

# School and School Boarding Premises Financial Capability Assessment

# Guideline

About the Guideline

This Guideline should be read in conjunction with other associated VRQA documents, particularly:

* [*Guidelines to the Minimum Standards and Requirements for School Registration*](https://www.vrqa.vic.gov.au/Documents/schoolsgdlines.docx)
* [*Guidelines to the Minimum Standards and Requirements for School Boarding Premises Registration*](https://www.vrqa.vic.gov.au/Documents/boardingpremisesguidelines.docx).

**Commencement**

This Guideline is effective from 1 January 2022.

**Who does it apply to?**

This Guideline applies to all non-government schools and non-government school boarding premises, except Catholic schools that are part of the Catholic Education Commission of Victoria Limited (CECV) system of schools and associated school boarding premises.

It does not apply to government schools.

**Authority**

This Guideline is issued pursuant to section 4.3.8A(1) and section 4.3.8Z(1) of the *Education and Training Reform Act 2006* (the Act).

**Summary of relevant legislation for non-government schools and school boarding premises**

Under the Act the VRQA may monitor and assess the financial capabilities of non-government schools and school boarding premises and take action to protect the interests of students as consumers if issues arise. The VRQA may also assess the financial capability of a registered school or school boarding premises as part of a cyclical or non-cyclical review if it considers there are risks relating to governance, compliance with the not-for-profit requirements for schools, and/or financial management. These provisions do not apply to government schools as they have to comply with different reporting and governance requirements imposed by the Department of Education and Training. As a review body appointed by the VRQA under section 4.3.2(c) of the Act, CECV reviews and monitors compliance of Catholic schools and school boarding premises within its system with the prescribed minimum standards and other requirements for school and school boarding premises registration. Therefore, the provisions of this Guideline do not apply to Catholic schools and school boarding premises under CECV's authority as the VRQA does not routinely conduct reviews or financial capability assessments directly where a review body arrangement is in place. Pursuant to the Act and the Memorandum of Understanding between CECV and VRQA, the VRQA may directly review and conduct a financial capability assessment of a Catholic school or school boarding premises at the request of the CECV or where the VRQA considers it necessary.

Sections 4.3.1A and 4.3.8E of the Act empowers the VRQA to:

* conduct periodic financial capability assessments of non-government schools and school boarding premises and take action to protect the interests of students attending at-risk schools and school boarding premises
* suspend or cancel the registration of schools and school boarding premises which close or cease to operate, or in circumstances where the proprietor becomes bankrupt or insolvent
* conduct a targeted review of the financial capability of a non-government school or school boarding premises where the VRQA has concerns about financial viability, governance, financial management or compliance with the not-for-profit requirements.

Powers include being able to:

* report to parents or require the school or school boarding premises to report to parents, of students attending the school or school boarding premises
* impose a condition that the school or school boarding premises establish a protection scheme for student fees either in accordance with any Ministerial Order or by agreement through an enforceable undertaking
* impose conditions on registration
* suspend or cancel registration
* prohibit the school from enrolling new students or school boarding premises from accepting any new boarders.

The Act outlines the requirements for the VRQA to provide notice to an affected registered school or school boarding premises about any proposed action and provide the school or school boarding premises with an opportunity to make written submissions as to why proposed action should not be taken.

**Relationship to legislation and Guidelines to the Minimum Standards and Requirements for School Registration**

The applicable legislation for school registration is the Act and the Education and Training Reform Regulations 2017 (the ETR Regulations). The legislation provides standards and principles on which school education in Victoria is to be based, including requirements regarding the governance of a school. In particular, the governance of a school must be structured to enable the effective development of the strategic direction of the school, effective management of the school’s finances and fulfilment of its legal obligations (*Minimum standards for registration of schools*, ETR Regulations, Schedule 4).

The provisions in relation to school financial capability assessment strengthen these requirements and provide greater protection of the interests of students as consumers. In practice, the VRQA has in place a number of regulatory tools to monitor the financial capability of schools.

Further details about the minimum standards and other requirements can be found in the VRQA *Guidelines to the Minimum Standards and Requirements for School Registration*, published on the VRQA website ([www.vrqa.vic.gov.au](http://www.vrqa.vic.gov.au)).

**Relationship to legislation and Guidelines to the Minimum Standards and Requirements for School Boarding Premises Registration**

Similar governance and financial management requirements to the above apply to providers of school boarding premises (*Minimum standards for registration of school boarding premises*, ETR Regulations, Schedule 4A).

Further details about the minimum standards and other requirements for school boarding premises can be found in the VRQA *Guidelines to the Minimum Standards and Requirements for School Boarding Premises Registration*, published on the VRQA website ([www.vrqa.vic.gov.au](http://www.vrqa.vic.gov.au)).

**The VRQA’s approach to regulation**

The VRQA adopts a risk-based approach to regulation. Consistent with this approach, the VRQA will:

* assess the risks of non-compliance with minimum standards
* improve its capability to anticipate and detect early warning signs that a provider’s performance is declining or failing to improve
* intervene consistently, using graduated responses to address non-performance, preferably through early interventions
* minimise the compliance burden for particular standards and providers where they demonstrate ongoing and consistent high-quality performance.

The VRQA has also adopted the following principles of good regulatory practice to ensure that its processes and decisions are:

* **transparent** — relevant information, other than private and commercial-in-confidence information, is available to providers
* **proportional**— processes, incentives and penalties are proportional to the consequences of a particular risk
* **consistent and predictable**— processes and decisions about any particular matter should be sufficiently consistent as to be predictable to providers
* **sector neutral**— all providers should be held to the same standards, within and across sectors, while respecting the diversity of providers and not taking a one-size-fits-all approach
* **efficient and agile** — processes deliver maximum public benefit for minimum resources, allow for flexible, case-specific responses, and result in prompt decisions.

**Information sharing arrangements**

Under section 4.9.4 of the Act, the VRQA may disclose information with a range of organisations, including the Victorian Department of Education and Training, Commonwealth Department of Education, Skills and Employment, Australian Securities and Investment Commission and Australian Charities and Not-for-profits Commission. The VRQA can also ask for information from these organisations to assist the VRQA in determining whether or not a school complies with the *Guidelines to the Minimum Standards and Requirements for School Registration*. Where the proprietor of a school is also registered to operate school boarding premises, the VRQA can ask for information from these organisations to assist the VRQA in determining whether or not a school boarding premises or the services provided at the premises complies with *Guidelines to the Minimum Standards and Requirements for School Boarding Premises Registration.* If a provider is registered only in respect of a school boarding premises (i.e. as a third party not a school) the VRQA may also request information under section 4.9.4 of the Act from a wide range of government bodies.

The VRQA has engaged a panel of providers to undertake financial assessments on its behalf. Information shared under these arrangements is governed by confidentiality agreements.

The VRQA and the recipient entities are subject to the *Privacy and Data Protection Act 2014* (Vic).

**Policy intent**

The intent of the relevant legislation is to strengthen the governance and financial management of registered schools and registered school boarding premises and reduce adverse outcomes for communities by enhancing the powers of the VRQA to protect the interests of students and parents as consumers.

**Evidence guide**

Consumer protection is strengthened when a school or school boarding premises provider has in place strong governance and financial management, underpinned by arrangements where the governing body prepares and updates its business plan and annual budget, and monitors its financial position. Such monitoring should cover income and expenditure, balance sheet, cash flow and debtors and creditors, to be considered at each meeting of the governing body or relevant school or school boarding premises provider subcommittee.

**Not all schools or school boarding premises providers will need to provide information about their financial capabilities**

The VRQA will contact a school or school boarding premises provider individually and will request information in writing. The following is an indicative list of information which might be requested. Wherever possible, the VRQA will ask for information that is, or should be, readily available in a school or school boarding premises provider.

**Requirements for existing registered schools and school boarding premises**

Schools and school boarding premises scheduled for a review in any year will be asked to complete a Self-assessment Tool. This tool is available on the VRQA website ([www.vrqa.vic.gov.au](http://www.vrqa.vic.gov.au)). The tool includes an opportunity for schools to provide responses regarding their financial management.

The VRQA will ensure reviews of schools that own school boarding premises are conducted at the same time.

If the VRQA requires further information about a school’s financial capabilities, including regarding any registered school boarding premises conducted by or on behalf of the registered school, and a review is not already open, the VRQA will open a specific or general review of the school, consistent with the VRQA’s Provider Risk Framework available on the VRQA website ([www.vrqa.vic.gov.au](http://www.vrqa.vic.gov.au)). More details about these processes are set out below.

**Graduated approach**

Depending on the level of assessed risk, the VRQA will adopt a graduated approach as described below. The VRQA uses a graduated approach to financial capability assessment based on the principles of risk-based and proportionate regulation. The graduated approach takes account of a school’s governance and financial history, circumstances, context and associated risks. Under this model, where the VRQA has identified higher risks of financial failure, or potential non-compliance with the governance minimum standard and/or not-for-profit requirements, or a school or school boarding premises provider has a complex legal or governance structure, or the proprietor conducts a registered school and one or more registered school boarding premises, the VRQA may require additional evidence for assessment or use a different assessment method. The graduated approach can be non-sequential, and a school or school boarding premises provider may be subject to any or all of the assessment approaches.

**Approach 1** — Examples of information requested at this stage could include:

* the most recent audited financial statements (income and expenditure, balance sheet, changes in equity and cash flows)
* details of any related party transactions
* the most recent unaudited financial statements (if these are available for a more recent financial year period)
* the most recent month end financial position and governance documents such as constitution or rules, delegations, governance charter and the like.

The actual evidence sought will depend on the issues identified by the VRQA as requiring further clarification.

*Note:* the VRQA may ask theCommonwealth Department of Education, Skills and Employment for a copy of the most recent Financial Questionnaire analysis report of the school or school boarding premises provider.

**Approach 2** — Examples of the more detailed information requested at this stage could include:

* monthly cash flows and income and expenditure statements for the preceding 12 months and projections for each of the next 12 months
* minutes of governing body/finance subcommittee meetings for the preceding 12 months
* annual enrolment and cash flow projections for each of the next five years might also be requested.

The actual evidence sought will depend on the issues identified by the VRQA as requiring further clarification.

**Approach 3** — Involves requiring a school or school boarding premises which the VRQA has assessed as at higher risk of financial failure or non-compliance with the governance minimum standard or not-for-profit requirements, **or** is one with complex governance arrangements such as the school’s legal entity also having responsibility for a combination of early learning centre, registered training organisation and/or school boarding premises, to complete a more detailed financial questionnaire (Schedule). The Schedule is available on the VRQA website. Completing this Schedule involves compiling existing documents, completing associated paperwork, and obtaining internal review and approval (sign-off by the Chair of the governing body). The VRQA would then either undertake a financial assessment or commission one of its panel contractors to prepare a financial capability assessment report. This would involve a desktop assessment. The VRQA will notify the school or school boarding premises provider and proprietor in writing if a desktop review will take place and the scope of the review. The school or school boarding premises provider then has an opportunity to provide ‘management’ comments before the report is finalised and provided by the panel contractor to the VRQA for review.

**Approach 4** — A school or school boarding premises at the highest risk of financial failure or non-compliance with the governance minimum standards and/or not-for-profit requirements, will be required to complete a more detailed financial questionnaire (Schedule) and may be subject to further investigative review with a site visit. The site visit consists of an onsite assessment of a school or school boarding premises financial capability conducted by the VRQA or one of its panel contractors. They may be accompanied by VRQA authorised officers. The onsite assessment may consist of interviews with key staff and review and provision of additional documents. Schools or school boarding premises may also be required to provide additional financial information by way of a production notice issued by the VRQA.

**Administrative arrangements**

The VRQA may become aware of concerns about the financial capability of a school or school boarding premises provider as a result of information provided by either the Victorian Department of Education and Training, the Commonwealth Department of Education, Skills and Employment, other agencies such as Australian Securities and Investment Commission or Australian Charities and Not-for-profits Commission, a parent or staff member, or through an open review.

Before seeking information from a school or school boarding premises provider about its financial capability, the VRQA is required to open either a specific or a general review, if one is not already open. A review typically involves the following steps:

1. The VRQA notifies the school or school boarding premises provider that it is opening a review and provides details of the reason and scope of the review, whether there will be a site visit, timelines for submitting information and other procedural information.
2. The VRQA reviews the submitted information and/or the report of the site visit concerning findings of non-compliance with registration requirements and provides the school or school boarding premises provider with advice as to the proposed actions to address non-compliance, the grounds for the proposed action, an opportunity to make a submission (where applicable) and the proposed next steps in the process, including timelines. The school or school boarding premises provider is also invited to meet with the VRQA to discuss the finding of the review. In some situations, the school or school boarding premises provider may also make a submission to the Minister for Education following it being notified by VRQA of proposed action which may include one or more of those listed in the below paragraph.
3. The VRQA reviews the school or school boarding premises provider’s submission and provides the school or school boarding premises provider with a notice of decision, the reasons for the decision and the next steps in the process, including timelines. Again, the school or school boarding premises provider is invited to meet with the VRQA to discuss the decision. Where a decision is made to cancel or suspend registration, the school or school boarding premises provider is also advised of its right to apply to the Victorian Civil and Administrative Tribunal for a review of the decision.

The VRQA may take any of the following actions following a review:

* Impose conditions on the registration of a school or school boarding premises provider for the whole or any part of the period of registration.
* Impose interim conditions on a school or school boarding premises provider prior to a review being completed.
* Prohibit the school from enrolling any new students or prohibit the school boarding premises provider from accepting any new boarders.
* Require the school or the school boarding premises provider to report any non-compliance to parents.
* If a school or school boarding premises provider is assessed by the VRQA as being financially unviable or at risk of becoming financially unviable, the VRQA may:
* report to parents of students at the school or school boarding premises on the result of the financial assessment, including the areas in which the school or school boarding premises provider is no longer financially viable; and/or
* in accordance with any Ministerial Order, impose a condition of registration on the school or school boarding premises provider to put in place a protection scheme for fees that have been paid or are to be paid to the school or school boarding premises provider.
* Accept an enforceable undertaking from a school or school boarding premises provider that is the subject of a review, which might include setting up a trust fund for the protection of prepaid student fees. For more information see the VRQA website ([www.vrqa.vic.gov.au](http://www.vrqa.vic.gov.au)).
* Suspend or cancel the registration of the school or school boarding premises.

The VRQA may substitute an action (other than the cancellation of registration) with another action that is less onerous if it considers that the school or school boarding premises provider has partially complied with the requirements of the original action and the substituted action is sufficient to ensure that the school will comply with the prescribed VRQA *Guidelines to the Minimum Standards and Requirements for School Registration* or to ensure that the school boarding premises provider will comply with the prescribed VRQA *Guidelines to the Minimum Standards and Requirements for School Boarding Premises Registration*. Such actions could include a school or school boarding premises provider providing periodic financial reports or other information to the VRQA.

**Information and capacity building**

The VRQA provides information about financial management on its website. Each year, the VRQA also conducts information sessions for independent schools scheduled for a school review, and, if appropriate, school boarding premises review and a separate briefing session specifically on financial management. Information about these sessions is available through VRQA *e-news* and on the VRQA website.

Independent school principals and governing bodies are also encouraged to participate in relevant professional development programs conducted by Independent Schools Victoria.

**Program evaluation**

It is anticipated that a formal evaluation of the arrangements for financial capability assessments will be undertaken again in 2024.

**Further information**

Further information about the operation of this Guideline is available on the VRQA website. If you have any questions, you can email or telephone the VRQA.

**The School and School Boarding Premises Financial Capability Assessment Guideline was approved by the VRQA Board on 5 August 2021**