Globethics Repository



Code of Conduct for Board Members

This page was generated automatically upon download from the Globethics Repository. More information on Globethics see https://www.globethics.net. Data and content policy of Globethics Repository see https://repository.globethics.net/pages/policy.

Item Type	Preprint
Authors	New Zealand Superannuation Fund
Rights	With permission of the license/copyright holder
Download date	2026-11-19 22:37:13
Link to Item	http://hdl.handle.net/20.500.12424/219726

NEW ZEALAND SUPERANNUATION FUND

Code of Conduct for Board Members

Document Owner:
Board Secretary

Contributors:
Chief Executive Officer
General Manager Finance
General Manager Operations

Document Handling:
The document is classified for **Internal Use Only** and must be treated accordingly.
If required, the document may be forwarded to external parties.

Document History:

Version	Date	Author/Editor	Changes/Modifications	Status
1.0	08-May-06	Mark Thomas	Original Version	Final
2.0	13-August-07	Mark Thomas	Revised Style & Content	WIP
3.0	10 December - 07	Sarah Owen	Revised	Approved by Board
4.0	17 March 2008	Sarah Owen	Amended to refer to Securities Market Procedure	Approved by Board
4.1	22 June 2009	Sarah Owen	Amended to update reference to Securities Trading Procedure	Approved by Board

Contents

1 Objective 3
2 Professional conduct and duties of Members 3
3 Development of a Code of Conduct 4
4 Complying with the law 4
5 Conflict of Interest 4
6 Confidential information 7
7 Corporate opportunities 8
8 Disclosure of interests 8
9 Political participation 8
10 Credit cards 9
11 Customer Loyalty Programmes 9
12 Benefits/Hospitality/Gifts/Gratuities 9
13 Observance of this Code 10
Acknowledgement 11
14 Control page 11

1 Objective

1.1 The Code of Conduct (Code) of the Guardians of New Zealand Superannuation (Guardians) sets out the standards for appropriate ethical and professional conduct for members of the Board of the Guardians (Members).

1.2 The Chairperson of the Board has responsibility for monitoring compliance with this Code.

1.3 The Code is underpinned by and is consistent with the Crown Entities Act 2004.

2 Professional conduct and duties of Members

2.1 The key duties that Members should be aware of are contained in sections 49 to 57 of the Crown Entities Act. A copy of these sections is *attached* to this Code as Appendix 1. The Board has collective duties and each Member has individual duties.

2.2 The Members will also adhere to the guiding principles of Fairness, Impartiality, Responsibility and Trust worthiness articulated in the *Standards of Integrity & Conduct* (*attached* to this Code as Appendix 2) promulgated under section 57A of the State Services Act 1988 and effective 30 November 2007.

Collective Duties of Board

2.3 The Board must ensure that the Guardians:

- Act in a manner consistent with its objectives, functions and Statement of Intent.
- Perform its functions efficiently, effectively and consistently with the spirit of service to the public.
- Operate in a financially responsible manner
- Comply with the legal requirements regarding subsidiaries and other entities.

Individual Duties of Each Member

2.4 Each Member must:

- Not contravene or cause the contravention of the Crown Entities Act or New Zealand Superannuation and Retirement Income Act 2001 (NZSF Act).
- Act with honesty and integrity.
- Act in good faith and not pursue his or her own interests at the expense of the Guardians interests.
- Exercise the care, diligence and skill that a reasonable person would exercise in the same circumstances taking into account the nature of the Guardians, the nature of the action, the position of the member and the nature of his or her responsibilities.

- Not disclose information obtained in his or her capacity as a member. There are limited exceptions to this set out below.

2.5 The implications of non compliance with collective or individual duties are set out in the Crown Entities Act.

3 Development of a Code of Conduct

3.1 It is acknowledged that the selection criteria used by the nominating committee for the Guardians includes the desirability of having Board Members with relevant investment skills and work experience to assist the organisation to achieve its objectives. It is recognised therefore that it is likely the individuals who are appointed to the Board will have obligations to other entities as directors, officers or professional members. It is also recognised that they may have private business or investment interests which could potentially conflict with their duties on the Board. This code has been created to provide guidance in managing these actual or perceived conflicts of interest.

4 Complying with the law

4.1 Members must comply with the laws relating to the performance of their duties, including in particular the New Zealand Superannuation and Retirement Income Act 2001 and the Crown Entities Act 2004.

5 Conflict of Interest

5.1 Situations may arise from time to time where conflicts of interest may exist. This can arise where Members are in a position to take any action that is, or reasonably appears to be, influenced by considerations other than the best interests of the Guardians and Fund. This may exist whether or not the Board member stands to derive a financial benefit. The "interest" concerned could be financial or non-financial.

5.2 For example, a conflict of interest could arise if a Member, or a close family member:

(a) has duties to an entity other than the Guardians (e.g. as a director, board member or trustee);

(b) has invested in, or has a financial interest in, a company or other entity that has dealings with the Guardians, or in which the Guardians have invested part of the Fund; or

(c) is the beneficiary of a trust which has a financial interest in an entity that has dealings with the Guardians, or in which the Guardians have invested part of the Fund.

5.3 Impartiality and transparency are essential to maintaining the integrity of the Guardians, and Members should err on the side of caution when deciding whether an involvement or interest gives rise to an interest that needs to be managed. Members need to consider whether there is a reasonable risk that a situation could

undermine public trust and confidence in a Member or the Guardians as a whole. Perceptions are particularly important in the public sector, and it is important that Members not only act honestly and fairly, but are also clearly seen to be doing so.

5.4 The Crown Entities Act does not provide any guidance on the extent to which Members should make inquiry as to interests held by close family members, trusts or others which may be of benefit to Members. This would be considered on a case by case basis having regard to the circumstances, how they might be perceived (including in hindsight), and the desirability of being seen to have acted appropriately.

When interests need to be disclosed

5.5 For the purpose of the sections below, a "matter" means anything done or not done by the Guardians in performance of its functions or exercise of its powers. It also includes an arrangement, agreement or contract entered into or proposed to be entered into by the Guardians.

5.6 A Member is deemed to have an interest in a matter in which the Guardians or the Fund are, or intend to become, a party if the Member:

(a) may derive a financial benefit from the matter;

(b) is the spouse, civil union partner, de facto partner, child or parent of a person who may derive a financial benefit from the matter;

(c) may have a financial interest in a person to whom the matter relates;

(d) is a partner, director, officer, board member or trustee of a person who may have a financial interest in a person to whom the matter relates; or

(e) is otherwise directly or indirectly interested in the matter.

5.7 A Member is not interested in a matter:

(a) only because he or she is a member or an officer of a wholly-owned subsidiary of the Guardians, or of a subsidiary that is owned by the Guardians together with another Crown entity or entities; or

(b) because he or she receives an indemnity, insurance cover, remuneration, or other benefits that are authorised by the Crown Entities Act 2004 (or any other Act); or

(c) if his or her interest is so remote or insignificant that it cannot reasonably be regarded as to influence him or her in carrying out his or her responsibilities under the Crown Entities Act 2004 (or any other Act).

5.8 In relation to financial interests, the exception set out in paragraph 5.7(c) provides little scope for having more than a nominal financial interest in a matter.

Disclosure of interests

5.9 If a Member is interested in a matter, they must disclose the nature of the interest, and the monetary value of the interest (if the monetary value of the interest cannot be quantified, a Member must disclose the nature and extent of the interest) in the Interests Register, and to:

(a) the Chairperson or, if the Chairperson is unavailable or interested, the Deputy or temporary Chairperson; or

(b) the responsible Minister, if the persons in 5.9(a) are unavailable, or interested,

as soon as practicable after the Member becomes aware that he or she is interested.

5.10 A Member may make a standing disclosure (ie a disclosure with ongoing effect). A standing disclosure will continue in effect until the nature of the interest materially alters or the extent of the interest materially increases.

Consequences of an interest

5.11 If a Member is interested in a matter relating to the Guardians, he or she must not:

(a) vote or participate in any discussion or decision of the Board or any committee relating to the matter or otherwise participate in any activity of the Guardians in relation to the matter;

(b) sign any document relating to entry into a transaction or initiation of the matter; and

(c) be regarded for the purpose of forming a quorum for the part of any meeting of the Board or any committee of the Board during which a discussion or decision relating to the matter occurs or is made.

Consequences of failing to disclose an interest

5.12 The Board must notify the responsible Minister of any failure by a Member to disclose an interest, or any failure to comply with clause 5.9 above, and of the acts affected, as soon as practicable after becoming aware of the failure.

5.13 Failure by a Member to disclose an interest, or failure to comply with clause 5.9, does not affect the validity of an act or a matter (although this does not limit the right of any person to apply for judicial review).

5.14 If an act is undertaken in breach of clause 5.9, the Guardians may avoid that act, if:

(a) less than three months have passed since the Act was disclosed to the responsible Minster; and

(b) the Guardians have not received fair value in respect of the act.

Circumstances when a Member can act despite being interested

5.15 To enable a Member to undertake an act otherwise prohibited by clause 5.9, the Chairperson must give prior written notice to the Board that he or she considers that it is in the public interest for that Member to act, despite being interested. It would be unusual for these circumstances to apply, as it will be rarely in the public interest for an interested Member to act, and there are other options available (such as the formation of a subcommittee excluding the interested Member).

5.16 If there is no Chairperson of the Board, or he or she is unavailable or interested, the deputy or temporary chairperson of the Board may give permission. If the deputy or temporary chairperson is also unavailable or interested, the responsible Minister may give permission.

5.17 The permission may be subject to conditions, and may be amended or revoked in the same way it was given.

5.18 The interest to which a permission relates must be disclosed in the Board of the Guardians' annual report, together with a statement of who gave the permission, and any conditions or amendments to, or revocation of, the permission.

6 Confidential information

6.1 In the course of discharging their responsibilities to the Guardians, Members will have access to certain confidential information on the investment activities of the Fund. All confidential information concerning the investments, or the investment policies or plans, of the Guardians must be kept confidential and may not be disclosed, or made use of, or acted upon, except:

(a) in the performance of the Guardian's functions;

(b) as required or permitted by law; or

(c) in complying with the requirement to disclose interests;

(d) as agreed by the Board of the Guardians (if the disclosure, use or act will be unlikely to prejudice the Guardians).

7 Corporate opportunities

7.1 A Member may not:

(a) use confidential information for his or her personal gain or for the benefit of any other person; or

(b) buy or sell (or advise or encourage anyone else to buy or sell) a security or property when in possession of any information through his or her position which may affect the value of that security or property; or,

(c) engage in front-running, or any other practice that seeks to benefit the Member or other persons through the Member's understanding of the investment activities of the Fund.

7.2 Members must be cognisant of their obligations under the Securities Markets Act 1988. Members are referred to the Securities Trading Procedure.

8 Disclosure of interests

8.1 As soon as an interest arises each Member must provide the Board Secretary and Chairperson/Deputy Chairperson/temporary chairperson as applicable (on a confidential basis) with details of both monetary and non-monetary interests that he or she has. Members will be reminded of this quarterly and asked to confirm their interests are up to date. This should include (but not be limited to):

(a) a statement of the securities or derivative instruments thereof, listed on recognised stock exchanges, in which the Member, or his or her spouse, civil union partner, de facto partner, child, parent, trust or related entities has or have a beneficial interest at that date, and the monetary value of those securities or derivative instruments.

(b) a transaction report, which lists the purchases and sales of securities which the Member, or his or her spouse, civil union partner, de facto partner, child, parent, trust or related entities has or have undertaken since the last report. This personal transaction report should include the name of the security and the date on which the trade was carried out and whether it was a purchase or sale.

8.2 If a Member has no interest that would require the provision of a Disclosure of Interest Form referred to in clause 8.1, then none is required. The Member should confirm this through an e-mail acknowledgment to the Chairperson/Deputy Chairperson/temporary chairperson (as applicable) and Board Secretary.

9 Political participation

9.1 A Member needs to ensure their participation in political matters does not bring them into conflict, or the appearance of conflict, with their role as a Member of the Guardians. It is important to maintain ministerial and public confidence in the actions

a Member takes in the administration of the Fund. Determining what is appropriate, in any particular case, will depend on the extent of participation and the nature of the issue in which a Member wishes to become involved.

10 Credit cards

10.1 Where a Member has been provided with a credit card issued by the Guardians, it is only to be used for expenses properly and reasonably incurred in fulfilling their duties as a Member of the Guardians. The Member will be responsible for completing a reconciliation of his or her expenses with the monthly statement for the credit card, and will provide receipts to the Guardians for each expense incurred.

10.2 Expenses charged against a company credit card are subject to the same approval criteria as if the expense were incurred by the Member as an individual and he or she was seeking reimbursement from the Guardians. Accordingly, where an expense has been incurred that, in the opinion of the Chairperson. Deputy Chairperson or temporary chairperson as applicable, is not an expense reasonably and properly incurred in fulfilling duties as a Member, the Member acknowledges personal responsibility for meeting that expense.

11 Customer Loyalty Programmes

11.1 Potential conflicts of interest can arise from personal membership of customer loyalty programmes. As a public entity, the Guardians must have the confidence of the public that public money is spent without regard to any personal interest and Members should ensure work-related purchasing decisions are kept separate from such schemes.

11.2 Airpoints accrued from flights may be collected by the Member travelling for their personal use. Members of the Guardians only have discretion to choose the airline by which they travel if the cost difference with alternative carriers is lower or immaterial.

12 Benefits/Hospitality/Gifts/Gratuities

12.1 Members will, from time to time, receive offers of hospitality and/or gifts from current or potential service providers. Members should use good business judgement and common sense to guide them in determining their response, and ensure that accepting such an offer would not bring suspicion on their objectivity or impartiality.

12.2 As a general guide, Members should not accept benefits, entertainment, gifts or favours which create or appear to create a favoured position for another organisation or person who either is or aspires to be a vendor or a supplier to the Guardians.

12.3 As a guiding principle, Members must observe the principles of fairness and impartiality in all aspects of their work. No person or organisation may be given preferential treatment in any way over any other individual or organisation. In addition, Members should avoid any situation that could directly or indirectly compromise the performance of their duties, or the standing of the organisation.

12.4 A Member must not abuse his or her position for personal gain. He or she must not solicit or accept gifts, rewards, or benefits which might compromise, or be seen to compromise, his or her integrity or that of the Guardians.

12.5 As a general rule, a Member should not accept a gift (whatever its nature or value) if the gift could be seen by others as either an inducement or a reward which might place the Member under an obligation to a third-party.

12.6 Where offers of gifts or inducements are made, they should be reported by the Member to the Chairperson or Board, who will determine the appropriate response. Any Member who accepts a gift should declare the gift to the Chairperson, Deputy Chairperson or temporary Chairperson as applicable for a decision on final disposal.

12.7 In order to avoid an actual or perceived issue relating to any influence regarding relationships, Members are required to:

(a) record any gift, of other than a nominal value, in the Gifts/Hospitality Register;

(b) not accept, at any time, any offers of cash, equity holdings, or other payments;

(c) record all offers of hospitality which have been accepted and where the estimated value is greater that NZ$50, or where Members have accepted hospitality below this value from a provider more than once in the previous three months:

(i) Where such hospitality occurs outside of New Zealand, Members should consider if the value is significant in local currency terms in determining if a declaration is necessary (the same amount in local currency have may a guideline here, e.g. US$50, €50, £50); and,

(ii) During a competitive tender situation, accepting hospitality is discouraged as it may compromise the perceived independence of the process. All hospitality must be declared in the register during a competitive tender process.

13 Observance of this Code

13.1 Members must observe the Code.

Acknowledgement

I acknowledge that I have read, understood and agree to observe the contents of this Code.

_____ X _____ Date: _____

Signature

14 Control page

Approved this day of

Author----------

Chairperson----------

Policy distributed to:

- The Board of the Guardians.

Appendix 1 of Code of Conduct - Crown Entities Act 2004, sections 49-57

Collective duties of board

49 Entity must act consistently with objectives, functions, statement of intent, and output agreement

The board of a statutory entity must ensure that the entity acts in a manner consistent with its objectives, functions, current statement of intent, and output agreement (if any) under Part 4.

50 Functions must be performed efficiently, effectively, and consistently with spirit of service to public

The board of a statutory entity must ensure that the statutory entity performs its functions efficiently and effectively and in a manner consistent with the spirit of service to the public.

51 Entity must operate in financially responsible manner

The board of a statutory entity must ensure that the entity operates in a financially responsible manner and, for this purpose, that it—

(a) prudently manages its assets and liabilities; and

(b) endeavours to ensure—

(i) its long-term financial viability; and

(ii) that it acts as a successful going concern.

52 Subsidiaries and other interests

The board of a statutory entity must ensure that the entity complies with sections 96 to 101.

Individual duties of members

53 Duty to comply with this Act and entity's Act

A member of a statutory entity must not contravene, or cause the contravention of, or agree to the entity contravening, this Act or the entity's Act.

54 Duty to act with honesty and integrity

A member of a statutory entity must, when acting as a member, act with honesty and integrity.

55 Duty to act in good faith and not at expense of entity's interests

A member of a statutory entity must, when acting as a member, act in good faith and not pursue his or her own interests at the expense of the entity's interests.

56 Duty to act with reasonable care, diligence, and skill

A member of a statutory entity must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation)—

(a) the nature of the statutory entity; and

(b) the nature of the action; and

(c) the position of the member and the nature of the responsibilities undertaken by him or her.

57 Duty not to disclose information

(1) A member of a statutory entity who has information in his or her capacity as a member that would not otherwise be available to him or her must not disclose that information to any person, or make use of, or act on, that information, except—

(a) in the performance of the entity's functions; or

(b) as required or permitted by law; or

(c) in accordance with subsection (2); or

(d) in complying with the requirements for members to disclose interests.

(2) A member may disclose, make use of, or act on the information if—

(a) the member is first authorised to do so by the board or, in the case of a corporation sole, by the responsible Minister; and

(b) the disclosure, use, or act in question will not, or will be unlikely to, prejudice the entity.

Appendix 2 of Code of Conduct - Standards of Integrity and Conduct Published June 2007

Attached