

NEW ZEALAND QUALIFICATIONS AUTHORITY

Review of Board Manual and Standing Orders

Report Prepared for the NZQA Board
by McKinlay Douglas Ltd
29 March 2001

[DRAFT BOARD MANUAL APPENDED AT END OF REPORT]

1.0 INTRODUCTION

- 1.1 NZQA commissioned McKinlay Douglas Ltd to undertake a review of the present Board Manual and Standing Orders, with the purpose of making recommendations on changes to the content and format of these key sources of Board procedure.
- 1.2 The review was foreshadowed in a paper from the Chief Executive to the December meeting of the Board. The work has taken place over February and March 2001.

2.0 PROJECT BRIEF

- 2.1 NZQA's primary objective for the review was to provide for the Board a revised Manual and Standing Orders that would better facilitate Board business and would be aligned with current corporate and public service good governance practice. To these ends the tasks for the review were to:
- a) clarify issues relating to Board and Committee procedures that have been raised within the Board, and recommend amendments to these where appropriate
 - b) improve the usefulness of the Board Manual and Standing Orders by bringing them up to date with current good practice, and by aligning them appropriately with guidelines from other sources
 - c) improve the 'useability' and accessibility of the Board Manual and Standing Orders for Board members by revising overall presentation, including the possibility of a short portable version for members.
- 2.2 The present review is an opportunity to put the Board Manual and Standing Orders on a sound up-to-date footing, as a step in its own right. In the course of the work a number of possibilities for taking fuller account of the strategic roles and objectives of the Board were identified, as were areas where the Board might

wish to consider new policies. These are outlined in section 8 of this report, with a recommendation in section 10.

3.0 EXPLANATION OF APPROACH

3.1 Fundamental to the review was recognition that different corporate organisations need rules to suit their own regimes, values and operating environments. There is no single approach or code for boards, in either the public or private sectors, on standards for the conduct of their business and on processes and procedures to govern their work. Within the constraints of statutory and other legal provisions and any requirements of Government, and mindful of any guidelines provided for public sector agencies, the NZQA board is able to determine its own.

3.2 The review drew on four main sources of information and guidance:

- first, a number of issues NZQA has itself identified from working with the present Manual and Standing Orders, suggesting scope for improvements by adding new provisions, or amending existing provisions to clarify or strengthen them
- secondly, the large body of literature available to guide boards in the development of their boardroom practice. The changes proposed to the revised NZQA Manual reflect a synthesised view of good practice drawn from a wide range of these sources and from examples of guides and manuals in use in New Zealand and elsewhere
- thirdly, developments in private and public sector governance in an 'enterprise' environment where governance is seen as a means of adding value to the organisation
- fourthly, information provided by contacts in government agencies to supplement, update and fill in documented sources.

3.3 We have provided NZQA with a bibliography of key sources on governance and boards.

3.4 Developments in governance that appear relevant to NZQA and that have influenced the revised draft Manual include:

- the shift from compliance as the focus of governance, to a broader view of the roles and responsibilities of boards
- emphasis on the relationship between the board and management
- the major focus on the accountability of public sector bodies by Government in New Zealand and in inquiries undertaken by the Audit Office and State Services Commission
- the Government's proposals for a Crown Entities Bill which is intended to provide for clearer governance and accountability arrangements by

categorising Crown entities according to their functions and degree of ministerial oversight.

- 3.5 Our brief included NZQA's wish to preserve continuity with the existing Manual. The revised draft Manual carries forward the content of the present Manual although in respect of carried-forward material some sections and clauses have been moved around to provide a more logical grouping, and new wording has been added.
- 3.6 A final observation on the approach taken to the review is that while recommended good governance practice is often largely self-evident, it is important that boards and their members have ready access to it. That has been a significant factor in how we have gone about revising the Manual.

4 REGIME FOR CROWN ENTITIES

- 4.1 At the time work on the review began the Government had under development a Crown Entities Bill to establish clear and consistent governance and accountability arrangements for all Crown entities, with an overarching aim of supporting the government's goal of improving trust in government organisations.
- 4.2 The Bill has since been deferred to allow the Government first to consider ways to improve State sector performance and responses to the State Sector Standards Board report.
- 4.3 The Bill has not been taken into account in this review. The Bill's intended scope may be of interest however to the Board, and particularly its intended coverage of such issues as the roles of boards, Ministers and departments; remuneration of chief executives; duties and fees of board members; and liabilities and immunities. Differential provisions for appointing and dismissing Board members are foreshadowed, to reflect the degree of control the Government considers it needs over the category of Crown entity.

5 THE MANUAL AS AN EVOLVING DOCUMENT

- 5.1 The Manual should be seen as an evolving document rather than "fixed in stone" until such time as it might be reviewed again. With a loose-leaf format regular updating is easily done.
- 5.2 Reasons the Board might want to update it from time to time to include, for example:
- any useful new precedents set by the Board's own decisions on processes or practices
 - changes in legislation (the proposed Crown Entities Bill is a case in point)
 - emerging "good practice" in the public and private sectors, as relevant to NZQA and the standards it seeks to set for itself.

6 ISSUES ADDRESSED IN THE REVIEW

- 6.1 The main overall change to the Manual is an emphasis on the governing role of the Board and its strategic responsibilities. The aim has been to define a framework of principles for NZQA governance, in the context of its status as a public sector organisation and a statutory corporation.
- 6.2 As noted in paragraph 3.4 above, the revised draft Manual continues to cover administrative information as found in the present Manual but with:
- re-ordering and re-formatting to make the information more useable by members
 - a number of additional procedural provisions in the nature of (a) current good practice, (b) updating and (c) filling gaps.
- 6.3 The following are specific areas of change. It is not an exhaustive list but should give the Board a sense of the range of new provisions.
- a) Explaining the Manual – the addition of a user’s guide to what the Manual is about
 - b) Governance – a new Part 1 with sections on principles of governance; the roles, responsibilities and functions of the Board, roles of the Chair and members; the board/management relationship; accountability (this expands on the former Manual and brings accountability issues together in one place); and Board powers
 - c) Conflicts of interest – fuller guidance on the implications of and procedures for conflicts of interest (see new sections 2.5.3 and 4.2.4)
 - d) Committees of the Board - provisions covering committees clarified and tidied up, and brought together with the addition of an introduction on the role committees serve for the organisation
 - e) Personal liability – an updating of the context for personal liability
 - f) Standing Orders – these have been transferred from the existing Manual, re-grouped under new headings and with some amendments (see amendments to quorum and new Standing Orders covering special meetings and notice of meetings)
 - g) Standards of conduct – the existing Code of Proper Practice has been transferred to the revised draft Manual, with some minor changes. An introductory section has been added to lay out the purpose the Code serves and how to apply it.
 - h) Payments – fee provisions amended to clarify them; new section on gifts/hospitality

- i) Board and Committee Services – a new introduction to highlight the role of this group in the efficient and effective functioning of the board

- j) Formatting – an objective for the review was to make the Manual more useable. The re-ordering of material and some of the formatting changes are noted above. Other methods for improving its ease of use are the introductory section about the Manual, the addition of an alphabetical index for ready reference and text boxes indicating other relevant sections of the Manual, and other sources of guidance on board process. We are also providing NZQA with a note on ideas for the physical formatting of the Manual and a “short” portable version for members. A remaining area to address is the way legislation is made accessible to members. It is felt to be too “dense” in its present form. This task is a quite large one and has not been undertaken as part of the review. Suggestions to consider are:
 - preparing narrative summaries of the most important and relevant legislation to familiarise members without their needing to read the legislation itself (but emphasising that recourse to the full statute will be necessary in any situation where the Board or members are taking decisions relying on an accurate reading of it)

 - splitting relevant legislation up into: legislation applying specifically to NZQA; education sector legislation; and generic legislation NZQA is required to observe.

7 OUTSTANDING ISSUES

7.1 The revised draft Manual leaves for further consideration four issues the Board could work on in the near future:

- the use of information technology in Board processes - this is covered in the Manual in section 3.1 as a procedural matter, and also has strategic implications (see 8.2 (j) below)

- personal liability – this is a quite complex area. The Board may wish to look more fully into its current provisions and emerging practice, perhaps in the context of work done for the proposed (as at this date deferred) Crown Entities Bill which is intended to clarify personal liability provisions across the sector

- fees - Board members are currently paid on a day by day basis. Some public sector boards are paid an annual fee as a convenient way of catching the “all up” nature of current fees. In any case the current Cabinet Fees Framework (CFF) is about to be replaced by a new, clearer version. The Board may wish to consult with the Ministry of Education about the wording in the Manual covering payment to members; and the State Services Commission to ensure the Board is not moving in one direction

just as the Commission issues a new CFF pointing Boards in a different direction

- the Board's decision cycle – compiling a flow diagram of the annual strategic and financial cycle of the Board's work, and showing this against the annual meeting programme so that Board members can anticipate the meetings that are key decision points (two useful starting points are Parliament's *Annual Financial Cycle* produced by the Office of the Clerk of the House and published with the Parliamentary Bulletin (March 2001 issue); and the Treasury's *Putting it Together: Introducing Public Sector Financial Management*).

8 LONGER TERM ISSUES

8.1 It is our understanding that the Board is spending an increasing amount of time on strategic work. Part of our brief has been to identify in the course of our work any aspects of Board process that might be considered for a future further review to reflect developments in the way the Board is now working, and wishes to work. Any such review would look at what framework might be desired to guide and support the Board in the fulfilment of its strategic work.

8.2 In the course of the work to date, the following issues have emerged as possible 'candidates' for a future strategic governance review:

- a) guidelines for the relationship between the organisation and its stakeholders, for example standards of communication
- b) building in to the Board's annual programme and meeting agenda the strategic planning and risk management work of the Board, to strengthen the strategic focus (the standard "template" for board meetings and agenda tends still, for most boards, to be focused on regular business)
- c) reviewing the terms of reference of NZQA Board Committees to see what scope there might be for strengthening their input to the strategic work of the Board
- d) consideration of systems for board self-evaluation, planning for the development of the board and induction for new Board members
- e) succession planning: procedures for making proposals to the Minister on board appointments as vacancies arise
- f) periodic review of Board Manual/Standing Orders
- g) development of a protocol between the Minister/Ministry and the Board
- h) areas of board business that might justify the development of special substantive policies such as a Treaty of Waitangi responsiveness policy and a policy for relationships with other government and tertiary agencies

- i) developing the role of Board and Committee Services in supporting the Board's compliance responsibilities
- j) investigating the use of information technology in Board processes – as well as this being an immediate procedural matter, the Board might also, as a strategic interest, wish to keep in touch with emerging technology available for involving the public, an area the State Services Commission is exploring.

9 ADDITIONAL COMMENT

- 9.1 In the course of our speaking with departmental officials for information and clarification a number of our questions appeared to raise issues of general interest and application for Crown entities. It appears that NZQA might be ahead of other agencies in undertaking the review and with the brief given to us.
- 9.2 It was more than once suggested to us that it would be of considerable value to other agencies if the Board was to share with other agencies, as it thought appropriate, outcomes from the review.
- 9.3 We would be pleased to work with the Board on how best to do this.

10 RECOMENDATIONS

Our recommendations in respect of the review are that the Board:

- a) consider the revised draft Manual with a view to its adoption, subject to any amendments the Board considers necessary or appropriate
- b) consider undertaking work on the four outstanding issues listed in section 7 above
- c) consider undertaking exploratory work on the longer term issues listed in section 8 above.

BOARD MANUAL

**New Zealand Qualifications
Authority**

Draft

Revised at April 2001

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LEGISLATION

Summary of key legislation affecting NZQA

Education Act 1989
Industry Training Act 1992
Public Finance Act 1989
QEII Technicians' Study Award Act 1970

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INTRODUCING THE MANUAL

Its purpose

The purpose of this Manual is to provide Board members with a ready reference to principles and practices relating to the role, functions and processes of the Board. It comes from a governance perspective and is intended to support the effective and efficient operation of the Board by incorporating good practice.

The Manual is the Board's tool. Written principles and procedures help clarify expectations the Board holds for itself, and provide a yardstick against which the Board can assess its own performance and make improvements to how it operates.

Key points

The Manual:

- is designed to inform the way members collectively and individually conduct Board business, and discharge their responsibilities
- provides a consistent framework for the Board to maintain sound governance policies and practices
- is a resource for clarifying aspects of Board business
- complements NZQA's legal framework (it is not a substitute for this).

The Manual covers

- general matters of governance
- the statutory framework
- Board roles and responsibilities
- standards of conduct
- the operation of the Board and its committees
- the servicing of the Board.

Updating the Manual

The Manual is best regarded as a 'living document' rather than cast in stone.

Within statutory constraints, and in line with relevant directions and guidelines promulgated for public sector agencies, the Board is able to set its own standards and procedures. It has the opportunity therefore to review the Manual at any time, keeping it up to date in terms of evolving good governance practice, and incorporating any useful new precedents set by its own decisions on the conduct of its business.

In contemporary writing on corporate governance the periodic review of board practice is regarded as one of the important roles of the board.

Definitions

In this Manual:

“Board” means the body appointed by the Minister of Education to be the governing body of the New Zealand Qualifications Authority.

“Board Member” and “member” means a member of the New Zealand Qualifications Authority appointed by the Minister of Education.

“*Guidelines*” refers to the State Services Commission *Board Appointment and Induction Guidelines*, available at www.ssc.govt.nz.

PART 1

GOVERNANCE

1.1 INTRODUCTION

As the governing body of a statutory corporation the Board of NZQA has an interest in good corporate governance.

Corporate governance issues include the way an organisation is structured, operated and controlled in order to achieve its goals. In the public sector corporate governance is about how boards and Ministers, Government and Parliament relate to one another in matters of stewardship of public resources and the fulfillment of the policy of the Government of the day.

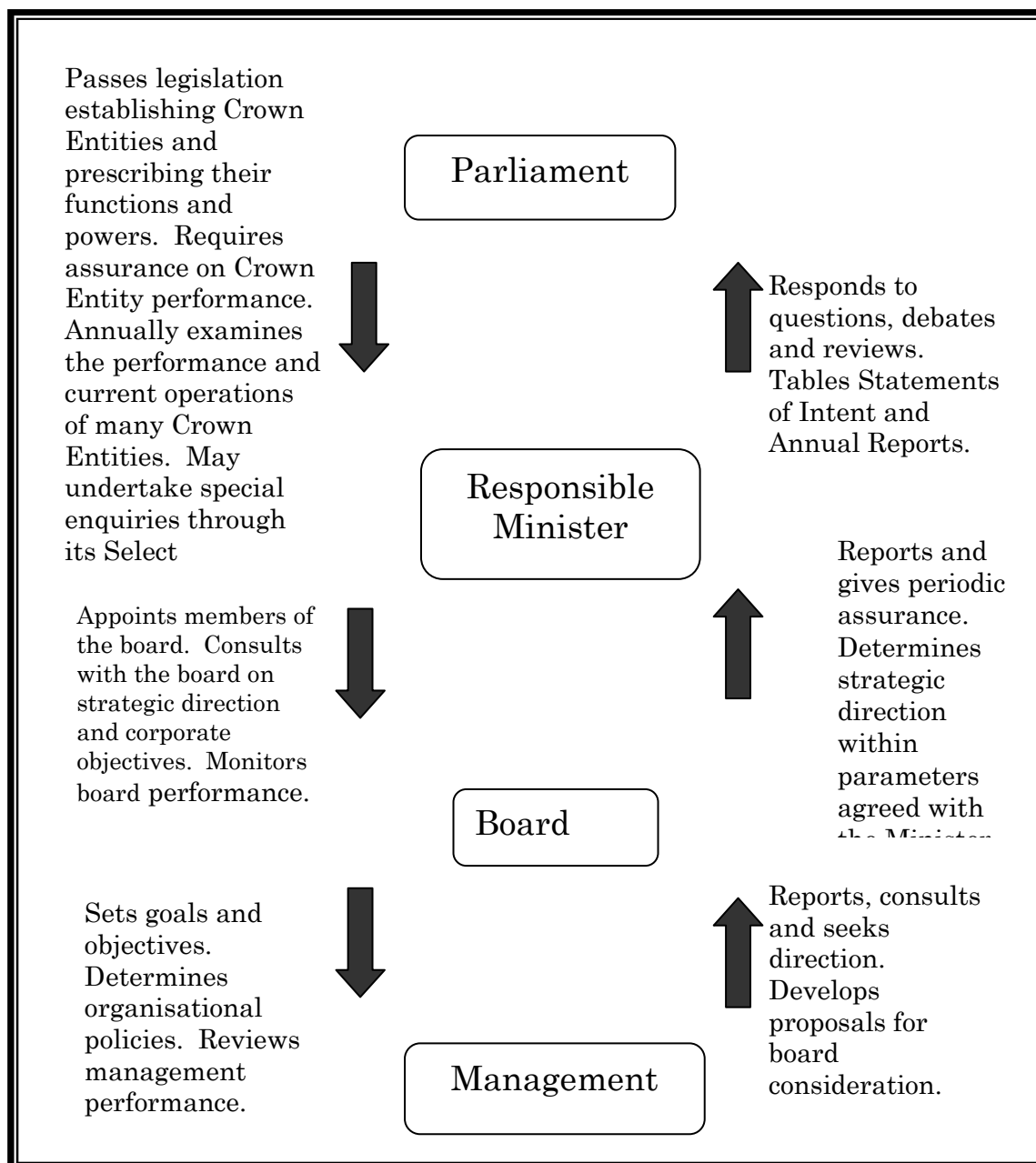
1.2 THE GOVERNANCE FRAMEWORK FOR CROWN ENTITIES

As described by the Audit Office “Crown entities are a loose grouping of public sector organisations brought together by the Public Finance Act 1989 by reason of being characterised as part of the Crown ‘family’ and therefore required to meet certain standards of external accountability reporting for their activities. Aside from that common characteristic, Crown entities are a diverse range of organisations in terms of... not least, the governance processes...”¹

The following diagram summarises the key governance relationships.

¹ Report of the Controller and Auditor General *Governance Issues in Crown Entities*, November 1996. A summary of the report is contained in the CAG’s First Report for 1997, B.29 [97a].

The Governance Framework for Crown Entities ²



² Source: Controller and Auditor-General, see footnote 1 above.

1.3 NZQA: MISSION, STATUS, FUNCTIONS AND STRUCTURE

1.3.1 Mission statement

The New Zealand Qualifications Authority (NZQA) will promote improvement in the quality of education in New Zealand through the development and maintenance of a comprehensive, accessible and flexible National Qualifications Framework.

1.3.2 Status of NZQA

The New Zealand Qualifications Authority is one of two stand-alone bodies with a policy function established by the Education Amendment Act 1989. The other agency is the Education Review Office. The Act separated the delivery and funding of education services. NZQA, the Education Review Office and the Ministry of Education, a department of State, report directly to the Minister of Education and/or the Associate Minister for Education (Tertiary Education).

As a statutory body NZQA is charged with advising on and implementing the policy of the Government of the day, as it affects NZQA's area of business. It is however not subject to day-to-day oversight by the Government such as would apply to a department of State.

It is subject to the Public Finance Act 1989 in respect of its status as a Crown entity.

1.3.3 NZQA Board

The NZQA Board of ten members was established under section 148 of the Education Act 1989. It is charged with improving quality in education and training for all New Zealanders (s. 249).

Under the Act its object is to establish a consistent approach to the recognition of qualifications in academic and vocational areas.

1.3.4 Functions of NZQA

The main functions of NZQA are set out in the Education Amendment Act 1989.

Key functions are:

- to co-ordinate all qualifications in secondary schools and in post-school education and training so that they have a purpose and relationship to one another that the public and students can understand
- to oversee the setting of standards for qualifications

- to promote the recognition of New Zealand qualifications overseas and promote the recognition of overseas qualifications in New Zealand
- to administer national secondary and tertiary examinations.

1.3.5 *Statutory administrative provisions*

The Education Act 1989 sets out a range of administrative provisions for NZQA. They are to be found in the Fifteenth Schedule to the Education Act 1989 and cover:

- term of office
- casual vacancies
- authority to appoint deputy to preside at meetings
- meetings
- remuneration and allowances
- authority to appoint Chief Executive
- employment of other employees
- membership of Government Superannuation Fund
- employees transferring from other government departments
- affixing of Authority's common seal
- personal liability
- meetings of committees
- power of authority to borrow money
- bank accounts
- investment
- annual report requirements, and
- taxation (as an agent of the Crown it is entitled to all the exemptions the Crown enjoys in respect to exemptions from taxation and the payment of fees or charges, and other obligation. It is not exempt from the payment of Goods and Services taxes).

1.3.6 *Structure of NZQA*

An organisational chart follows.

[[insert chart following page 5 of present Manual]]

1.4 **RELATIONSHIP WITH THE MINISTER**

NZQA's relationship with the Responsible Minister (the Associate Minister of Education (Tertiary Education)) is particularly important because of the major part it plays in giving effect to Government policy, and the requirement to do so when directed by the Minister.

The members of the Board are appointed by the Minister who also appoints the Chairperson.

The Minister is responsible for ensuring that NZQA as a Crown entity is managed in accordance with the Crown's interests – the Crown's purchase interests (how resources are used) and ownership interests (the maintenance of NZQA's longer term performance and capability).

Section 2.4 (b) below comments on the duty of the Board to present to the Ministers a balanced and understandable assessment of NZQA's performance and position.

NZQA's plans and strategies will have due regard to the expectations and priorities of the Minister.

Other relevant sections of the Manual:

Blue pages

Education Act s 268

Pink pages

2.3 Accountability

PART 2 THE BOARD

2.1 INTRODUCTION

This part of the Manual summarises the general nature of Board roles and responsibilities, and the principles that underpin effective boards, as they apply to NZQA.

The role of the Board and how it operates is crucial to the overall performance of the organisation. While governed in large part by legislative requirements, public sector boards are responsible for their performance as boards, and have scope to pursue good practice in their own policies and procedures.

Compliance with the law and any directions from Government set a minimum standard of performance. Over and above that is the value the Board adds through its own good practice.

The Code of Proper Practice (section 4.2 below) is an important guiding document for the Board as a whole and for individual members

2.2 ROLES, RESPONSIBILITIES AND FUNCTIONS

2.2.1 The Board

<p>The Board is in essence a working group of members collectively responsible for the organisation.</p>

The four tiers of Board responsibility are:

2.2.1.1 Overview

In broad terms, the Board's roles are to:

- govern the Crown entity by directing and supervising the conduct of the entity's business
- account to the Responsible Minister for the discharge of its stewardship responsibilities
- ensure the entity meets its obligations as a public body.³

³ Source: Controller and Auditor-General, see footnote 1 above.

2.2.1.2 Particular roles

SSC *Guidelines* (page 38) describe the Board's particular roles as including:

setting strategic direction and developing policy – in a manner consistent with its statutory framework and the broader interests of the Crown as owner

appointing the Chief Executive – this includes negotiating the employment contract and remuneration

monitoring the performance of the entity and the Chief Executive

ensuring compliance with the law, accountability documents and relevant Crown expectations – this involves an important element of leadership

maintaining appropriate relationships with the Minister, Parliament and the public – this includes accounting for the performance and management of the organisation, and meeting any directions issued by the Minister.

2.2.1.3 Value adding responsibilities

The formal roles set out above have other dimensions that involve the Board in a degree of self-determination as to the contribution it makes to the organisation, which include:

- ensuring the organisation has leadership, values and vision
- monitoring progress in the implementation of strategy, plans and policies
- ensuring that risks to the Crown's interests in the organisation (as owner, purchaser and policy-maker) are identified, monitored and managed
- facilitating communication, with the Minister and with stakeholders
- demonstrating standards of integrity and ethical practice
- having overarching responsibility for the organisation's due administration including ensuring management has adequate systems in place for reporting to the Board and providing timely information
- being ultimately responsible for safeguarding the organisation's public reputation.

2.2.1.4 *Exercise of powers*

Among its powers, under the Act NZQA is able to:

- establish and abolish committees (s. 250)
- delegate any functions or powers generally or in particular (s. 251).

Guidelines on how the Board goes about these are set out under “Committees of the Board” (section 2.6 below) and “Reserve Powers and Delegation” (section 2.5.2 below).

2.2.2 *The Chair*

The Chairperson ensures the Board collectively and effectively discharges its responsibilities and functions.

The roles of the Chairperson include:

- providing strategic leadership to the Board
- responsibility for the efficient functioning of the Board and in particular
 - setting the agendas for Board meetings
 - ensuring all Board members are enabled to be effective Board members
 - ensuring the Board meets at regular intervals
 - ensuring issues are dealt with by the Board in a timely and appropriate manner
 - ensuring meetings are duly recorded
- ensuring that in reaching decisions the Board has taken proper account of statutory and other considerations
- ensuring the Board has adequate support from management (information, advice and administrative support)
- developing and maintaining relationships with Ministers, their advisers and other stakeholders, on behalf of the Board
- ensuring that the Chief Executive is provided with guidance from Board level such as to support the Chief Executive in managing NZQA effectively and efficiently, and in meeting the targets and outcomes in the Statement of Intent and Purchase Agreement.

2.2.3 *Members*

Board members share responsibility with other members for the governance of the organisation and the conduct of Board affairs.

Roles include:

- contributing independent judgement to all issues before the Board including matters of strategy development and planning, the performance of the Board and the organisation and NZQA's resourcing
- being available to take part in all Board activity
- attending all Board meetings and being absent only with good cause
- sitting as members of Board committees
- undertaking special duties especially where these call for the particular skills and knowledge the Board member has
- maintaining working knowledge of the standards of conduct the Board adopts for itself and expects of the organisation
- supporting the Chair in all the roles listed in Section 2.2.2 above.

2.2.4 *The Board and Management*

The Board/management relationship is a cornerstone of the effective performance of the organisation and its accountability.

In corporate governance theory, the respective roles of Board and management are clearly defined and distinguished. In practice, the relationship is interactive. This is particularly so in a Crown entity like NZQA where the Board has policy and regulatory responsibilities requiring it to be involved in implementation, and to have a high level of operational knowledge about the qualifications system.

Key aspects of the relationship are:

- a) The Chairperson is the link between the Board and the Chief Executive of NZQA. The Chairperson and the Chief Executive both have leadership roles but distinguished from each other by:
 - the Chairperson's role in providing leadership to the Board
 - the Chief Executive's role in providing leadership to the organisation and its staff.
- b) The structural relationships between the Board and management for Crown entities are usefully set out in the diagrams re-presented in Section 1.2 of

this Manual, from a Controller and Auditor-General's report on Crown entities.

- c) The Act (s. 251) provides the detail of Board powers to delegate to the Chief Executive, and (s. 252) the Chief Executive to delegate further. They permit management to fulfill its role in providing advice and information to the Board, and implementing Board decisions and policy.
- d) The Board/management relationship has other dimensions important to how the organisation as a whole works. These include:
 - clear, regular communication between the Board and management:
 - the Board has responsibility to give clear guidance to the Chief Executive, and through the Chief Executive to other NZQA staff, on matters of strategy, performance, resources and standards of conduct
 - management has responsibility to provide the Board with sufficient management information to ensure the Board is objectively informed on matters coming before it, and to provide advice, including advice on anticipated issues and risks.
 - the Board's responsibility to maintain the intellectual capital of the organisation, such as through ensuring sound management development.
- e) NZQA staff attend Board and Committee meetings as in-house experts.

Other relevant sections of the Manual:

Pink pages

2.5.2 Reserve powers and delegation

2.6 Committees of the Board

2.3 BOARD APPOINTMENT AND COMPOSITION

The NZQA Board comprises a minimum of 8 and maximum of 10 members, appointed by the Minister (in practice the Minister for Tertiary Education) who also appoints the Chairperson.

Members are appointed for a four year term.

The Board membership reflects industry, community and education interests. The current membership of the Board is listed in section 7.2 below.

Pink pages

7.2 Board members

2.4 ACCOUNTABILITY

Under the governance model for Crown entities the authority of the governing board means that it holds the accountability to Ministers for the performance of the organisation and stewardship of public funds. The following are key aspects of the accountability relationship.

- a) The primary accountability relationship for NZQA is with the responsible Minister – the Associate Minister for Education (Tertiary Education). The Board is responsible to the Minister for NZQA meeting its agreed goals. The Minister in turn is answerable to Parliament for NZQA’s performance.
- b) It is the duty of the Board to present to the Minister a balanced and understandable assessment of NZQA’s performance and position. Often this will involve the provision of information additional to the minimum required by law. In case of doubt substance and content should prevail over form. The need for reports and accounts to be understood readily by the Minister means that a coherent narrative is necessary as well as figures.
- c) The Minister can request information from NZQA, as a Crown entity, relating to NZQA’s affairs.
- d) Financial accountability is provided for in the Public Finance Act 1989 which specifies Crown entities’ reporting obligations. In summary, NZQA must prepare:
 - financial statements “as soon as practicable after the end of the financial year”, to include a Statement of Service Performance, and forward these to the Auditor within 90 days of the end of the financial year
 - quarterly reports on financial and non-financial performance within one month of the end of the quarter under review
 - a half yearly report within the month set out in the Statement of Intent and Purchase Agreement
 - an annual report “as soon as practicable after the end of the financial year”.
- e) Key performance documents are the Statement of Intent and the Purchase Agreement. Copies of these are provided to Board members. The role each plays is:

STATEMENT OF INTENT

The Statement of Intent is a document prepared by the Board which is responsible for meeting the targets and outcomes in it.

The Board must supply it in draft form to the Minister no later than one month before the start of each financial year. The document covers a three year period and must include:

- the Authority's objectives
- the nature and scope of activities to be undertaken
- performance targets (both financial and non-financial)
- forecast financial statements
- and any other information requested by the responsible Minister.

The Statement of Intent is essentially the Authority's "business plan" and is the basis of the annual report and an important part of the public sector accountability process.

The detailed specifications for Statements of Intent are set out in s 41D of the Public Finance Act.

PURCHASE AGREEMENT

The Purchase Agreement is an annual agreement signed between the Minister of Education and NZQA, covering the policies and outputs of the Authority. It gives the Minister the opportunity to define performance expectations and the monitoring of the Agreement. The Ministry of Education advises the Minister on the Purchase Agreement and negotiates and manages it on behalf of the Minister.

The NZQA Purchase Agreement:

- establishes the basic legislative and policy parameters within which the NZQA operates
- specifies protocols associated with the operation of the document
- specifies the purchase and ownership provisions
- describes the outputs the Government wishes NZQA to provide
- specifies the amounts to be paid for the provision of Government outputs/services, and other terms and conditions.

- f) A provision in the Public Finance Act allows for a Crown entity and Minister to agree on the type of information to be provided to the Minister during the period of the Statement of Intent.

- g) The Minister of State Services has responsibility for general oversight of the governance and accountability regime applying to Crown entities.
- h) Internal accountability is provided for in clear NZQA policies on the following matters. The policies are available on NZQA's Intranet.
 - Board remuneration and expenses
 - financial delegations
 - accommodation
 - travel
 - NZQA vehicles and vehicle rentals.

Other relevant sections of the Manual:

Blue pages

Extracts from Public Finance Act

Pink pages

1.2 Governance framework

1.3 NZQA

1.4 Relationship with the Minister

2.5 BOARD PROVISIONS

2.5.1 Balance of powers

- a) There should be a clearly accepted division of responsibilities at the head of NZQA to ensure a balance of power and authority and that no one individual has unfettered powers of decision. No one member of the Board should dominate decision-making just by virtue of having the knowledge or position to represent a particular interest.
- b) The Board should ensure that independent views on the Board are given full and proper consideration and weight.

2.5.2 Reserve powers and delegation

- a) The Board should have a formal schedule of matters and authorities reserved to it for decision to ensure that the direction and control of NZQA is in the collective hands of the Board.

- b) These may vary from time to time but those likely to remain in the hands of the Board are issues of strategic control, major decisions involving the use of financial and other resources and Chief Executive personnel matters.
- c) The Act (s. 251) provides the Board with the power to delegate any of its functions or powers (except the appointment of Chief Executive) to any individual member of the Board, to the Chief Executive or to any committee.
- d) Responsibility for day-to-day management of the organisation will normally be delegated to the Chief Executive, guided by the principle of empowering management to act.

Other relevant sections of the Manual:
Pink pages
 2.2.4 The Board and management
 2.6 Committees of the Board
Blue pages
 Education Act s. 251

2.5.3 Conflicts of interest

- a) The Board has the responsibility to put in place a system for ensuring conflicts of interests are identified and managed, to protect the decision-making integrity of NZQA and maintain public confidence.
- b) Section 4.2.4 (c) of NZQA’s Code of Proper Practice emphasises that members should avoid conflicts of interest so far as is possible.
- c) The *SSC Guidelines* suggests that the “key question to ask when considering whether an interest might create a conflict of interest is *does the interest create an incentive for the appointee to act in a way which may not be in the interests of the crown body?*

If the answer is ‘yes’, a conflict exists. The existence of the incentive is sufficient to create a conflict. Whether or not the appointee would actually act on the incentive is irrelevant.”⁴
- d) Beyond the guidance provided by (c) above and NZQA’s Code of Proper Practice, issues of conflict of interest will typically be determined on a case-by-case basis.

⁴ State Services Commission Board Appointment and Induction *Guidelines*, page 31

- e) The Code of Proper Practice sets out procedural guidelines for dealing with situations of conflict of interest when they arise.
- f) Conflict of Interest Register - On a yearly basis, members are asked to declare any conflicts of interest which might occur in the conduct of meetings. The register is maintained by Board and Committee Services which is responsible for the maintenance of the Conflict of Interest Register. The Register is necessary to comply with requirements of the Audit Office. Section 6.3 of this Manual describes the procedure.

Other relevant sections of the Manual:

Pink pages

4.2 Code of Proper Practice

6.0 Board and Committee Services

Other sources

SSC *Guidelines*: types of conflicts hypothetical examples.

2.5.4 *Security*

The minutes of the meetings of the Board and all Board Committees must be kept in a locked place when not in use.

2.5.5 *Common Seal*

The Common Seal may be used provided the rules concerning its use by the Board or by Delegated Authority from the Board are observed (clause 10, Fifteenth Schedule to the Act):

- a formal Board Resolution is required on each occasion
- affixing of the Common Seal must be countersigned by [[at least two (2) Board Members]], the Chair and Deputy Chair (or, for delegated authority, the Chief Executive and the Board Secretary)
- the Board Secretary must allocate a reference number and record the use of the seal in the Common Seal Register
- specific notation must be adopted.

In the case of delegated authority, minutes must be submitted to the Board for ratification with an appropriate briefing paper.

2.6 COMMITTEES OF THE BOARD

2.6.1 Introduction

The Board has power to establish and dis-establish Committees as appropriate, to carry out delegated functions and exercise delegated powers (Education Act s. 250).

Committees play a key role in enhancing the efficiency and effectiveness of the Board. They facilitate distribution of the Board's workload, can go into greater detail and deal with complex issues more expeditiously than the full Board and can be more flexible in scheduling meetings and communication. The depth of expertise they acquire can be an important contribution to the Board's strategic planning work.

Committees may include people from outside NZQA, as in the case of the National Qualifications Committee which is able to provide the Board with advice based on a broad range of experience and expertise.

NZQA also works jointly with the New Zealand Vice-Chancellors Committee in a Standing Committee for jointly-awarded university degrees. An NZQA Board member sits on the Committee.

2.6.2 NZQA's Committees

The Board currently has three Committees whose responsibilities are set out in paragraph 2.6.3 below:

- Finance, Management and Audit Committee
- Academic Committee
- National Qualifications Committee.

The roles of the Committees are to:

- provide advice or recommendations to the Board
- report to the Board after each meeting with recommendations.

The Committees have clearly defined Terms of Reference [[as at October 1999]] which are kept in the Board and Committee Services Desk File.

2.6.3 Committee responsibilities

Finance, Management and Audit Committee

This Committee plays a key role in assuring the integrity of financial management and reporting, and of NZQA's management policies. It is delegated to:

- (i) approve new policies in the finance and management area where appropriate
- (ii) act on the Board's behalf in matters relating to Maori capital expenditure
- (iii) monitor the financial position of the Authority and approve related policies as it monitors activities against the Statement of Intent, Purchase Agreement and Business Plan
- (iv) approve and monitor personnel policies including staff levels, superannuation and awards negotiations
- (v) monitor the NZQA EEO Plan
- (vi) monitor the financial performance and risk management framework
- (vii) review the draft financial statements with management and the external auditors prior to their approval by the Board
- (viii) ensure the integrity of financial and management information systems
- (ix) review accounting policies, in particular new policies or changes to existing policies, to ensure they are appropriate
- (x) review major issues, including any unresolved issues between management and the external auditors
- (xi) ensure a good working relationship between the Board, management and the external auditors
- (xii) receive, consider and ensure appropriate action is taken regarding both the internal and external auditor's reports to management on internal controls and management systems
- (xiii) approve the scope and emphasis of the annual audit, including audit timetable and professional fees
- (xiv) approve the scope and emphasis of the internal audit programme
- (xv) monitor the success of the Authority in accordance with the requirements of the Education Act 1989, the Public Finance Act 1989 and the State Sector Act 1988.

Academic Committee

This Committee is delegated to:

- (i) monitor the Authority's policies for registration of providers, unit standards and qualifications; approval and accreditation of degrees, post-graduate qualifications; and the approval of national and provider degrees
- (ii) consider and approve recommendations relating to the registration of unit standards and qualifications from the National Qualifications Framework, and reports and recommendations relating to the

- approval for a National Standards Body to proceed to public consultation
- (iii) consider draft NZQA policy papers on approval and accreditation, and summary monitoring reports of NZQA degrees and national qualifications
 - (iv) consider audit reports on delegation to inter-institutional bodies
 - (v) consider all applications for approval and accreditation for qualifications in teaching.

National Qualifications Committee

Terms of Reference

- (i) to provide external advice on and support for the further development of standards and national qualifications outside Industry Training Organisations
- (ii) to ensure links across the Register of quality assured qualifications to other national and provider developed qualifications
- (iii) to ensure strategic overview and decision-making regarding the further development of national qualifications
- (iv) to ensure the availability of suitable information and advocacy for national qualifications which are the responsibility of the Qualifications Authority
- (v) to continue effective stakeholder input for the maintenance and further development of national qualifications.

Membership

The Committee is chaired by an NZQA Board member and has up to 10-12 members appointed by the Board reflecting business, industry, and community, including Maori, interests. The Industry Training Federation, the Association of Polytechnics in New Zealand and the New Zealand Association of Private Education Providers are invited to nominate one member each. Membership would be varied from time to time by the Board dependent upon the priority areas of development in the work programme.

Authorities and Reporting

The Committee will have advice and recommendatory powers only, reporting regularly to the Board but also on operational matters providing external advice and guidance to the Chief Executive and the senior manager with responsibility for national qualifications developments.

2.6.4 Schedule of Committee meeting dates and agendas

- a) A schedule of Committee meeting dates is prepared by Board and Committee Services. See section 2.7 below for the current meetings schedule.
- b) Agendas are also prepared by Board and Committee Services in consultation with senior managers. Committee members wishing to have specific items on agendas notify the Secretary.

2.7 MEETING SCHEDULES : BOARD AND COMMITTEES

2.7.1 Board meeting dates for 2001

The full Board meets on Tuesdays from 9.00 am – 4.30 pm, on the following dates:

27 February

27 March

24 April

29 May

26 June

31 July

28 August

25 September

30 October

27 November

11 December (if needed).

2.7.2 Committee meeting dates for 2001

Academic Committee

Tuesdays:

20 February
20 March
17 April
22 May
19 June
24 July
21 August
18 September
16 October
20 November

National Qualifications Committee

Tuesdays (10.30am – 1.00pm):

13 March
12 June
11 September
4 December

*The Committee should meet at least
quarterly.*

Finance, Management and Audit Committee

Tuesdays:

20 February
20 March
17 April
22 May
19 June
24 July
21 August
18 September
16 October
20 November

2.8 **PERSONAL LIABILITY OF NZQA MEMBERS**

2.8.1 *General context*

Under the Education Act, NZQA is a body corporate with perpetual succession. The effect of this is that NZQA has what is known as a separate legal personality and, as a body corporate, is liable for acts done in its name. Historically, directors or other board members and employees of bodies corporate could escape liability for acts done in the name of the body corporate on the grounds that legal responsibility rested with it and not with them. More recently, legislation is being written to make the directors or board members of body corporates, and persons involved in their management, personally liable in certain circumstances.⁵

2.8.2 *Administrative provisions under the Education Act*

The 15th Schedule to the Education Act contains the administrative provisions which apply to the Authority and includes a specific provision dealing with personal liability.

2.8.3 *Personal liability*

Clause 11 of the Schedule provides as follows:

“Personal liability - No member, or employee of the authority, is personally liable for any act done or omitted by the member or employee, or by the authority -

- a *In good faith; and*
- b *In pursuance or intended pursuance of the Authority’s functions.”*

The effect of clause 11 is that members and employees are protected from personal liability for their conduct in certain circumstances. In order to be protected the member or employee must act in good faith and in pursuance or intended pursuance to the Authority’s functions. This applies in situations where they might be personally liable even although the Authority is a separate corporate body.

⁵ As an example, under the Resource Management Act, a director or other person concerned in the management of the body corporate can be found guilty of an offence committed in the name of that body corporate unless one or more of the defences in the Act can be established (such as the person neither could nor could reasonably be expected to have known that the offence was being committed).

If the person acts in bad faith, or is motivated by improper considerations, he or she risks personal liability. Further, employees who act in good faith, but whose conduct is not in furtherance of the Authority's functions as set out in the Act, also risk personal liability in respect of the consequences for their conduct.

2.8.4 Application of personal liability clause

The clause only applies to conduct directly related to the performance of the Authority's functions and powers as set out in the Education Act. Any liability incurred by board members which was done in bad faith, or for an improper motive, would not be protected. Obviously, clause 11 does not absolve the Authority itself of liability in such circumstances.

Clause 11 applies only to conduct which relates to the Authority's functions. Board members who incur liability for some unrelated purpose are considered to be personally liable for it. It is important for members to familiarise themselves with the extent of the Authority's functions and powers, and the need to avoid improper motives.

2.8.5 Professional indemnity insurance

The Authority is covered for professional indemnity through an insurance arrangement covering breach of professional duty. The cover is for "legal liability for any claim or claims for a compensation in respect of any civil liability arising by reason of any act, error, omission or conduct constituting a breach of professional duty as specified in the Schedule ...".

Board and Committee Services holds the details of the cover.

PART 3

STANDING ORDERS

3.1 INTRODUCTION

The NZQA Standing Orders govern how the Board goes about its formal business. They do not provide for every procedural circumstance, but are a basic code of rules, and the first resort when a point of procedure arises. They cover:

- application of Standing Orders
- membership and office holders
- quorum requirements
- proxies
- meeting times
- minutes and agenda related issues
- meeting conduct and decision-making
- establishing and abolishing Committees
- Committee reporting procedure.

Standing Orders applying specifically to Committees are set out in section 3.2 below “Committees of the Board”.

The following Standing Orders and those applying to Committees comprise all the Standing Orders of the Board.

SO 7(c) of the Standing Orders refers to section 9 of the Official Information Act 1982. This deals with reasons for withholding official information, and includes reasons for excluding the public from Board meetings.

An issue for the Standing Orders is the status of information technology used as a means of communication in Board deliberations – for example, tele/video conference meetings, and input to and ratification of decisions by email. The issue is one still to develop as a more general matter of communication technology. For bodies such as NZQA the main procedural questions are how use of such technology complies with the requirement to hold meetings in public, and how a quorum is achieved.

The answers to these depend in the immediate instance on acceptable procedure given the present ‘state of the art’ in information technology and NZQA’s access to it, and in the future, on what new technology might permit. Standing Orders to deal with the immediate instance will be addressed by the Board. Aspects needing to be considered include confidentiality of discussion and reliable validation of any decisions made, the latter best addressed by following up electronic communications with written and signed confirmations of decision.

Future possibilities are likely to crystallise through the Government’s current work on electronic transactions legislation, protocols to cover the official information implications of email correspondence and the development of e-government.

3.2 STANDING ORDERS OF THE BOARD

Approved by the Board on [[]] April 2001.

1. Application

- a) These standing orders shall apply to all Board proceedings, and, as appropriate, to proceedings of Board Committees.
- b) Alteration to the Standing Orders shall only be made by a Board meeting after one month's notice has been given.
- c) Notwithstanding anything contained below, any decision made by a validly constituted meeting shall not be void by reason only of a departure from these Standing Orders which was not detected until after the decision had been made.

2. Members and office holders

- a) The Minister of Education shall appoint one member of the Board to be the Chairperson of the Board.
- b) The Board shall appoint one of its members to be the Deputy Chairperson of the Board.
- c) The Chairperson and Deputy Chairperson shall hold office until the expiration of their term. The Chairperson of the Board shall preside at a meeting of the Board at which they are present. In their absence the Deputy Chairperson shall preside at the meeting. If neither the Chairperson nor the Deputy Chairperson is present, the members who are present shall decide who is to preside at the meeting.

3. Quorum

- a) At a meeting of the Board a simple majority of appointed members shall constitute a quorum.
- b) If no quorum is present within 30 minutes of the starting time set out on the notice, the meeting shall lapse and the Chairperson shall fix the time for the next meeting. All business on the agenda of the lapsed meeting shall be included on the agenda of the next meeting and shall take precedence over new business.

4. Proxies

Proxies shall not be allowed.

5. Special meetings

Special meetings may be called by resolution of the Board, or by the Chairperson in writing to members and subject to endorsement by a majority of members. Notice shall be distributed by Board and Committee Services

and shall specify the nature of the business to be dealt with at the meeting, and the place and time.

6. Meeting notice and times

- a) Ordinary meetings – A schedule of ordinary meetings of the Board will be prepared annually. It may be amended from time to time by consensus of members. Notification of amendments shall be made a minimum of [[one month]] in advance of the new meeting date.
- b) Special meetings – Notice shall be a minimum of [[two working weeks]] in advance of the meeting.
- c) Meetings shall, subject to the presence of a quorum, start at the time set out on the notice of the meeting.

7. Minutes and Agendas

- a) The Board shall ensure that accurate minutes are kept of the business conducted at meetings.
- b) The order of business shall follow the agenda. Alterations to the order of business may be made at a meeting subject to a majority agreement.
- c) Members may ask to have other items of business included on the agenda. Such requests may be made in writing to the Secretary before the meeting, or may be made during the meeting at the time the organisation of the agenda is considered. If the Chairperson accepts business raised in this way, it shall be introduced only after the completion of the business set out on the agenda. Papers relating to such an item will not be accepted until the item is accepted for inclusion on the agenda. The management of the discussion of such an item will be at the discretion of the Chairperson.
- d) The agenda of the Board shall normally consider reports from the Committees established by the Board. Any business for the Board shall be channelled through those avenues, and each item reported upon shall contain appropriate advice or a recommendation for action.

8. Meeting conduct and decision-making

- a) Any member wishing to speak at Board meetings shall speak when called upon by the Chairperson. If two or more members indicate simultaneously a wish to speak, the Chairperson shall determine the order of speakers.
- b) Discussion shall address the business at hand.
- c) All Board members shall be able to propose and second any motions or amendments.

- d) The Chairperson may require the proposer of any motion or amendment to submit that motion or amendment in writing, unless the motion is one of a procedural nature.
- e) When an amendment is before the Chair, discussion shall be confined to that amendment. No further amendment shall be discussed until the amendment before the Chair has been disposed of. Further amendments may be foreshadowed without discussion. Amendments shall be voted upon before the motion.
- f) An amendment must be relevant to the motion and so framed that it forms, with the part of the original motion unaffected by it, a sensible and consistent proposal. It must not be a direct negation of the original motion.
- g) No member may speak on any motion after it has been put to the vote. No amendment may be moved after the substantive motion has been put to the vote.
- h) No motion can be accepted by the Chairperson which is the same in effect as one already considered but not accepted.
- i) Each member of the Board shall be entitled to one vote on a matter arising for determination by the Board, and the person presiding at a meeting of the Board shall, in the event of an equality of votes, have a second or casting vote.
- j) A resolution carried by a majority of the votes cast by members present at a meeting shall be a decision of the Board.
- k) Any resolution of the Board may be rescinded, either at the meeting at which the motion was passed, or at a subsequent meeting.
- l) The permission of the Chairperson must be sought by a member wishing to move a motion of rescission in relation to a resolution adopted earlier.
- m) Suitable wording for a motion of rescission follows:

That the resolution on ... (resolution and date adopted to be stated) ... be rescinded.
- n) If a rescission motion is lost, it may be moved again at a later meeting.
- o) No member shall cast reflection upon the vote of a meeting, except on a motion for the rescission of any resolution previously adopted.

9. Meeting in public and in committee

- a) Meetings of the Board are open to the public unless the Board resolves to move ‘in committee’ which it may do at any time during the discussion of a business item. To move ‘in committee’ the specific procedures in b) to e) below must be followed.
- b) A formal motion should be moved and seconded and recorded in the minutes as follows:

It was moved by _____ and seconded by _____:

- 1. *“That for **(agenda item)**, the **(Board/Committee)** exclude the public from discussion under **(Section)** of the Official Information Act 1982”.*

- c) The motion should include reference to the particular section of the Official Information Act 1982 which best reflects the reasons for excluding the public from the meeting (Section 9 of the Act is attached as appendix (i) to these Standing Orders).
- d) Once ‘in committee’ discussion has been completed a formal motion should be moved and seconded

*“That the **(Board/Committee)** meeting revert back to a public meeting”.*

- e) Discussions made in committee must be reported back to the meeting in the form of recommendations. These can either be accepted or rejected.

Standing Order 9, Appendix (i)

Official Information Act: Reasons for Withholding Official Information and for Excluding the Public from Board Meetings

Section 9 of the Official Information Act 1982 which applies is as follows:

9 OTHER REASONS FOR WITHHOLDING OFFICIAL INFORMATION:

- (1) *Where this section applies, good reason for withholding official information exists, for the purpose of section 5 of this Act, unless, in the circumstances of the particular case, the withholding of that information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.*
- (2) *Subject to sections 6, 7, ... 10, and 18 of this Act, this section applies if, and only if, the withholding of information is necessary to:*

- (a) *Protect the privacy of natural persons, including that of deceased natural persons; or*
- (b) *Protect information where the making available of the information-*
 - i) Would disclose a trade secret; or*
 - ii) Would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information; or*
- (ba) *Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information:*
 - i) Would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; or*
 - ii) Would be likely otherwise to damage the public interest; or*
- (c) *Avoid prejudice to measures protecting the health or safety of members of the public; or*
- (d) *Avoid prejudice to the substantial economic interests of New Zealand; or*
- (e) *Avoid prejudice to measures that prevent or mitigate material loss to members of the public; or*
- (f) *Maintain the constitutional conventions for the time being which protect-*
 - i) The confidentiality of communications by and with the Sovereign or her representative;*
 - ii) Collective and individual ministerial responsibility;*
 - iii) The political neutrality of officials;*
 - iv) The confidentiality of advice tendered by Ministers of the Crown and officials; or*
- (g) *Maintain the effective conduct of public affairs through-*

- i) *The free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any Department or organisation in the course of their duty; or*
- ii) *The protection of such Ministers, members of organisations, officers, and employees from improper pressure or harassment; or*
- (h) *Maintain legal professional privilege; or*
- (i) *Enable a Minister of the Crown or any Department or organisation holding the information to carry on, without prejudice or disadvantage, commercial activities; or*
- (j) *Enable a Minister of the Crown or any Department or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or*
- (k) *Prevent the disclosure or use of official information for improper gain or improper advantage.*

3.3 STANDING ORDERS OF COMMITTEES

The Standing Orders of the Board apply to Committees of the Board wherever appropriate. The following Standing Orders apply specifically to Committees.

- a) The Board shall establish Committees to consider any business and to provide advice and recommendations to the Board.
- b) Each Committee shall establish its own terms of reference which shall be approved by the Board. Terms of reference shall be reviewed half-yearly and any amendments approved by the Board.
- c) Each Committee shall be chaired by a member of the Board. The Chairperson of each Committee is selected by the common agreement of all members.
- d) In the absence of the Chairperson, those members present shall elect by common agreement a member to preside at the meeting.
- e) No Board member shall chair more than one Committee although they may have membership on more than one Committee.
- f) Membership of each Committee must comprise three or more Board members.

- g) The Chairperson of the Board is an ex-officio member of all Committees.
- h) No business can be conducted unless a majority of members are present.
- i) Each Committee shall report to the Board after each meeting with the Chairperson highlighting the business conducted and any recommendations that the Board need consider.⁶
- j) Minutes of all meetings shall be taken, and distributed with Board papers before the Board considers and decides on any matter reported to it by its Committees.
- k) The Board may abolish any Committees established.

⁶ The Institute of Directors suggests a useful benchmark for Committees reporting back to the Board. “The continuing responsibility of the Board means that the system of reporting by Committees back to the Board is of particular importance. The Board should be kept informed of the work of Committees and have the opportunity to question and comment on all aspects before they are finalised.” Institute of Directors in New Zealand, Committees of the Board, Best Practice for NZ Directors, BP 1997/3.

PART 4 STANDARDS OF CONDUCT

4.1 INTRODUCTION

NZQA's reputation with Government and in the eyes of the public depends not only on how well it performs its functions, but also on how the Authority conducts itself, collectively and individually. In corporate governance it is now well understood that a company's conduct is fundamental to its 'licence to operate'.

It is important that Board members are clear about the standards of behaviour expected of them in their Board roles.

NZQA's Code of Proper Practice serves this purpose:

- for members, it provides a basis for assessing, in advance, the appropriateness of any action they might take in the course of Board activity
- for the Board collectively, it provides an agreed foundation for responding to any situation where a question of conduct arises.

4.2 CODE OF PROPER PRACTICE FOR NZQA BOARD MEMBERS

4.2.1 Introduction and principles

- a) The purpose of this Code is to provide guidance to NZQA Board members to assist them to carry out their duties and responsibilities effectively and in accordance with the best professional standards.
- b) The Code is not intended to be an exhaustive statement of obligations or to identify all the circumstances in which the Code might apply. It should be followed according to its spirit and purposes.
- c) The office of Board member carries with it both legal and moral responsibilities. This Code deals more with moral and ethical responsibilities than with those imposed by law.
- d) The principles upon which the Code is based include integrity and accountability. These qualities are prerequisites to maintaining confidence and trust in Board members.
- e) The reasons for adhering to the Code are twofold:

first, a clear understanding of moral and ethical responsibilities and strict observance of obligations will assist Board members in forming and winning support for their strategies

secondly, if high standards of business conduct are not maintained a greater degree of imposed regulation may result.

4.2.2 Fundamental Obligations

- a) Members must act honestly, in good faith and in the best interests of NZQA and its stakeholders.
- b) They must carry out their duties in a lawful manner and use all reasonable endeavours to ensure that NZQA conducts its business in accordance with the law and with a high standard of commercial morality.
- c) Members should avoid conflicts of interest so far as is possible. Where a conflict or potential conflict arises, the guidelines set out in section 4.2.3 below should be utilised.
- d) They should be diligent, attend Board meetings and devote sufficient time to make and keep themselves familiar with the nature of NZQA's business and the environment in which it operates. They should be aware of all statutory and regulatory requirements affecting NZQA.
- e) They must observe the confidentiality of non public information acquired by them as Board members and not disclose it to any other person without the authority of the Board.
- f) Board members must act in accordance with their fiduciary duties. They should comply with the spirit as well as the letter of the law and remember that in addition to purely legal requirements there is a standard of ethical and moral behaviour against which all their actions can be judged.

4.2.3 Procedure for managing conflict of interest situations

- a) In the treatment of interests, complete openness of disclosure should be observed, both generally in the course of Board business and also in respect of any particular item of Board discussion and/or decision-making.
- b) When a conflict of interest arises, as a minimum members must adhere scrupulously to the procedures provided by law for dealing with conflicts and with the position of Board Members having an interest in a particular contract or issue.

- c) Methods for dealing with conflicts of interest that are *manageable* in the sense that the impact of the conflict of interest can be avoided, or can be reduced to a minor conflict such as not to pose a risk to the interests of NZQA or the Crown, include:
- the member divesting him/herself of the conflicting interest
 - the member abstaining from voting, withdrawing from discussion, not receiving the relevant information or agreeing not to act in relation to the issue concerning the conflict.
- d) A member who has a continuing conflict of interest of a material nature should consider resignation from the Board.

Other relevant sections of the Manual:

Pink pages

2.5.3 Conflicts of interest

Other sources

SSC *Guidelines*: Assessing Conflicts of Interest (p 33); Mechanisms for Avoiding or Managing the risk of conflicts of Interest (p 33); hypothetical examples (p 35);

PART 5

PAYMENTS AND OTHER MATTERS

5.1 INTRODUCTION

Members have a range of entitlements covering remuneration and for claiming expenses in connection with their Board duties. These are summarised below.

Also covered in this section is a guide to the receipt of other payments and the acceptance of gifts and hospitality.

5.2 REMUNERATION AND EXPENSES

- a) Provisions for Board remuneration and expenses are set out in NZQA's Policy "Board Remuneration and Expenses" which also covers any payments or benefits derived by Board members. The Policy is available from Board and Committee Services and on NZQA's Intranet.
- (b) Remuneration and expenses are subject to legislative and Cabinet Office provisions (the Cabinet Fees Framework - CFF).⁷ The CFF has some detailed guidance to ensure that three key points are not overlooked:
 - work should be agreed and defined by the Board/Chair/administering department
 - there should be controls on the total number of days claimed
 - travel itself does not generally count as work and is not payable, although there are circumstances recognised as payable in the CFF.
- (c) A principle underlining the CFF is that the fee paid covers all work performed for the Board/Authority. This includes such activities as representing the Board at forums, administrative work, preparation and attendance at Board and Committee meetings (Committees must be properly constituted.)
- d) Fees for members (under the Fees and Travelling Allowances Act) are currently \$145.00 for each half day of attendance on Board business, and \$290.00 for a full day.
- e) Any changes to the remuneration framework for NZQA must be pre-approved in writing by the Responsible Minister.

⁷ As at the end of March 2001 the current CFF is about to be replaced by a new, clearer version. The NZQA Manual will be updated appropriately.

- f) The Board secretary is responsible for the administration of Board remuneration and expenses. Board expense and attendance claims are to be submitted to the Finance Business Unit and reviewed against policy requirements.

5.3 RELATED PARTY PAYMENTS

The Board Remuneration and Expenses Policy states that Board members should not receive payments as consultants from NZQA while acting in their capacity as a Board member. In the unusual circumstances where this is unavoidable, specific approval must be obtained from the Responsible Minister.

5.4 GIFTS AND HOSPITALITY

- a) There are no hard and fast rules about accepting or refusing tokens of goodwill or hospitality. Board members are responsible for all such decisions and for avoiding the risk of negative impact on the Minister's and public confidence in NZQA.
- b) Members should treat the offer of gifts or hospitality personally to them with extreme caution, and with regard to any possibility of the offer being made by a person whose interests may be materially affected by a decision of the Board.
- c) Working lunches and social occasions that assist Board members with the fulfillment of their roles on the Board may be a proper way of advancing Board business.
- d) Members should consider advising the NZQA Chairperson of the receipt or offer of gifts.

PART 6

BOARD AND COMMITTEE SERVICES

6.1 INTRODUCTION

The services provided to the Board and its Committees by executive management play a vital part in how well they are able to carry out their functions.

The roles and responsibilities of NZQA's Board and Committee Services are to:

- service the Board and its Committees
- provide the Board with administrative assistance
- collate and distribute meeting agendas and papers
- make travel arrangements
- ensure that payment for emoluments is made to Board members
- take minutes and distribute these
- provide administrative assistance to the Chair and the Board in the conduct of the meetings
- keep official records of meetings.

6.2 BOARD ADMINISTRATION

The Board and its Committees are supported by the office of the General Manager, Chief Executive's Office. The Board Secretary is located in that office. Audit services are provided by Internal Audit which also oversees legal compliance over the Authority.

Board and Committee Services prepare

- a) Agendas for meetings of the Board and Committees, in consultation with senior managers and with the Board Chairperson for Board meetings as appropriate. Board and Committee members and Board members wishing to have specific items on agendas notify the Secretary.
- b) A schedule of Board and Committee meeting dates. See section 2.7 above for the meetings schedule for 2001.
- c) Minutes of all meetings of the Board and its Committees.

6.3 CONFLICT OF INTEREST REGISTER

- a) The Board and Committee Services is responsible for the maintenance of the Conflict of Interest Register, which is necessary to comply with requirements of the Audit Office.
- b) On a yearly basis, members are asked to declare any conflicts of interest which might occur in the conduct of meetings. Members are asked to sign and date the conflict of interest form and send this back to the Board Secretary.

6.4 EMOLUMENTS

- a) Remuneration will be paid to each Board member for all meetings attended on behalf of the Board.
- b) Records will be kept by Board and Committee Services and fees are paid by direct credit to individuals or to an organisation nominated by a Board member on a quarterly basis.
- c) If childcare is required, payment will be made by NZQA.

6.5 TRAVEL FOR BOARD MEMBERS

- a) The Board Secretary will seek advice from new Board members regarding their travel requirements.
- b) Air travel and/or rental car bookings and payments are made by Board and Committee Services on behalf of Board members. Confirmation of travel arrangements will be provided by Board and Committee Services.
- c) If travel by other means is required, Board members will be expected to make their own arrangements and seek reimbursement from Board and Committee Services for costs.

6.6 ACCOMMODATION

- a) Accommodation for members travelling on Board business will be arranged by Board and Committee Services if required.
- b) Confirmation of accommodation arrangements will be provided by Board and Committee Services.

- c) Payment will be made by NZQA.

6.7 INSURANCE

- a) NZQA has **statutory liability insurance** covering the following Acts:

- Resource Management Act
- Health and Safety in Employment Act
- Building Act
- Privacy Act
- Fair Trading Act
- Consumer Guarantees Act.

- b) NZQA also has **public liability insurance** covering the following:

- Material Damage Insurance - property
- Business Interruption Insurance - damage to building except earthquake therefore business is interrupted
- Computer Insurance - equipment and systems
- Corporate General Liability Insurance- compensation to other parties for physical loss
- Motor Vehicle Insurance - loss/damage to vehicles and third party
- Fidelity Guarantee Insurance - theft of money or goods
- Travel Insurance covers – staff, but excludes travel in New Zealand (ACC applies).

- c) For reference **to professional indemnity insurance** see section 2.8.5 above.

PART 7**NZQA CONTACTS****7.1 INTRODUCTION**

The memberships and contact details set out in this section was last updated on [[
]] April 2001.

7.2 BOARD MEMBERS**NEW ZEALAND QUALIFICATIONS AUTHORITY BOARD MEMBERS**

Courier Address	Postal Address	Phone/Fax
Catherine Gibson 56 Old Hautere Road Te Horo OTAKI RD1		WORK Ph 04 4716163 Fax 04 4714496 HOME Home 06 3643959 Mobile 021 2441367
Judith Carter Director of Teacher Education Massey University College of Education Centennial Drive PALMERSTON NORTH or 184 Victoria Avenue PALMERSTON NORTH	Private Bag 11-222 PALMERSTON NORTH	WORK Ph 06 3513-377 Fax 06 3513-376 HOME Ph 06 3562-120
Dr Frank Wood Vice-Chancellor Lincoln University	PO Box 94 CANTERBURY	WORK

Cnr Springs Rd and Ellesmere Junction LINCOLN		Ph 03 3253816 Fax 03 3252965
62 Solway Avenue Ilam CHRISTCHURCH		Or HOME Ph 03 3480277

David Moloney Executive Director Interlock Group Ltd Reception Building 1 Portsmouth Road Miramar WELLINGTON	Box 15-103 Miramar WELLINGTON	WORK Ph 04 3888-355 Fax 04 3888-481
or 44 Jubilee Road Khandallah WELLINGTON		HOME Ph 04 4796-230 Fax 04 4796-271
John Morris Headmaster Auckland Grammar School Mountain Rd Epsom AUCKLAND 3	Private Bag 99930 Newmarket AUCKLAND 1	Ph 09 6235-400 Fax 09 6235-411
or 8 Clive Road Epsom AUCKLAND 3		Ph 09 6301-922 Mobile 021 901-483
Doug Armstrong 2 nd House from End of Beach Karaka Bay off Peacock Street Glendowie AUCKLAND	PO Box 25032 St Helier's AUCKLAND 5	Ph/Fax 09 575-9804 Mobile 025 939-947
Joan Baker Unit 4 7 The Parade St Heliers AUCKLAND	PO Box 25085 AUCKLAND	Ph 09 575 3554 Fax 09 575 3557 Mobile 025 749 122
Jennifer Button 13 Bristow Place Karori WELLINGTON 5		Ph: 04 476 5759 Fax: 04 476 8019 (C/- St Mary's Church)
Tina Olsen-Ratana Manager Kokiri Marae 22 Barnes St SEAVIEW	20 Bull Avenue WAINUIOMATA Ph 04 564 5359	Ph 04 939 7111 Fax 04 939 7364 Mobile 025 802 953

Trevor Moeke Chief Executive Officer Te Mangai Paho Maori Broadcasting Funding Agency PO Box 10 004 WELLINGTON	Level 4, Investment Centre Cnr Ballance and Featherston Streets, WELLINGTON Or 112 Rawhiti Road Pukerua Bay WELLINGTON	Ph 04 915 0700 Fax 04 915 0701 M 021 474816 Ph 04 2399471
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7.3 COMMITTEE MEMBERS

Committee membership is as follows:

Academic

Judith Carter (Chair)

Jennifer Button
Catherine Gibson
Tina Olsen-Ratana

NZQA Staff

General Manager National Operations

Manager Quality Assurance
Manager Case Management

Finance, Management and Audit

David Moloney (Chair)

Doug Armstrong
Joan Baker
Trevor Moeke

NZQA Staff

General Manager Corporate, Customer and
Commercial Services

Manager Finance
Manager Business Planning & Audit

**Jointly Awarded Degree Standing
Committee: NZVCC/NZQA**

Jennifer Button

NZQA Staff

General Manager Chief Executive's Office
Representative, Legislative and Government
Responsibilities

7.4 CHIEF EXECUTIVE'S OFFICE

Name	Title	Phone Number/Fax	E-Mail
Dr Andrew West	Chief Executive	04 802 3070 04 385 1900	AndrewW@nzqa.govt.nz
Carolyn Sang	Executive Assistant	04 802 3026 04 385 1900	Carolyns@nzqa.govt.nz
David Lythe	General Manager, Chief Executive's Office	04 802 3075 04 802 3115	DavidL@nzqa.govt.nz
Katherine Hubbard	Board Secretary	04 802 3085 04 385 1900	KathH@nzqa.govt.nz

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