

NZFC GOVERNANCE MANUAL

May 2023



Te Tumu Whakaata Taonga

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1. Introduction

This Governance manual describes the functions, powers, delegations and policies of Te Tumu Whakaata Taonga The New Zealand Film Commission (NZFC).

It reflects the statutory requirements of the New Zealand Film Commission Act 1978, the Crown Entities Act 2004, other legislation, guidance material from the Public Service Commission and Audit New Zealand and policy decisions made by the NZFC.

1.1 Terminology:

- (a) 'The NZFC Act' refers to the New Zealand Film Commission Act 1978. All other legislation is referred to in full.
- (b) 'Member' refers to a member of the NZFC Board, unless the context indicates otherwise.
- (c) 'Responsible Minister' means the Minister for Arts, Culture and Heritage.

2. Functions and powers of the NZFC

2.1 NZFC Structure

- (a) The NZFC is governed by an eight-member Board appointed by the Responsible Minister.
- (b) Management and NZFC staff are led by the Chief Executive.
- (c) The NZFC comprises of six business units: Development and Production, Talent Development, Marketing, International, Te Rautaki Māori and Corporate.

2.2 The NZFC's Legislative Framework

- (a) The NZFC was established by the NZFC Act. The NZFC Act sets out NZFC's purpose, functions, powers and matters relating to how it operates.
- (b) The NZFC is defined as an Autonomous Crown Entity by the Crown Entities Act 2004. The key provisions for Autonomous Crown Entities are as follows:

	Autonomous Crown Entities (ACEs)
Government policy directions	<i>Should have regard to</i> government policy that relates to the entity's function and objectives when directed by a Responsible Minister (s. 104) The Responsible Minister may not direct in relation to a statutorily independent function (s. 113)
Whole of government directions	<i>Must comply with</i> a whole of government direction from the Minister of State Services and the Minister of Finance (s. 107)
Appointment of Members	Appointed by the Responsible Minister (s. 28)
Term of Members	A term is 3 years or less and reappointments are allowed (s. 32)
Removal of Members by the Minister or Governor-General	May be removed by the Responsible Minister for any reason that in the Responsible Minister's opinion justifies the removal (s 37)
Remuneration	Determined by the Responsible Minister in accordance with the Cabinet Fees Framework (s. 47)
Re-categorisation of an entity	May be re-categorised as an ICE by order in Council but not as a CA

- (c) The NZFC is exempted from the requirement to, on request, pay a sum equal to its net surplus to the Crown under the Crown Entities Act 2004.
- (d) Other legislation that the NZFC must comply with includes, but is not limited to, the Public Finance Act 1989, the Official Information Act 1982, the Privacy Act 2020 and the Protected Disclosures Act 2022.

2.3 Functions and Powers

- (a) Under section 25 of the Crown Entities Act 2004, the Board is the governing body of the NZFC with the authority to exercise the powers and perform the functions of the NZFC.
- (b) The NZFC has the statutory responsibility "to encourage, participate and assist in the making, promotion, distribution and exhibition of films" (s17(1)(a) NZFC Act).

- (c) The NZFC does not itself produce films, it provides equity financing and grants to New Zealand filmmakers to assist in the development and production of feature films and short films being made in New Zealand. The NZFC also provides support to Producers with the sales and marketing of New Zealand films, and assists with training and professional development within the industry.
- (d) The NZFC's functions are defined in Section 17 of the NZFC Act. They are:
- (i) To encourage and also to participate and assist in the making, promotion, distribution, and exhibition of films:
 - (ii) To encourage and promote cohesion within the New Zealand film industry, and in particular:
 - To encourage and promote the proper maintenance of films in archives;
 - To encourage and promote, for the benefit of the New Zealand film industry, the study and appreciation of films and of film making;
 - To gather, collate, disseminate, and publish information that, in the opinion of the Commission, relates to the making, promotion, distribution, and exhibition of films; and
 - To advise the Responsible Minister on matters relating to or affecting the functions of the Commission.
- (e) The NZFC's funding policies and procedures are bound by Section 18 of the NZFC Act, which stipulates that the NZFC shall not make financial assistance available to any person in respect of the making, promotion, distribution, or exhibition of a film unless it is satisfied that the film has or is to have significant New Zealand content.
- (f) The matters by which the NZFC determines whether a film has significant New Zealand content is outlined in Section 18(2) of the NZFC Act.
- (g) In order to carry out its functions, the NZFC may exercise any of the powers prescribed to it under Section 19 of the NZFC Act, which are:
- (i) Make advances, grants, or awards of money to any person in connection with the making, promotion, distribution, or exhibition of any film;
 - (ii) Subscribe for, purchase, or otherwise acquire any shares, stocks, or interest, or otherwise participate in any body corporate, firm, or joint venture that is or is to be involved in any specific project or series of projects relating to films;
 - (iii) Organise, participate in, or act as an agent for any consortium for the purposes of assisting the film industry
 - (iv) Give or receive guarantees or indemnities in respect of the making, promotion, distribution, or exhibition of films (subject, in the case of the giving of a guarantee or indemnity by the Commission, to ensuring that sufficient funds will be available to meet the liability of the Commission under any such guarantee or indemnity as that liability arises)

- (v) Participate in the management of enterprises to whose finances it has contributed;
- (vi) Acquire any copyright or other rights in respect of any film;
- (vii) Make charges for the provision of any of its services or the use of any of its facilities.

3. Key Relationships

3.1 Relationships with the Responsible Minister and Ministry for Culture and Heritage

- (a) Under section 27 of the Crown Entities Act 2004, the role of the Responsible Minister is to oversee and manage the Crown's interest in, and relationship with the NZFC and to exercise any statutory responsibilities.
- (b) The Responsible Minister has functions and powers with regard to the appointment and removal of Members, matters of strategic direction and targets, operations and performance, reporting and reviews.
- (c) Under section 133 of the Crown Entities Act 2004, the Responsible Minister has the power to request information from the NZFC. The NZFC must:
 - (i) Supply any information relating to the operations and performance of the NZFC requested by the Responsible Minister.
 - (ii) Supply to the Minister of Finance any information requested by the Responsible Minister in connection with the exercise of his or her powers under Part 4 of the Crown Entities Act 2004 (Crown entity reporting and financial obligations).
 - (iii) Supply the Minister of State Services any information requested by the Responsible Minister, where that information is requested for the purpose of assessing the capability and performance of the State services, and the request is made to a group of at least three entities that have in common at least one significant characteristic that relates to the information requested.
- (d) Under section 134 of the Crown Entities Act 2004, the NZFC may refuse to supply information requested where there is good reason, for example to protect the privacy of a person. However, the reason must outweigh the Responsible Minister's need to have the information to discharge ministerial duties.
- (e) The enduring Letter of Expectations from the Responsible Minister to the Board each year expects Boards to adopt a "no surprises" approach with their Responsible Ministers. The "no surprises" approach means that the Government expects a Board to:
 - (i) Be aware of the possible implications of their decisions and actions for wider government policy issues.
 - (ii) Advise the Responsible Minister of issues that may be discussed in the public arena or that may require a ministerial response, preferably ahead of time or otherwise as soon as possible.
 - (iii) Inform the Responsible Minister in advance of any major strategic initiative.
- (f) The Board is expected to stay abreast of issues of concern to the Responsible Minister.
- (g) The Responsible Minister may not direct the NZFC in relation to cultural matters or in respect of a particular film/application.

- (h) The Board will regularly review economic, political, social and legal issues and any other relevant external matters that may affect the work of the NZFC or the interests of stakeholders. It can take outside expert advice on these matters, if appropriate.

Parliamentary Select Committees

- (i) The NZFC is accountable to the House of Representatives. One mechanism for scrutiny is through parliamentary select committees.
- (j) Members and NZFC staff who appear before a select committee do so in support of ministerial accountability. The Chair and the Chief Executive will represent the NZFC at select committee hearings along with any NZFC staff representatives.
- (k) Representatives of the NZFC appearing before select committees have an obligation to manage risks and avoid springing surprises on the Responsible Minister.
- (l) Members and staff who wish (or are invited) to make a submission to a select committee on a bill on behalf of the NZFC are expected to discuss the matter with the Responsible Minister.

4. Collective Duties of the Board and individual duties of Members

4.1 The NZFC Board

- (a) The Board implements the relevant provisions of the NZFC Act effectively and discharges its responsibilities under other legislation such as the Crown Entities Act 2004.
- (b) The Board supervises the management and affairs of NZFC. This includes:
 - (i) ensuring that the NZFC's goals and priorities are clearly established and that strategies are in place for achieving them;
 - (ii) establishing policies for strengthening the performance of the NZFC;
 - (iii) monitoring the performance of the NZFC;
 - (iv) appointing the Chief Executive, setting the terms of the Chief Executive's employment contract and monitoring the Chief Executive's performance;
 - (v) ensuring steps are taken, and processes are in place, to protect the NZFC's financial position and to ensure that its financial statements are true and conform with law;
 - (vi) ensuring that the NZFC adheres to high standards of ethics and corporate behaviour; and
 - (vii) ensuring that the NZFC has appropriate risk management and compliance policies in place.
- (c) Day-to-day management of the NZFC and some matters delegated by the Board are the responsibility of the Chief Executive.

4.2 The Chair and the Deputy Chair

- (a) The Chair and the Deputy Chair are appointed by the Responsible Minister.
- (b) The Chair is responsible for:
 - (i) representing the Board to stakeholders;
 - (ii) ensuring the integrity and effectiveness of the Board's governance processes; and
 - (iii) maintaining regular dialogue with the Chief Executive over all operational matters (the Chair will consult with the remainder of the Board promptly over any matter that gives the Chair cause for major concern).
- (c) The Chair will act as facilitator at Board meetings, to ensure that appropriate discussion takes place and that relevant opinions among the NZFC Members are able to be aired.
- (d) The Deputy Chair will deputise for the Chair in the Chair's absence or at the Chair's request.

4.3 The Chief Executive

- (a) The Chief Executive has responsibility for day-to-day management of the NZFC including:
 - (i) all staffing matters (such as individual remuneration, performance reviews, recruitment, discipline, and dismissal) within a personnel/remuneration policy framework set by the Board;
 - (ii) meeting the 'good employer' responsibilities as set out in the Crown Entities Act 2004
 - (iii) directing the NZFC staff to give free and frank advice to the Board;
 - (iv) approving financial and administrative matters within a delegated authority (usually set and agreed in the annual budget); and
 - (v) implementing the NZFC's strategic plan – including NZFC's financial and human-resources performance.
- (b) The Chief Executive carries out these duties through the work of the Leadership team and other staff.
- (c) Decisions of the Board are binding on the Chief Executive. Decisions or instructions of individual Members, officers or committees are not binding on the Chief Executive unless the Board has specifically delegated such authority.
- (d) The Chair and the Chief Executive have a shared responsibility to foster harmonious and effective governance and management relationships. This includes regularly scheduled communication that identifies issues of importance to the NZFC at an early stage.
- (e) There will be an annual formal appraisal of the Chief Executive's performance. The timing, format and process for this will be negotiated and agreed upon between the Chief Executive and the Board at the beginning of the monitoring period. A Board committee may assist the Board in this process, but only the Board as a body shall make the final judgement.
- (f) The Board must consult the Public Service Commissioner before agreeing the terms and conditions of the Chief Executive's employment. The Responsible Minister must be consulted if proposed terms and conditions do not comply with Public Service Commission guidelines (Section 117, Crown Entities Act 2004).
- (g) A copy of the Chief Executive's job description is held by the Chair and is available to Members at any time.

4.4 Appointing a Chief Executive

- (a) The Board are required to consult the Public Services Commission in relation to the terms and conditions of employment of Chief Executives. The Chair who wishes to appoint a new Chief Executive should contact the Public Services Commission very early in the appointment process.
- (b) Prior to appointment of a new Chief Executive, the Board will contact recruitment agencies for a proposal. A recruitment agency will be selected to manage the process based on the

cost, reach, understanding of skillset and required experience in the area. The Board will agree on where the position will be advertised, the fee and will be kept up to date with the search process.

- (c) Candidates will be long-listed and short-listed. The Board will collectively decide whether a sub-committee or the whole Board will interview the short-list.
- (d) Once short-listed candidates are interviewed and a decision is made, the recruitment agency will facilitate referee checks, contracting and remuneration.

4.5 Evaluating Chief Executive's performance

- (a) There are two processes for evaluating a Chief Executive's performance:
 - (i) Base remuneration: The Public Service Commission requires an annual evaluation of the Chief Executive in line with Public Service Commission expectations. A remuneration base is negotiated in this evaluation.
 - (ii) Performance: At the start of each year, the Chair will set key performance indicators (KPI) for the Chief Executive and hold informal discussions each quarter to discuss performance against the KPIs. At the end of each year, the Chair will ask for a formal response to the KPIs. The Board will discuss and determine what percentage of a bonus is given to the Chief Executive.

5. General Responsibilities of Members

5.1 Duties of Board Members

- (a) The individual duties of Members are:
- (i) to act lawfully, which means understanding and complying with all relevant statutory and administrative requirements, including:
 - the NZFC Act
 - the Crown Entities Act 2004, specifically sections 53 – 57;
 - (ii) to identify, disclose, manage and regularly review all conflicts of interest, in line with the policy at Chapter 7 of this Manual and sections 62-72 of the Crown Entities Act;
 - (iii) to act with honesty and with high standards of professional and personal integrity;
 - (iv) to deal with people fairly, impartially, promptly, sensitively and to the best of their ability;
 - (v) to report unethical behaviour when they see it and treat all concerns raised by others seriously;
 - (vi) to act in good faith and not pursue their own interests at the expense of the NZFC's interests;
 - (vii) to act in a politically impartial manner;
 - (viii) to act with reasonable care, diligence and skill;
 - (ix) to only use information obtained in the course of duty as a Member for its intended purpose and never to obtain an advantage for themselves or others or to cause detriment to the NZFC;
 - (x) not to disclose information obtained as a Member that would not otherwise be available to them except (see Crown Entities Act section 57):
 - in the performance of the NZFC's functions;
 - as required or permitted by law;
 - in complying with the requirements for Members to disclose interests; or
 - unless the Board has first authorised the disclosure.
- (b) For more information on the duties of Members, see the Public Service Commission's [Code of Conduct for Crown Entity Board Members](#) which forms the basis for this part of the NZFC's Governance Manual.

5.2 Member's Engagement with the Chief Executive and staff

- (a) Should a Member want to contact staff outside of Board meetings, in the first instance they should contact the Chief Executive and Chair, with the exception of:
 - (i) Matters specific to the Finance, Audit and Risk Committee, COVID-19 Committee, Certification Committee and NZSPG Combined Panel; and
 - (ii) setting meetings and travel with administrators and executive assistants.
- (b) Any correspondence between a Member and staff should be copied to the relevant senior manager and the Chief Executive.
- (c) Members are encouraged to communicate at any time with the Chief Executive for advice and information – with above advice about copying the Chair in the first instance.
- (d) Members should raise any issues or concerns with the Chief Executive and the Chair.
- (e) Members may wish to meet with the Leadership Team and their staff either as a group or individually to assist their understanding of the organisation and its operation. In doing so, they should contact the Chief Executive.
- (f) If Members are engaged in business that may involve NZFC funding applications or proposals to the NZFC, Members must refer to the Board Conflict of Interest Policy, (see section 7 of this Governance Manual).
- (g) If Staff are required to contact a filmmaker as part of a group or by direct email due to a special initiative and that filmmaker is a Member, they must write individually, copying in the Chair and Chief Executive. This would not be required if it is regarding a project already approved by the Board.
- (h) Industry Members will still be contacted as part of regular NZFC filmmaker notifications.
- (i) Members will always act within any limitations imposed by the Board on its activities.
- (j) Members are entitled to have access, at all reasonable times, to all relevant NZFC information. They are also expected to strictly observe the confidentiality of this information.

5.3 Members entitled to obtain independent advice

- (a) Any Member is entitled to obtain independent professional advice relating to the affairs of the Board or to the Member's other responsibilities, with prior approval of the Chair.
- (b) Subject to the prior approval of the Chair, the cost of the advice will be reimbursed by the NZFC. The Member will ensure, so far as is practicable, that the cost is reasonable.

5.4 Other appointments held by Members

- (a) Any Member is at liberty to accept other appointments, as long as the appointment is not in conflict with NZFC business and does not detrimentally affect their performance as a Member of the NZFC.

- (b) All such appointments should be discussed with the Chair before being accepted.

6. Board Internships

6.1 Appointing an intern

- (a) The Board may appoint an intern for a 12-month placement. Appointing an intern provides the Board with new perspectives on issues and greater diversity, which can lead to better decisions and performance.
- (b) When appointing an intern, diversity of gender, ethnicity, age, disability and/or regional perspective must be considered.
- (c) Interns are not appointed by the Responsible Minister, they are selected by the Chair.
- (d) The Chair is responsible for informing the Responsible Minister that an intern has been appointed.
- (e) Responsibilities of interns are observers, they are not bound by the duties set out in legislation.
- (f) An intern does not have the legal status of Members and will not count in a quorum of a Board meeting. Their role is limited to observation and participation by attending meetings, contributing to discussion and receiving mentorship from Members. While they participate in Board discussions, they will not be involved in decision making or have voting rights.
- (g) Interns will attend all scheduled meetings, unless the Board determines otherwise. They will read all supplied Board papers.
- (h) Interns must be familiar with the NZFC Act and all relevant legislation, including statutory duties that apply to the Board collectively and to Members, as well as public sector legislation.
- (i) Interns must disclose all relevant interests following the process set out in Section 7 of this Governance Manual and are required to observe strict confidentiality for any information they access.

7. Member's Interest's and Conflicts: identification, disclosure and management

7.1 Introduction

- (a) As the governing body of a Crown entity supporting the New Zealand screen sector, when acting as a Member of the NZFC's Board, Members must act reasonably, in good faith and for a proper purpose.
- (b) If the Board's decision-making processes are (or are perceived to be) unfair or improper, trust and confidence in the NZFC is undermined and NZFC decisions are vulnerable to challenge.
- (c) NZFC's decision-making processes can be undermined if the Board makes a decision where:
 - (i) a Member has a conflict by virtue of having a personal interest in the decision that could, or could reasonably be perceived to, influence that Board Member's decision; and
 - (ii) the conflict has not been appropriately identified and managed.

7.2 What is an interest?

- (a) A conflict of interest exists when the responsibilities a Member has in relation to the NZFC could be affected by some other interest the Member may have. These "other" interests can take various forms. They may be financial or non-financial; they may relate to a Member's close family or friends; or they may relate to something the Member has said or done.
- (b) Section 62 of the Crown Entities Act 2004 requires that Members disclose their interests when they are "interested" in an NZFC matter.¹ Section 62(2) of the Act states a person is interested in a matter if they:
 - (i) may derive a financial benefit from the matter;
 - (ii) are the spouse, partner, child or parent of a person who may derive a financial benefit from the matter;
 - (iii) may have a financial interest in a person to whom the matter relates;
 - (iv) are a partner, director, officer, Member or trustee of a person who may have a financial interest in a person to whom the matter relates; or
 - (v) are otherwise directly or indirectly interested in the matter.
- (c) Helpfully, section 62(3) clarifies that a person *does not* have an interest in a matter:

¹ Section 62 uses the word "matter", which in this context means the performance of NZFC's functions or exercise of powers, or any arrangement, agreement or contract the NZFC has entered into or proposes to enter into.

- (i) if their interest is so remote or insignificant it cannot reasonably be regarded as likely to influence them in carrying out their responsibilities; or
- (ii) only because they have past or current involvement in the relevant sector, industry or practice (e.g. the screen sector).

Please refer to the Crown Entities Act section 62 for a full understanding of when interests must be disclosed.

7.3 When does an interest become a conflict?

- (a) A Member's interest may result in a conflict of interest that is either an *actual* conflict or a *perceived* conflict. Before becoming either an actual or perceived conflict, an interest may also be a *potential* conflict. These are described below.
- (b) An *actual* conflict arises when there is a conflict between a Member's duties and responsibilities and their interest. An actual conflict of interest is usually financial in nature and is generally disqualifying, i.e., requiring recusal, unless it is minor, trivial or remote.
- (c) A *perceived* conflict includes situations where it could appear to a reasonable person that an interest could be viewed as a conflict. Perceived conflicts of interest are usually non-financial in nature, for example, arising from a relationship which an objective third party would perceive as likely to affect the impartiality of a decision maker.
- (d) A *potential* conflict is a situation which, while not an actual conflict right now, could eventuate into an actual or perceived conflict in the future. For example, a Member has a personal relationship with a film maker, but that film maker has no immediate plans to apply for NZFC funding.
- (e) Potential and perceived conflicts of interest do not necessarily eventuate to actual conflicts. Nevertheless, even when they do not turn into actual conflicts of interest, mismanaged potential and perceived conflicts can undermine the trust and public confidence in the NZFC. It is therefore important that potential and perceived conflicts are identified and managed appropriately.

7.4 Disclosing an interest

- (a) Under the Crown Entities Act 2004, all Members are under an ongoing statutory duty to disclose interests.
- (b) Members must disclose an interest to the NZFC as soon as practicable after they realise it exists.
- (c) It is expected that all Members will be asked to complete a Conflicts of Interest Declaration by the Ministry of Culture and Heritage prior to appointment as a Member. A copy of the declaration form should be provided to the Chief Executive and Chief Operating Officer of the NZFC, and any relevant interests will be recorded by the Executive Assistant to the Chief Executive in the Board Interests Register.
- (d) When disclosing a conflict of interest, Members must include details of the nature of the interest and its monetary value (if any). If the monetary value cannot be quantified, Members must disclose the extent of the interest (e.g. "my husband is a film director and

the film they are currently working on will soon be the subject of an application for NZFC funding”).

- (e) Following appointment as a Member, any relevant interests must also be disclosed to the Chair of the NZFC Board (the Chair).² This can be done by:
 - (i) providing a copy of the Conflicts of Interest Declaration form for the Ministry of Culture and Heritage to the Chair as soon as practicable; and
 - (ii) notifying the Chair in writing at any time after that, as soon as practicable after becoming aware of any additional interests following the first Board meeting.
- (f) Prior to each Board meeting, the agenda will be provided to Members so they can alert the Chair to any interests in relation to matters on the agenda.
- (g) At each Board meeting, Members will be asked to provide any updates on their conflicts of interest. Any updates will be recorded by the Executive Assistant to the Chief Executive in a Board Interests Register, which is maintained by NZFC staff.
- (h) Disclosure is an ongoing obligation. If the nature of a Member’s interest alters, or the extent of the interest changes, they must disclose the change to the Chair as soon as practicable after becoming aware of it.³

7.5 Conflict of interest management

- (a) The Crown Entities Act section 66 states that if a Member has an interest, they cannot:
 - (i) vote or take part in any discussion or decision of the Board or any committee relating to the matter, or otherwise participate in any NZFC activity relating to the matter;
 - (ii) sign any document relating to entry into a transaction or initiation of the matter; and
 - (iii) be counted toward the quorum for a Board meeting during which a discussion or decision relating to the matter occurs or is made.
- (b) The Act contemplates that, typically, relevant Interests will require the Board member’s recusal from decision-making on matters to which the conflict relates.
- (c) In the event a Member cannot take part in any discussion or decision of the Board or any committee relating to the matter, they will remove themselves from the meeting for the duration that the matter is discussed and/or decided on, and may return to the meeting and be involved in the remainder of the meeting provided it does not relate or overlap with any further discussion or decision-making on the matter.
- (d) However, the Chair may provide written notice to the Board stating they permit a Member to deviate from the s 66 restrictions, despite their conflict. The Chair may give this permission at their sole discretion, if they believe it is in the public interest to do so.

² If the Chair is unavailable or also has a conflict of interest, Members must inform the deputy or temporary Chair. If neither is available, Members must inform the Responsible Minister.

³ Ibid.

The permission may be subject to conditions set by the Chair and can be revoked at any time by providing notice to the Board.

- (e) If permission is granted by the Chair for a Member with a conflict of interest to participate in any discussion or decision of the Board, the NZFC's annual report must include:
 - (i) a statement as to the interest to which the permission relates;
 - (ii) a statement of who gave the permission; and
 - (iii) any conditions or amendments to, or revocation of, the permission.
- (f) The permission and any conditions will be recorded in NZFC's Board Interests Register.
- (g) If the Board (or any individual Member) becomes aware that a Member has not complied with their obligations, the Board or Member must notify the Chair as soon as practicable.
- (h) In addition to disclosing and managing conflicts of interest, Members must act with honesty and integrity and not pursue their own interests at the expense of the NZFC's interests.⁴

7.6 Applying for NZFC funding

- (a) For the purposes of this section, "NZFC funding" includes any funding from the NZFC as part of a NZFC funding strand, programme or initiative. This includes devolved funds (e.g. Seed funding); NZFC discretionary funding (e.g. production finance), funds administered by the NZFC (e.g. NZSPG); and funds administered in partnership with other agencies (e.g. the Premium Fund).
- (b) The conflicts most likely to arise for a Member in relation to NZFC funding are (but are not limited to):
 - (i) a Member having an interest in an application made to the NZFC for funding; or
 - (ii) other applications for limited discretionary NZFC funding that are, in effect, competing with a funding application in which the Member has an interest; or
 - (iii) a Member seeking NZFC support to attend a market or similar; or
 - (iv) a Member seeking NZFC support and/or funding for a new initiative (i.e. where the NZFC has no existing relevant fund).
- (c) The conflict identification and management process described in this section is designed to ensure that a Member comprehensively identifies the relevant interest in a timely manner to enable the NZFC to properly manage the conflict so that:

⁴ For further information see Te Kawa Mataaho – Public Service Commission's "[A Guide on integrity and conduct](#)" (20 March 2023).

- (i) neither the Member nor the application is placed at any advantage or disadvantage; and
 - (ii) other applicants are not placed at a disadvantage, by virtue of the Member's interest.
- (d) The process described here is not necessarily exhaustive and should be viewed as a guide. Each conflict must be considered in the context of all the relevant circumstances and may warrant the adoption of additional measures or an alternative approach as determined by NZFC on a case-by-case basis.
- (e) The Member must pro-actively and promptly identify and declare the conflict to the Chair and Chief Executive as soon as practicable after becoming aware of the interest. When the Chair and the Chief Executive have determined how to manage the conflict, the Chair will notify the Member and the Chief Executive will inform the relevant NZFC department and provide reminders around protocols of transparent and fair management. The Member should seek to co-operate fully with the conflict management procedure. The Member's principal responsibility is to adhere to the procedure established for the management of the conflict and to keep the NZFC advised of any change in circumstances. The Member should not themselves seek to assume responsibility for the management of the conflict within NZFC.
- (f) All NZFC funding applications in which a Member has an interest must be put forward to the Board for consideration, even if that programme does not usually require approval from the Board (e.g. a NZSPG application). In this instance, the interested Member must:
 - (i) absent themselves from all Board, or other, discussions and decisions concerning their funding application;
 - (ii) not receive the relevant papers (e.g. relating to their applications and any application competing for the same or similar contestable funding); and
 - (iii) not discuss any such application or project with another Member.
- (g) When any Member is seeking NZFC funding or NZFC support for an initiative or project:
 - (i) The Member's non-Board interaction in respect of that initiative or project with NZFC staff will only be directly with, or in the presence of, either the Chief Executive or Chief Operating Officer, and written record of any such engagement must be maintained by NZFC staff;
 - (ii) otherwise, the Board Member is not to be contacted by any other NZFC staff, and is not to contact any other NZFC staff, in respect of the relevant interest, project or initiative.
- (h) If any such interaction of the kind referred to in (f)(ii) of this section occurs, each of the NZFC staff and the Member should separately provide a written record of the interaction promptly after the interaction to the Chief Executive and Chief Operating Officer.
- (i) This protocol does not apply to:
 - (i) Administrative contact between the Member and NZFC staff relating only to general Board matters (such as arranging travel bookings, etc);

- (ii) The Member’s normal participation in Board meetings in respect of which the Member does not have an interest; and
 - (iii) any other interactions between the Member and NZFC staff in the ordinary course that are not related to, associated with, or referring to, in any way, the relevant project or initiative.
- (j) If a Member believes the application or project in which they have an interest is being unfairly prejudiced by the actions of NZFC staff, they should raise this with the Chair. The Board will undertake an assessment as the Board sees fit.
- (k) In the event that the Member’s application for NZFC funding or support is successful, the Member and the Chair will agree a conflict of interest management plan. The management plan will address how the Member will interact with NZFC staff during the film closing and production processes.

7.7 Applying for screen sector, media or arts related government funding from other agencies and Member’s dealings with sector participants

- (a) Members may be interested in an application for screen sector, media or arts funding or investment from government agencies other than NZFC. This could include (but is not limited to) funds administered by:
- (i) Manatū Taonga — Ministry for Culture and Heritage
 - (ii) Hīkina Whakatutuki — Ministry for Business Innovation and Employment
 - (iii) Toi Aotearoa — Creative New Zealand (Arts Council of New Zealand)
 - (iv) Irirangi Te Motu — NZ On Air
 - (v) Te Māngai Pāho
 - (vi) Whakaata Māori – Māori Television
 - (vii) Te Reo Tātaki — Television New Zealand
 - (viii) Radio New Zealand.
- (b) Members may also, in the ordinary course, have dealings with other sector participants while not acting in their capacity as a NZFC Board member.
- (c) Due to a Member’s position on the NZFC Board, a Member may have, or may be perceived to have, influence in respect of other government agencies or sector participants.
- (d) If a Member has an interest in a matter involving another government agency or sector participant (e.g. an application for funding from another government agency or a transaction with another sector participant), that interest may also create a conflict of interest, whether potential, perceived or actual as it relates to NZFC or the Member’s position as a NZFC Board member.

- (e) A Member must disclose any such interest to the Chair and Chief Executive as soon as practicable after becoming aware of the interest. This means if a Member anticipates applying for funding from another agency, they should disclose this intention before commencing the application. A management plan will be developed accordingly if the conflict is able to be managed.
- (f) A management plan may involve the NZFC co-ordinating with the other relevant agencies or sector participants. It is recommended that the Member also takes appropriate steps to identify the interest to the other government agency or sector participant as soon as practicable after becoming aware of the interest.

7.8 Providing professional services to the NZFC

- (a) Generally, Members should not provide professional services to the NZFC. This is because Members should not use their Member position to pursue their own interests and appropriate procurement processes must be adhered to. If NZFC staff or the Board wish to procure a Member's professional services (because, for example, the Member is uniquely positioned to provide specialist services, such as legal advice relating to the NZFC) the Member, and the procuring party, must disclose the conflict of interest following the process as outlined in clause 7.4 of this Governance Manual. This process should be followed before a contract for services is entered into to ensure the conflict is appropriately managed. If the conflict cannot be appropriately managed, the procurement will be unable to proceed.

8. Gifts and Hospitality

8.1 Principles

- (a) The way in which a Board handles gifts and hospitality offered to its Members has serious implications for the trust placed in the governance of the NZFC.
- (b) When a Member is offered gifts or hospitality, careful judgement is needed in light of the NZFC's roles and responsibilities:
 - (i) Gifts should be declined unless they are of nominal value and their acceptance can be judged against internal or other relevant policies;
 - (ii) Members should not accept gifts or benefits that would, or might reasonably be seen to, compromise their integrity by placing them under any obligation to a third party;
 - (iii) Members must always be aware of the public perception that can result from their accepting gifts or hospitality. They must never solicit favours for themselves or others;
 - (iv) Offers of gifts or hospitality, even if of limited monetary value, may be of concern if offered repeatedly and/or at times when they could be seen to influence or reinforce a particular decision or action;
 - (v) The commercial influence, actual or perceived, that a gift or benefit may represent is important;
 - (vi) Hospitality offered may provide opportunities for Members to develop productive relationships but their presence at such occasions is potentially open to criticism.
- (c) Offers of gifts or hospitality, even if of limited monetary value, may be of concern if offered repeatedly or at times when they could be seen to influence a particular decision or action.
- (d) Members should check with the Chair before accepting any gift or hospitality they have been offered.
- (e) If a Member receives a gift to the value of \$50 or more while working (excluding tickets to a film screening or event), it must be disclosed to the Chair and recorded in the Board Gifts Register. This register is maintained by the Chief Executive's Executive Assistant.

9. Disclosure of Information

9.1 Access to information

- (a) In the course of their work, Members will often have access to information that is commercially sensitive or valuable, or that could be personally sensitive for others.
- (b) For the NZFC and the Board to be trusted, this information needs to be handled with the highest standards of care and integrity and in a manner consistent with the Crown Entities Act 2004.

9.2 One of the individual duties of Members is the duty not to disclose information

- (a) A Member 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:
 - (i) In the performance of NZFC functions, or
 - (ii) As required permitted by law, or
 - (iii) In accordance with section 57(2) of the Crown entities Act 2004; or
 - (iv) In complying with the requirements for Members to disclose interests.
- (b) Section 57(2) of the Crown Entities Act 2004 sets out the circumstances in which a Member can disclose, make use of, or act on the information, as follows:
 - (i) The Member is first authorised to do so by the Board, and
 - (ii) The disclosure, use or act in question will not, or will be unlikely to prejudice the NZFC.
- (c) It is not sufficient for a Member to obtain authorisation from the NZFC; the disclosure or use must also not, or be unlikely to, prejudice the NZFC.
- (d) Any Member wishing to seek authorisation under section 57(2), must raise the matter with the Chair who will refer it to the NZFC Board for consideration.

10. Board Meeting procedures

10.1 Board Meetings

- (a) The Board will hold regular meetings in accordance with an agreed schedule and will hold additional meetings as the occasion requires.
- (b) The quorum for a Board meeting is four members.
- (c) The Chair will preside at meetings except in circumstances where they are interested in a matter or otherwise absent. In the Chair's absence, or if they are interested in a matter, the Deputy Chair will reside.
- (d) Members will use their best endeavours to attend all Board meetings and to prepare thoroughly for these. Any Member unable to attend a meeting will advise the Chair at as early a date as possible.
- (e) A Board meeting may be held by the presence of a quorum of Members by audio, audio and visual or electronic communication provided that:
 - (i) All Members who wish to participate in the meeting have access to the technology needed to participate in the meeting
 - (ii) A quorum of Members can simultaneously communicate with each other throughout the meeting
- (f) At every regular meeting the Board will consider:
 - (i) an operational report from the Chief Executive, including any major issues facing the NZFC; and
 - (ii) specific proposals, as required, for funding and capital expenditure acquisitions which exceed delegations.

10.2 Agenda and minutes

- (a) The Board has sole authority over its agenda and exercises this through the Chair. Any Member may, through the Chair, request the addition of an item to the agenda. The agenda will be set by the Chair in consultation with Members and the Chief Executive.
- (b) Board papers are supplied by the Executive Assistant to the Chief Executive no later than 10 days before the Board meeting. Paper copies will be provided on request.
- (c) Board discussions will be open and constructive, recognising that genuinely-held differences of opinion can bring greater clarity and lead to better decisions. The Chair will normally seek a consensus but may, where necessary, call for a vote. All discussions will remain confidential, unless there is a specific direction to the contrary or disclosure is required by law. Subject to legal and regulatory requirements, the Board will decide the manner and timing of the publication of its decisions.
- (d) The Executive Assistant to the Chief Executive (or in their absence, a suitably qualified person) will provide support services including taking the minutes of meetings.

- (e) The content of minutes will follow a standard format as approved by the Chair and as amended from time to time.
- (f) The procedures for approval of minutes are:
 - (i) Draft Minutes will be circulated to the Chair and the Chief Executive for comments.
 - (ii) Final Minutes will be signed by the Chair at the next Board meeting.
- (g) In addition the Board will, at intervals of not more than one year:
 - (i) review the NZFC's strategic objectives;
 - (ii) review the strategies for achieving the Board's objectives;
 - (iii) approve the annual budget;
 - (iv) approve comprehensive drafts of the Statement of Intent, Statement of Performance Expectations, Memorandum of Understanding with the Responsible Minister, and the Annual Report;
 - (v) review the Board's composition, structure and succession;
 - (vi) undertake the Board's self-evaluation;
 - (vii) review risk assessment policies and controls, including insurance covers and compliance with legal and regulatory requirements;
 - (viii) determine the following year's work plan;
 - (ix) review the adequacy of arrangements for incorporating Māori perspectives into the NZFC's decisions; and
 - (x) review all or some of the policies set out in this Manual.

11. Committees of the Board

11.1. Background

- a) The Board may form committees. Committees can enhance the effectiveness and efficiency of the NZFC by allowing closer scrutiny and more efficient decision-making on particular matters. Committees must be established in accordance with the Crown Entities Act 2004.
- b) This section deals with the powers of the Board to establish committees.

11.2. How can the Board form committees?

- a) Section 73(1) of the Crown Entities Act 2004 establishes who the Board can delegate its functions or powers to (as discussed in more detail at [Chapter 12 Board Delegations](#)). This includes (but is not limited to) the ability to delegate to committees.
- b) Committees are formed in accordance with Schedule 5, Clause 14 of the Crown Entities Act 2004. This states the Board may, by resolution, appoint committees for the following purposes:
 - (i) to advise the Board on any matters relating to the NZFC's functions and powers; or
 - (ii) to perform or exercise any of the NZFC's functions and powers that are delegated to the committee.
- c) If the committee is appointed to "perform or exercise any of the NZFC's functions or powers" it must include at least one member of the Board and any other person or persons that the Board thinks fit.

11.3. Terms of Reference for committees

- a) Committees must have clear, detailed terms of reference that include the following details:⁵
 - (i) identity and position of chairperson (or, if not determined at the time of establishing the committee, a process for determining the chairperson)
 - (ii) membership requirements and process for reviewing membership
 - (iii) quorum requirements
 - (iv) voting processes
 - (v) meeting times and frequency
 - (vi) duration of committee
 - (vii) procedure for identifying reporting and managing conflicts of interest

⁵ See Template Terms of Reference at Appendix A of this Manual.

- (viii) procedures for reporting back to the Board
- (ix) the scope of the committee's delegated powers or functions.

11.4. Delegation formalities

- a) All committee members must disclose any personal interests they may have (see [Chapter 7 Member's Interests and Conflicts](#)) prior to their appointment to the committee. For the purposes of applying the policies and procedures set out in Chapter 7 to committee members, all references in the policies and procedures to a Member will extend to the committee member. Committee members have an ongoing obligation to disclose personal interest as they arise.
- b) Committee members' interests and appropriate management plans will be recorded in the Terms of Reference for the committee.
- c) Unless stated otherwise in a committee's terms of reference, all committees are established as standing committees and will operate on a permanent basis until the Board decides otherwise.
- d) Unless stated otherwise in a committee's terms of reference, membership of committees will be reviewed by the Board at the beginning of each financial year, so that changes can be made if necessary.
- e) Committees are recorded in the "Delegations Schedule." The Legal & Business Affairs team maintain the Delegations Schedule.

12. Delegations

12.1 Background

- a) The Board is responsible for all decision making relating to the operation of the NZFC. All decisions must be made by, or under the authority of, the Board in accordance with the NZFC Act and the Crown Entities Act 2004. To operate efficiently and effectively, the Board delegates certain functions or powers.
- b) This section deals with the powers of the Board to delegate its functions and powers.

12.2 Delegations

What functions and powers can the Board delegate?

- a) The Board may delegate its functions or powers, in accordance with the Crown Entities Act 2004 and the NZFC Act. Functions and powers of the Board are set out in the legislation, the relevant aspects of which are summarised in Chapter 2 of this Governance Manual.
- b) There are some powers the Board cannot delegate:
 - (i) The power to borrow money (NZFC Act s15(2))
 - (ii) The general power of delegation (Crown Entities Act 2004 s73(4)).
- c) Even after delegating functions or powers, the Board can still exercise those functions and powers itself and ultimately remains legally responsible for the actions of any delegate(s) (Crown Entities Act 2004 s75).

Who can the Board delegate its functions and powers to?

- d) Section 73 of the Crown Entities Act 2004 allows the Board to delegate functions and powers, either generally or specifically, to any of the following persons by resolution and written notice to the person or persons:
 - (i) A board member or members;
 - (ii) The chief executive or any other employee or employees, or office holder or holders, of the NZFC;
 - (iii) A committee (which must include at least 1 Board member and must be formed in accordance with Schedule 5, Clause 14 – see Chapter 11 of this Governance Manual);
 - (iv) Any other person or persons approved by the entity's responsible Minister;
 - (v) Any class of persons comprised of any of the persons listed in paragraphs 12.d (i) to (iv); and
 - (vi) A Crown entity subsidiary of the NZFC.

- e) The Board may give the Chief Executive broad delegations, which reinforces accountability and control of the NZFC. The Board also has the flexibility to delegate directly to specialist staff without first delegating to the Chief Executive. When this approach is taken, the accountability relationship between the staff member, the Chief Executive and board needs to be made clear and documented in writing.

What can delegates do?

- f) Unless the delegation provides otherwise, delegate(s) may perform or exercise the delegated functions or powers as if they were the Board (Crown Entities Act 2004 s 74(1)(a)).
- g) When exercising functions or powers, the delegate(s) should consider:
 - (i) Any NZFC policies relating to the exercise of the delegation;⁶
 - (ii) Any relevant published guidelines or similar;⁷
 - (vii) Whether the decision is consistent with the NZFC Act and the Crown Entities Act 2004;
 - (iii) the relevant facts and context; and
 - (iv) any obligations to report on the exercise of the delegation/power.
- h) A delegation includes the ability to make incidental, administrative and operational decisions connected to the delegated function or power, unless the Board explicitly reserves particular decisions.

For example: if a staff member is delegated powers to decide which applications to award funding to from a particular funding programme, that staff member is also delegated the power to make decisions, consequential to the primary funding decision, in order to give effect to the decision made under the delegated function. This may, for example, include imposing certain creative, commercial or other conditions in the funding contract. Any such exercise must be done in accordance with any prescribed limits of the delegation and should take into consideration the elements listed in 12.2 (g)(i) - (iv).

- i) Delegate(s) may only further delegate (aka sub-delegate) functions or powers with the prior written consent of the Board, and subject to the same restrictions, with the same effect, as if the subdelegate(s) were the original delegate(s) (Crown Entities Act 2004 s 74(1)(b)).

⁶ NZFC Policies are available on the Intranet. These include policies regarding staff expenditure, travel and procurement.

⁷ For example: guidelines regarding a particular NZFC fund; Procurement and All of Government contracting rules published by MBIE; advice and guidelines for good decisions making as published by the Public Service Commission and the Auditor General.

- j) The Board has given its standing consent for the Chief Executive and Senior Managers to temporarily sub-delegate their authority. All sub-delegations must be made in writing.⁸ See section B of the Delegations Schedule.
- k) If delegate(s) have a conflict of interest, abide by the relevant conflict of interest policy (i.e. Board Conflict of Interest or Staff Conflict of Interest) and any applicable conflict of interest management plan.

Delegation formalities

- l) Delegations must be formally established by resolution of the Board and by written notice to the delegate(s) and must:
 - (i) Specify to whom the delegation is being made (e.g. the Chief Executive or a group of employees); and
 - (ii) Specify the power, function or authority that is being delegated (e.g. the authority to decide whether an application receives funding);
 - (iii) Specify any terms, conditions or limitations of the delegation (e.g. limiting the duration of the delegation to a year, requiring the disclosure of interests, or requiring reports to be provided to the Board each time the delegation is exercised).
- m) Where delegations are made to a group of people (for example a group of staff members or a committee established in accordance with Schedule 5, Clause 14 of the Crown Entities Act 2004) the details specified in 12.2 (l)(i) – (iii) above, along with any other relevant details, should be set out in a ‘Terms of Reference’.⁹
- n) Delegates must produce evidence of their authority to exercise functions and powers when asked to do so. In the absence of evidence to the contrary, they will be presumed to have the necessary authority (Crown Entities Act 2004 s 74).¹⁰
- o) The Board can amend or revoke delegations at will. Any amendment or revocation of a delegation must be done by resolution of the Board and with written notice to the delegate(s) or by any other method prescribed in the delegation itself (Crown Entities Act 2004 s 76(1)). Likewise, sub-delegations may be amended or revoked at will by written notice of the delegate to the subdelegate (Crown Entities Act s 76(2)). For clarity, any amendment or revocation of a delegation will also revoke any related sub-delegations.
- p) Active delegations are recorded in the “Delegations Schedule.” The Legal & Business Affairs team maintain the Delegations Schedule.

⁸ A template email for temporary sub-delegations is available in the T Drive at: "T:\NZFC Tools and Resources\Procedures and Guides\NZFC Rules\Temporary Delegations\#TEMPLATE - Delegation of roles or powers from CEO or Senior Managers.msg". Written record of temporary sub-delegations must be saved into the T drive: T:\NZFC Tools and Resources\Procedures and Guides\NZFC Rules\Temporary Delegations

⁹ A Template Terms of Reference for Committees is available in the T Drive at: "T:\Governance\Board\Official Documentation\Template Terms of Reference for Committees - Approved by Oct 2022 Board meeting.docx"

¹⁰ Standing delegations are set out in the Delegations Schedule. Temporary delegations are generally made by email, a template for this is available in the T Drive at the link above.

13. Planning and Reporting

13.1 Letters of Expectations

- (a) The Responsible Minister may set out specific expectations of the NZFC in a letter of expectations. This is generally sent prior to the start of a new financial year, and is included as a schedule to the budget letter.
- (b) The Government may also issue an enduring letter of expectations, which sets out the ongoing expectations of all statutory Crown entities. Such a letter remains in force until it is replaced.

13.2 Statement of Intent (SOI)

- (a) The NZFC's principle accountability document is the SOI. The purpose of this document is set out in sections 138 to 149 in the Crown Entities Act 2004 and is to promote public accountability by:
 - (i) Enabling the Crown to participate in the process of setting the Crown Entity's strategic intentions and medium-term undertakings
 - (ii) Setting out for the House of Representatives those intentions and undertakings
 - (iii) Providing a base against which the Crown entity's actual performance can later be assessed
- (b) The SOI must relate to the forthcoming financial year and at least the following three financial years.
- (c) The NZFC must issue the SOI at least once in every 3-year period.
- (d) The Responsible Minister can ask for a new SOI at any time.
- (e) The SOI must set out the strategic objectives that the NZFC intends to achieve or contribute to and explain how it proposes to assess its performance.
- (f) The SOI must be in writing, dated and signed on by two Members.

13.3 Statement of Performance expectations (SPE)

- (a) The purpose of the SPE is to
 - (i) Enable the Responsible Minister to participate in the process of setting annual performance expectations
 - (ii) Enable the House of Representatives to be informed of those expectations
 - (iii) Provide a base against which actual performance can be assessed
- (b) Before the start of each financial year, the NZFC must prepare an SPE for that financial year.
- (c) Required content of the SPE is set out at section 149 of the Crown Entities Act.

- (d) The SPE must be in writing, dated and be signed by two Members.

13.4 **Annual Report**

- (a) The Annual Report is the mechanism whereby the NZFC reports its performance to Parliament (as set out in section 150 to 157 of the Crown Entities Act 2004).
- (b) The NZFC must prepare the annual report as soon as practicable after the end of each financial year.
- (c) The annual report must provide information that is necessary to enable an informed assessment to be made of the NZFC's operations and performance for that financial year, including an assessment against the intentions, measures and standards set out in the SPE.
- (d) The annual report must be in writing, dated and be signed by two Members.

14. Evaluation of Board and Member performance

- (a) The responsible Minister requires the NZFC to assess its own performance annually.
- (b) Members will assess their own performance against a framework outlining 5-8 areas of governance insight. This process is conducted by the Chair and is anonymised.
- (c) Discussions may include areas for development, outcomes and priorities for growth and change in the subsequent year. The Chief Executive may be part of this process.
- (d) As required, a report on the outcomes of the performance assessment will be provided to the Ministry of Heritage and Culture, as per the Responsible Minister's expectation.

15. Board Appointment

15.1 Appointment and removal of Members

- (a) Appointments to the Board are made by or on behalf of the Responsible Minister, who is also the fee setting authority under the Cabinet Fees Framework.
- (b) Sections 28 to 46 of the Crown Entities Act 2004 addresses matters relating to the appointment and removal of Members.
- (c) All Board appointments are referred to the Appointment and Honours Committee and Cabinet.
- (d) The Responsible Minister is supported by MCH who manage the process in accordance with the [Step by Step Good Practice Guide \(7-steps\)](#).
- (e) Following the 7-step process, there are opportunities for the Board to have input, including:
 - (i) Identifying skill, competency and diversity gaps and relevant strategic issues for the appointment round;
 - (ii) Advising the Responsible Minister and MCH through the Chair;
 - (iii) Chair discussing upcoming appointments at meetings with the Responsible Minister and MCH including the identified gaps, strategic issues, the option of reappointment and input on lists;
 - (iv) If confirmed by the Responsible Minister, the Chair or delegated Member participates in due diligence interview process, usually as the lead panel member;
 - (v) Chair kept informed of process as appropriate;
 - (vi) Receiving copies of appointment letters and notices; or
 - (vii) Members participating in the NZFC new Members induction programme.
- (f) A Member's term is for up to three years as specified in the Notice of Appointment. Whilst a Member may be reappointed, there is no automatic right of reappointment.
- (g) When a Member's term expires, they continue to hold office until:
 - (i) They are reappointed;
 - (ii) A successor is appointed; or
 - (iii) They are informed in writing by the Responsible Minister that they are not to be reappointed and that a successor to that Member is not to be reappointed at that time.

- (h) Under section 37 of the Crown Entities Act 2004, the Responsible Minister may at any time and for any reason that in the Minister’s opinion justifies the removal, remove a Member of an Autonomous Crown Entity from office.
- (i) The Chair or Deputy Chair may resign their Chair or Deputy Chair position at any time, without resigning as Member of the Board.
- (j) Members may resign their position at any time. Resignations must be made in writing to the Responsible Minister with a copy given to the entity and signed by the Member. The resignation is effective on receipt by the Responsible Minister of the notice.

15.2 Skills and attributes of Members

- (a) The Responsible Minister makes appointments of persons who have ‘the appropriate knowledge, skills and experience appropriate to NZFC’s objectives and functions’. The Crown Entities Act also provides for the need for diversity on the Board to be considered.
- (b) Members must contribute to the effective operation and governance of the NZFC. Some of the necessary skills and attributes for this are:
 - (i) Empathy with, and interest in, the screen production industry and film;
 - (ii) Ability to think strategically;
 - (iii) Commitment to improving NZFC performance and achievement;
 - (iv) Good communication and inter-personal skills; and
 - (v) High personal integrity.
- (c) Members are also expected to keep abreast of changes and trends in the NZFC’s environment and in the general economic, political, social, and legal climate.

15.3 Induction of new Members

- (a) Potential Members are encouraged to carry out “due diligence” on the NZFC before accepting an appointment to the Board.
- (b) On their first appointment, Members will be introduced to senior management, the Board and the environment in which NZFC operates. As part of the programme, Members will receive a folder of essential information and meet key managers.

16. Remuneration and expenses for Members

16.1 Members' fees and expenses

- (a) The Responsible Minister determines the level of remuneration paid to Members.
- (b) Fees are determined under the Framework by the Fee Setting Authority. The Board is classified as a Group 3a (General Governance Board) organisation. Fees for Group 3a Boards are paid on an annualised basis.
- (c) As Members are paid on an annualised basis, they do not receive additional payment for membership of committees.
- (d) Under the Framework, it is the usual practice for the Chair or the Deputy Chair (where one is appointed) to have responsibility for Chairing committees without an additional fee. When another Member chairs a committee, an additional 10% of the Member's rate may be paid.
- (e) Members are entitled to reimbursement of expenses in accordance with the Framework. The Framework does have provision for exceptional and other payments outside of the Framework. There must be agreement from the Responsible Minister and the Minister for the Public Service, and, in some cases, the Appointment and Honours Committee and Cabinet need to be consulted.
- (f) Policies for payment of travel, accommodation and entertainment expenses for Members are set out in the NZFC Policy Manual.
- (g) Expenses claimed by Members for reimbursement will be authorised in writing by the Chief Executive or COO, who will ensure that such expenditure is generally in line with policies outlined in this Manual. If the Chief Executive is uncertain whether the request for reimbursement complies with NZFC policy, the request for reimbursement will be forwarded to the Chair (in the case of another Member) or the Chair of the Finance, Audit and Risk Committee (in the case of the Chair) for final decision. Normal items that will be reimbursed include reasonable travel, accommodation and hospitality costs incurred on NZFC business.
- (h) The NZFC will not reimburse expenses that are also reimbursed by another body. Where a Member incurs expenses that can be shared between organisations, the reimbursement claim must clearly state which portion of the expenditure relates to NZFC business and disclose the total amount of the expenditure.
- (i) Members who accept invitations sent to them personally (directly), which are related to their NZFC membership, may not claim payment from the NZFC.
- (j) Other than the reimbursed expenses outlined above, the Chair and Members do not have individual power to commit NZFC funds for any purpose. Any such commitment which is not sought and authorised through the normal management channels must have the prior approval of the full Board and be minuted accordingly.

17. Board Expenditure, Fees and Travel Policy

17.1 Board Meetings

- (a) The NZFC Board will meet for five or six scheduled meetings a year and attendance in person is desired, though a video or audio connection may be arranged if a Member is unable to be present. At least four meetings will be held in Wellington with at least one in Auckland each year.
- (b) Members are encouraged to meet for a strategic discussion with the CEO the afternoon before the formal Board meeting, followed by an informal film screening or dinner to which key stakeholders will be invited from time to time.
- (c) NZFC will pay travel expenses and hotel accommodation for all Members as required in connection with Board meetings.
- (d) Board committee meetings will be scheduled generally immediately prior to or after Board meetings. Where this is not possible the NZFC will pay any associated travel and accommodation expenses of the committee members.

17.2 Attendance at New Zealand Premieres and other Industry Related Events

- (a) Wherever possible, Members will be invited to official NZ premieres of films in which the NZFC has made a significant investment.
- (b) Members will be offered the opportunity to attend major industry conferences, such as the Big Screen Symposium and SPADA conference and industry functions such as the NZ Film Awards. Attendance fees for all Members who wish to attend will be paid.
- (c) The NZFC will pay associated travel and accommodation expenses of Members as approved by the Chair.

17.3 Attendance at International Festivals

- (a) Travel and attendance by a Member at a major international festival (such as Cannes) will be funded by the NZFC only if a film in which the NZFC has a significant investment is selected in the official competition and/or the Board resolves that such attendance is appropriate.

17.4 Board Expenses

- (a) Expenses (including travel, accommodation and other expenses) claimed by a Member will be treated consistently with the Staff Expenditure Policy and the Staff Travel Policy (as applicable).
- (b) Expenses incurred by Members will be approved for reimbursement by the Chair.
- (c) Expenses incurred by the Chair will be approved by the Chair of the Finance, Audit and Risk Committee.

17.5 Entertainment Guidelines

- (a) Members are entitled to entertain filmmakers on appropriate occasions. All entertainment must have a justified business purpose and the expenditure incurred must be moderate and conservative.
- (b) Members are also entitled to reimbursement for meals when attending Board meetings or industry related events/functions. The annual Budget sets a total expense spending cap for Members.
- (c) Any domestic entertainment expenditure which is likely to exceed NZ\$200 and any international entertainment expenditure which is expected to exceed \$250 must be pre-approved by the Chair.
- (d) Guidelines within New Zealand:
 - (i) Moderate consumption of alcohol
 - (ii) Maximum of half a bottle of wine per person (up to \$75 per bottle)
 - (iii) Moderate expenditure on food (maximum of \$65 per person, unless pre-approved by the Chair).
- (e) Where a foreign delegation or local dignitaries are being hosted and there are culture expectations around entertainment, exceptions to the above limits are acceptable with the approval of the Chair.

17.6 Board Fees

- (a) Fees for Members are as follows (as per Cabinet approved fees framework):
 - (i) Chair: \$33,600 per annum
 - (ii) Members: \$16,000 per annum

18. Indemnification of Members

- (a) The NZFC will indemnify Members in relation to acts or omissions made in good faith and in the performance or intended performance of the Board's functions to the extent permitted by the Crown Entities Act 2004.

19. Appendix A – Template Committee Terms of Reference

Terms of Reference for The [Name] Committee

Drafting Note: This template contains key aspects for a Terms of Reference for a Board Committee. Treat this Template as a guideline (delete the drafting notes and change the shaded areas as you go!) and seek further advice from Legal and Business Affairs if needed.

1. Legislative basis for the [Name] Committee

1.1. The [Name] Committee has been established in accordance with Schedule 5, Clause 14 of the Crown Entities Act 2004.

Drafting note: Committees are formed in accordance with Schedule 5, Clause 14 of the Crown Entities Act 2004. This states the Board may, by resolution, appoint committees for the following purposes:

- to advise the Board on any matters relating to the NZFC’s functions and powers; or
- to perform or exercise any of the NZFC’s functions and powers that are delegated to the committee.

If the group being formed is going to “perform or exercise any of the NZFC’s functions or powers,” but DOES NOT include a Board member, then it IS NOT a Committee pursuant to Schedule 5, Clause 14 of Crown Entities Act.

Under the Crown Entities Act section 73 the Board may delegate functions and powers to other groups of people (e.g. staff members) however this group of people will not be a “Committee.” Chapter 12 of the Governance Manual details the formalities required for section 73 delegations. Please contact the Legal and Business Affairs team for further advice.

2. Purpose of the [Name] Committee

2.1. [Provide an introductory statement explaining the purpose of the committee. Specify whether the committee will have only an advisory role, or if it will carry out functions and powers of the NZFC]

3. Responsibility of the [Name] Committee

3.1. Advice the Committee is responsible for:

3.1.1. [Detail advisory responsibility as applicable]

3.1.2. [Detail advisory responsibility as applicable]

3.2. NZFC Powers and Functions the Committee is responsible for:

3.2.1. [Detail powers and functions responsibility as applicable]

3.2.2. [Detail powers and functions responsibility as applicable]

4. Budget and financial delegation

4.1. [Use this section to detail whether there is any budget allocated to the committee and the purpose for which it can be used (i.e. to obtain external advice, professional development etc), AND/OR detail that the Committee can seek approval from the Board for any financial spend.]

5. Membership of the [Name] Committee

Drafting note: If the committee is appointed to “perform or exercise any of the NZFC’s functions or powers” it must include at least 1 member of the Board and any other person or persons that the Board thinks fit. If the Committee is formed to advise the Board but not carry out powers or functions itself, it does not require inclusion of a Board Member.

Membership should be detailed by role/position, not by an individual’s name.

There is no maximum or minimum number of members required for a committee.

Drafting note: A person must not be appointed as a committee member unless, before appointment, they disclose to the Board the details of any interest they may have if they were a member of that committee (Crown Entities Act, Schedule 5, Clause 14(2)). Please ensure that before appointment potential committee members have disclosed their interests and appropriate Conflict of Interest management plans have been put in place.

All members of the committee must ensure their interests have been recorded in the committee specific interest register Appendix A of this Terms of Reference. This includes Board Members and Staff who may have their interests already disclosed in other registers.

5.1. [Position/role of member]

5.2. [Position/role of member]

5.3. [Position/role of member]

6. Chair of the [Name] Committee

6.1. [Set out rules for the selection of the chair of the Committee. It may be that the NZFC Board will appoint the chair. Some existing committees require the committee chair to be a Board member, but not the Board Chair].

6.2. The Chair shall chair committee meetings and perform such functions as are allocated to the Chair by the NZFC Board from time to time.

7. Observers

7.1. [It may be appropriate for some committees to have observers. Observers will likely not be entitled to vote but may be entitled to receive minutes of the meetings on request. Any stipulations regarding observers can be put in this part of the Terms of Reference, for example they may be required to disclose interests and sign confidentiality agreements.]

8. Conflicts of Interest

8.1. Prior to appointment, all committee members were required to disclose to the NZFC Board the details of any interest they may have if they were a member of that committee. [If there were no interests that arose, note that in this section and then delete the rest of this paragraph and the table below] These interests, and their relevant management plan, as determined by the Board, are set in Appendix A.

8.2. Committee Members have an ongoing responsibility to disclose any new or changed interests as they arise. For more information refer to the Conflict of Interest guidelines as set out the Governance Manual and the Staff Conflict of Interest policy. For advice, contact the Legal and Business Affairs team.

9. Appointment and Term

9.1. Committee members will be appointed by resolution of the NZFC Board.

9.2. Members will be appointed for a term of [XX] years [it may not be necessary to have time limits on membership appointments, particularly as any NZFC Board Members on the committee will be limited by their Board Membership term regardless. Consider whether a term would be useful, keeping in mind the additional administrative requirements of keeping track of when a member's term expires.]

9.3. Members may be removed from the Committee by a resolution of the NZFC Board, or by ceasing their role as an NZFC Board Member or employee or resignation.

10. Quorum

10.1. A quorum of the [Name] Committee shall consist of:

10.1.1. [XX Number of Committee Members]; and

10.1.2. [Particular Committee Member/s, e.g. the CE, or the Committee Chair, or a Board Member]; and

10.1.3. [Particular Committee Member/s, e.g. the CE, or the Committee Chair, or a Board Member].

11. Voting

- 11.1. Committee members will have one vote each.
- 11.2. Decisions will be taken on a simple majority of votes.
- 11.3. The Chair of the Committee will have a casting vote in situations where there is a tie.

12. Meetings

- 12.1. The [Name] Committee will meet as and when required at meetings to be called by the [member responsible for calling meeting – likely the committee chair – specify whether they should consult with another person before calling a meeting].
- 12.2. [Set out whether there should be a certain number of meetings per year, of if they are set down in advance].

13. Confidentiality

- 13.1. Committee members may have access to certain information of a confidential or commercially sensitive nature. This may include information that Members would not have exposure to but for their role on the Committee. The Committee and its members will use all reasonable efforts to maintain the confidentiality of the information to it, subject to such disclosure requirements that are applicable, for example those under the Official Information Act 1982.

14. Reporting

- 14.1. All [Name] Committee minutes will be circulated to the NZFC Board following each meeting. [Unless board resolves otherwise if requested].
- 14.2. [There may be a requirement to inform the NZFC Board each time a particular function or power is exercised. Document that requirement in this part of the Terms of Reference].

15. Changes to Terms of Reference

- 15.1. Changes to the Terms of Reference must be approved by resolution of the NZFC Board.

Log of Committee appointment and reviews:

Date updated	Notes	Approved by
[Date]	[Name] Committee appointed and Terms of Reference Approved	Board
[Date]	Terms of Reference Updated	Board

Appendix A

[Name] Committee Interests Register

Committee Member	Conflict of Interest (specify if potential, perceived or actual)	Management Plan