 1.5(b).

Asset management accountability

The Board must ensure that the Agency applies the Victorian Government's [Asset Management Accountability Framework](#).

Financial management compliance framework

The Board must establish a framework for financial management compliance to ensure compliance with:

- the FMA, these Directions and the Instructions;
- applicable Commonwealth and State laws relating to financial management; and
- applicable industry codes and standards relating to financial management.

Annual assessment of financial management compliance 5.1.2

The Board must conduct an annual assessment of compliance with all applicable requirements in the FMA, these Directions and the Instructions.

The Audit Committee must review the assessment.

Detailed periodic review of financial management compliance

The Board must ensure that the internal audit function conducts a detailed review of the Agency's compliance with all requirements in the FMA, these Directions and the Instructions over the period specified in the Directions.

The period of review must be the same as the period of the strategic internal audit plan.

A plan for the review must be included in the strategic internal audit plan.

Financial management compliance attestation

The Board, or a member of the Board, must, in the Agencies' Annual Report, in relation to the relevant financial year, attest to compliance with applicable requirements in the FMA, these Directions and the Instructions, and disclose all Material Compliance Deficiencies.

The compliance attestation must relate to compliance for the entire period of the relevant financial year.

The Audit Committee must review the attestation.

The Department of Treasury & Finance provides a **Financial Management Compliance Framework Certification Checklist** which contains the mandatory requirements of the Directions and guides Institutes through the certification process.

Department of Treasury and Finance advises that the internal review process is expected to take place throughout the year, with a compliance assessment to be undertaken in June-July. Endorsement by the Board or Audit Committee on completion of the checklist should take place in July-August, and submission of compliance status made to Department of Treasury and Finance in August-September. The details of this are outlined in the Certification Checklist for 2014 provided at:

Attachment 1: [Financial Management Compliance Certification Checklist 2016-17](#) also available on the [DTF Website](#)

Relationship with Compliance Plan Required by the Strategic Planning Guidelines - TAFE Institutes

In accordance with the Strategic Planning Guidelines TAFE Institutes, Guideline 9, Compliance Plan:

The Board must prepare and keep up to date a compliance plan, and set out adequate measures that the Board is to apply to ensure compliance with

- *the Act; and*
- *Ministerial and Government directions and guidelines under the Act and other legislation, laws and conventions; and*
- *any other matters which the Minister directs must be included in the compliance plan.*

A number of TAFE Institutes have implemented the Advent ManageR Compliance Management Software System developed in accordance with the Australian Standard AS3806 Compliance Programs. This system is maintained and updated by a third party

service provider and includes a compliance register for the current Financial Management Compliance Framework Certification Checklist, as well as a number of other registers relevant to the requirements of Guideline 9. The system enables compliance reporting to the Board or relevant committee and is capable of storing evidence of compliance for audit purposes.

Acknowledgements

Website of the Victorian Public Sector Commissioner
The Victorian Department of Treasury and Finance

Attachments

Attachment 1: Financial Management Compliance Certification Checklist 2016-17