PHARMAC
TE PĀTAKA WHAIORANGA

BOARD GOVERNANCE MANUAL

Manual updated: February 2024

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1. About this Document

This manual has been developed to provide an overview of the Pharmac Board's statutory duties and the governance principles for the Board's performance and conduct. This Governance Manual aims to provide Board Members with the relevant knowledge, information and reference material to be part of an effective Board and in a manner that is consistent with the Public Service Act 2020, the Crown Entities Act 2004, the Pae Ora (Healthy Futures) Act 2022, and other relevant legislation.

This Manual includes the guidance produced to promote compliance with those obligations, in particular the Public Service Commission's Resource for Preparation of Governance Manuals (Guidance for Statutory Crown Entities 2023) (PSC Guidance), to the extent that they are current and relevant.

2. Introduction to Pharmac

The Crown has devolved responsibility to Pharmac for decisions about which pharmaceuticals (including medical devices) should be publicly funded.

Pharmac was initially set up in 1993 as a joint venture company owned by the (then in existence) four Regional Health Authorities. In 2001 Pharmac became a stand-alone Crown Entity established under s46 of the New Zealand Public Health and Disability Act 2000 (NZPHD Act), now the Pae Ora (Healthy Futures) Act 2022 (Pae Ora Act), with an independent board.

Under the Crown Entities Act 2004, Crown agents like Pharmac must give effect to Government policy when directed by their responsible Minister (for Pharmac this is the Minister of Health, as supported from time to time by Associate Ministers).[1] This is an 'arm's length' relationship and is an important feature of New Zealand's institutional arrangements. It means that, while the Minister remains accountable for the public resources allocated, he/she depends on Pharmac to ensure that it delivers value for money when implementing its statutory objectives. Under the Pae Ora Act (s66), the Minister is unable to direct funding decisions made by Pharmac where that would require Pharmac to purchase a particular pharmaceutical from a particular source or at a particular price, or to benefit a named individual.

More information about Pharmac, including Annual Reports and other accountability documents, are available on the Pharmac website.

3. Organisational Culture

As part of the public service, Pharmac must uphold the public service values and minimum standards of integrity and conduct, and the spirit of public service. The public sector values, as set out in the Public Service Act 2020 are:

- Impartial - to treat all people fairly, without personal favour or bias;
- Accountable - to take responsibility and answer for its work, actions, and decisions;
- Trustworthy - to act with integrity and be open and transparent;
- Respectful - to treat all people with dignity and compassion and act with humility;
- Responsive - to understand and meet people's needs and aspirations.

[1] Refer PSC Guidance, p9-14.

4. Ngā Uaratanga | Our Values

Our values guide us to make decisions that create better health outcomes for New Zealanders. They inform our behaviour and influence our thinking, how we work, and who we work with.

Pharmac's ngā uaratanga – our Values are:

Whakarongo | Listen	Āta whakarongo kia puaki te ngākau aroha | We listen with intent and empathy to understand.
Tūhono | Connect	Kōtuitui kia piri, tūhono kia whakatatū te ara tika | We connect with people, communities, the health system and each other.
Wānanga | Learn together	Ma te māhirahira ka whāwhāki te māramatanga | We draw on evidence and people's experiences to improve.
Māia | Be courageous	Tū te ihiihi, tū te wanawana, tū te wehiwehi | We challenge ourselves
Kaitiakitanga | Preserve, protect and shelter our future	Hāpaitia te mana tangata hei whāriki mo ngā uri whakatipu | We safeguard wellbeing for New Zealanders, now and for the future.

5. Te Tiriti O Waitangi and the Health Sector Principles

Pharmac has made a commitment to upholding and honouring the Treaty of Waitangi/ Te Tiriti o Waitangi. Section 6 of the Pae Ora Act sets out how Pharmac gives effect to the principles of Te Tiriti in requiring Pharmac to be guided by the Health Sector Principles set out at section 7 of the Act.

Pharmac must be guided by the Health Sector principles when performing its functions or exercising powers or duties under the Act as far as reasonably practicable, having regard to all the circumstances, including any resource constraints and to the extent applicable to Pharmac. The Health Sector Principles are set out in full below:

Equity	The health sector should be equitable, which includes ensuring Māori and other population groups i) have access to services in proportion to their health needs; and ii) receive equitable levels of service; and iii) achieve equitable health outcomes;
Engagement	The health sector should engage with Māori, other population groups, and other people to develop and deliver services and programmes that reflect their needs and aspirations, for example, by engaging with Māori to develop, deliver, and monitor services and programmes designed to improve hauora Māori outcomes.
Tino Rangatiratanga / decision making	The health sector should provide opportunities for Māori to exercise decision-making authority on matters of importance to Māori and for that purpose, have regard to both i) the strength or nature of Māori interests in a matter; and

	ii) the interests of other health consumers and the Crown in the matter;
Provision of Quality and Culturally Appropriate Services	The health sector should provide choice of quality services to Māori and other population groups, including by i) resourcing services to meet the needs and aspirations of iwi, hapū, and whānau, and Māori (for example, kaupapa Māori and whānau-centred services); and ii) providing services that are culturally safe and culturally responsive to people's needs; and iii) developing and maintaining a health workforce that is representative of the community it serves; and iv) harnessing clinical leadership, innovation, technology, and lived experience to continuously improve services, access to services, and health outcomes; and v) providing services that are tailored to a person's mental and physical needs and their circumstances and preferences; and providing services that reflect mātauranga Māori;
Promotion of Health and Wellbeing	The health sector should protect and promote people's health and wellbeing, including by i) adopting population health approaches that prevent, reduce, or delay the onset of health needs; and ii) undertaking promotional and preventative measures to protect and improve Māori health and wellbeing; and iii) working to improve mental and physical health and diagnose and treat mental and physical health problems equitably; and iv) collaborating with agencies and organisations to address the wider determinants of health; and v) undertaking promotional and preventative measures to address the wider determinants of health, including climate change, that adversely affect people's health.

Pharmac's Board has previously set itself Te Tiriti accountabilities. These are under review following the enactment of the Pae Ora Act.

6. Government Policy Documents

Part 2, Subpart 6 of the Pae Ora Act provides for a suite of Government policy statements and strategies that will guide the entire health sector, including Pharmac:

6.1 The Government Policy Statement

The Minister of Health is required to issue a Government Policy Statement (GPS) that sets out the Government's priorities and objectives for the publicly funded health sector. The GPS must be issued at least every three years and sets both priorities for the sector (including, where appropriate, outcomes) and the parameters for the development of a New Zealand Health Plan. While there is no statutory obligation on the Minister to consult Pharmac in the preparation of the GPS, there is a requirement to engage with organisations the Minister considers appropriate.

Section 38 of the Pae Ora Act requires that Pharmac 'gives effect to' the contents of the GPS to the extent relevant to its functions and subject to any applicable Crown Entities Act directions.

6.2 The New Zealand Health Plan

The New Zealand Health Plan is developed jointly by Health New Zealand (Te Whatu Ora) and The Māori Health Authority (Te Aka Whai Ora) to give effect to the GPS. The plan sets out desired improvements in health outcomes and priorities for those desired improvements. It will specify how health entities will deliver service and investment changes to achieve the desired improvements. In developing the plan, the two agencies must engage with other health entities, including Pharmac.

While there isn't an explicit statutory obligation on Pharmac with regards the New Zealand Health Plan, as the means by which the GPS is implemented, it will be a relevant consideration for Pharmac when developing its own strategic direction and priorities.

6.3 The Health Strategies

In addition to the GPS, the Pae Ora Act requires the Minister of Health to develop six further strategies as set out below. In preparing the strategies, the Minister must consult health entities that the Minister considers are reasonably likely to be affected by the strategy, which could include Pharmac. While the strategies are to be regularly monitored and reviewed, there is no statutory timeframe for refresh of the strategies once issued. The Minister has an obligation to monitor how the health sector has performed against the health strategies.

Pharmac is required to 'have regard to' all health strategies when exercising its powers or performing its duties, to the extent that each strategy is relevant to those powers, functions or duties.

Strategy	Preparation and purpose
The New Zealand Health Strategy	The New Zealand Health Strategy is prepared by the Minister. Its purpose is to provide a framework to guide entities in protecting, promoting and improving people's health and well-being. It is focussed on the next 5-10 years and will contain an assessment of current health sector outcomes and performance, trends and risks and opportunities and priorities for improving the sector, including workforce development.
Hauora Māori Strategy	The Hauora Māori Strategy is jointly prepared by the Minister and Māori Health Authority (Te Aka Whai Ora). Its purpose is to provide a framework to guide entities in improving Māori health outcomes.
The Pacific Health Strategy	The Pacific Strategy is prepared by the Minister. Its purpose is to provide a framework to guide health entities in improving Pacific health outcomes in New Zealand.
Health of Disabled People Strategy	The Health of Disabled People Strategy is prepared by the Minister. Its purpose is to provide a framework to guide health entities in improving health outcomes for disabled people and their families and whānau.
Women's Health Strategy	The Women's Health Strategy is prepared by the Minister. Its purpose is to provide a framework to guide health entities in improving health outcomes for women.

Rural Health Strategy	The Rural Health Strategy is prepared by the Minister. Its purpose is to provide a framework to guide health entities in improving health outcomes for rural communities.

6.4 Other guidance documents

6.4.1 The Health Sector Charter

For the purpose of supporting the Health Sector Principles, Health New Zealand | Te Whatu Ora and Māori Health Authority | Te Aka Whai Ora are required to prepare a Health Charter (s56). The Health Charter | Te Mauri O Rongo is a statement of the values, principles, and behaviours that health entities (including Pharmac) and their workers are expected to demonstrate, both collectively and individually. While binding at an individual level, as well as organisationally, the contents of the Charter do not affect existing professional codes and obligations.

6.4.2 The Health Sector Code

The Health Code of Expectations has been issued by the Health Quality and Safety Commission under s59 of the Act. It sets expectations for consumer and whānau engagement in the health sector and for enabling consumer and whānau voices to be heard. Pharmac is required to act in accordance with the code. The current Code can be found here. Health entities must report annually on how they have given effect to the code.

7. Objective and Functions

7.1 Pharmac's Objective

The objective of Pharmac is:

> "to secure for eligible people in need of pharmaceuticals, the best health outcomes that are reasonably achievable from pharmaceutical treatment and from within the amount of funding provided".
> Section 68 Pae Ora Act

Pharmaceuticals are defined in the Pae Ora Act as a "medicine, therapeutic medical device, or related product or related thing".

Pharmac also has other objectives it is given by or under any enactment, or authorised to perform by the Minister by written notice to the Board of Pharmac after consultation with it (s68(1)(b)).

7.2 Functions of Pharmac

Pharmac has a range of functions which are set out in section 69 of the Pae Ora Act or as otherwise authorised by the Minister of Health after written notice and consultation.

Under section 14(2) of the Crown Entities Act (**CE Act**) Pharmac must, in performing its functions, act consistently with its objective. Pharmac's functions are set out below, along with a brief explanation of each. More detailed information about how Pharmac exercises these functions is contained in the Statement of Intent and other accountability documents, and on the Pharmac website.

7.2.1 Pharmaceutical Schedule Management (s69(1)(a) Pae Ora Act)

> "to maintain and manage a Pharmaceutical Schedule that applies consistently throughout New Zealand, including determining eligibility and criteria for the provision of subsidies".

The Pharmaceutical Schedule sets out which pharmaceuticals are funded in the community (Sections B, C, D and I) and in Health New Zealand (Te Whatu Ora) hospitals (Part II of Section H). In addition, Part III of Section H of the Pharmaceutical Schedule lists national contracts for hospital medical devices that are optional for Health New Zealand. As Pharmac's activity increases in relation to devices, over time Health New Zealand would no longer be able to contract outside of the products listed in the Schedule. This is expected to occur in a staged way following consultation and engagement processes. Section A of the Schedule contains the Schedule Rules.

Under the Pae Ora Act (section 14(3)), Health New Zealand must not act inconsistently with the Pharmaceutical Schedule. This means that Health New Zealand must comply with the Schedule Rules and not fund any pharmaceuticals outside the products listed unless permitted by the Rules.

7.2.2 Manage Exceptional Circumstances (s69(1)(b) Pae Ora Act)

> "to manage incidental matters arising out of [the Schedule Management process], including in exceptional circumstances providing for subsidies for the supply of pharmaceuticals not on the Pharmaceutical Schedule."

Pharmac manages publicly funded treatments in most cases through listings in the Pharmaceutical Schedule. Pharmac has an Exceptions Framework that outlines the way we generally consider funding decisions that fall outside the regular decision making process for listing. The Exceptions Framework includes the Named Patient Pharmaceutical Assessment (NPPA) policy. Under NPPA a patient's doctor may seek funding for treatments that are not funded at all or not funded for the patient's clinical circumstances. The NPPA Policy, as well as extensive information about NPPA, is available on Pharmac's website.

7.2.3 Research (s69(1)(c) Pae Ora Act)

> "to engage as it sees fit, but within its operational budget, in research to meet [its] objectives..."

Research is part of Pharmac's role in gathering information on pharmaceuticals to enable informed funding decisions. Pharmac can also conduct, or partner with other organisations to conduct, research to determine whether steps are needed to address its statutory objective.

7.2.4 Promote the Responsible Use of Medicines (s69(1)(d) Pae Ora Act)

> "to promote the responsible use of pharmaceuticals."

Initiatives that promote the responsible use of medicines (reducing under, over and misuse) are intended to increase health gains and/or support more efficient and effective pharmaceutical spending and equity of access to funded medicines. This involves understanding the factors that drive demand for pharmaceuticals both in the community and in Health New Zealand | Te Whatu Ora hospitals.

7.2.5 Other functions as authorised (s69(1)(e) Pae Ora Act) – including Hospital pharmaceuticals

> to perform any "other functions [Pharmac] is for the time being given by or under any enactment, or authorised to perform by the Minister by written notice to the board of Pharmac after consultation with it."

In September 2001, the Minister of Health directed Pharmac (in accordance with s48(e) of the NZPHD Act, now section 69(1)(e) of the Pae Ora Act) to "manage the purchasing of any or all pharmaceuticals, whether used either in a hospital or outside it, on behalf of DHBs (now Health NZ | Te Whatu Ora)."

A copy of the direction is attached as Schedule One. This additional function ensures that Pharmac has full authority to undertake activities relating to the hospital setting.

7.2.6 Incidental / Consequential functions

Section 14 of the CE Act permits Pharmac to "perform any functions that are incidental and related to, or consequential on", the five functions set out above.

The above functions must be performed within the amount of funding provided to Pharmac and in accordance with its Statement of Intent, Statement of Performance Expectations and any directions given under the CE Act.

Pharmac may do anything authorised by the CE Act or the Pae Ora Act and anything that a natural person of full age and capacity may do – but all such things may only be done for the purpose of performing its functions (s16, 17, 18 CE Act).

8. Key Accountability Arrangements, Strategies and Legislative Obligations

The CE Act sets out a framework for the establishment, governance, and operation of Crown entities and clarifies accountability relationships between Crown entities, their Board Members, their responsible Ministers on behalf of the Crown, and the House of Representatives.

The CE Act clarifies the powers and duties of Board Members, including their duty to ensure the financial responsibility of the Crown entity, and sets out the Crown entity's reporting and accountability requirements.

Further background information on the public sector, and Pharmac's role within it, is set out in Schedule Two.

8.1 Ministerial Powers and Role

The Minister of Health is the Minister with overall responsibility for overseeing and managing the Crown's interests in, and relationship with, Pharmac. The Minister may be supported in the delivery of their role by Associate Ministers. Associate Ministers assist portfolio Ministers in carrying out tasks relating to their portfolios and may receive delegations from the Minister of Health.

The responsible Minister's functions and powers in relation to Pharmac include (but are not limited to):

- the appointment and removal of Board Members;

- the determination of the remuneration of Board Members;
- the ability to give directions to Pharmac (subject to s69(1)(e)Pae Ora Act), refer 4.4.2;
- the review of the operations and performance of Pharmac;
- the ability to request information from Pharmac, whether for a review or otherwise;
- the agreement of the annual level of the Combined Pharmaceutical Budget; and
- the participation in the process of setting and monitoring Pharmac's strategic direction and targets (s27 CE Act).

The Minister's participation in the process of setting and monitoring Pharmac's strategic direction and targets is usually formally done by Letters of Expectation, Statements of Intent and Performance Expectations, Output Agreements, Annual Reports and receipt of monthly and quarterly reports. Pharmac, along with other health entities is required to comply with the Government Policy Statement on Health that is issued every three years, to the extent that the Policy applies to Pharmac (section 39, Pae Ora Act).

8.2 Strategic Direction and Planning

An essential element in the Board's leadership role is its responsibility to set and annually review Pharmac's Statement of Intent and strategic direction, along with its Statement of Performance Expectations.[2] Accompanying this is an ongoing responsibility to identify organisation priorities, monitor progress against the strategic goals and objectives and view and approve annual business plans and the annual budget. Accordingly, the Board will:

- In partnership with the Chief Executive, annually review Pharmac's objectives, vision, strategies and priorities.
- Review and establish the Statement of Intent and annual Statement of Performance Expectations to ensure alignment with the strategic direction, priorities and organisation strategies.
- Schedule a programme of strategic dialogue at Board meetings that reflects the priorities as defined by the Board and that creates opportunities for the Board and management to think strategically about future issues of strategic importance to Pharmac's wellbeing and success.

8.2.1 Letter of Expectations

The Minister's expectations for Pharmac's strategic direction and the specific priorities for the following year may be reflected in a Letter of Expectations.

A Letter of Expectations can be issued at any time, but normally coincides with the development of the annual Statement of Performance Expectations as it must reflect the content of the Letter of Expectations. The Minister may consider that he or she needs to send a new Letter of Expectations when circumstances change, such as the appointment of a new Chair or following legislative changes affecting Pharmac's operating environment.

Enduring Letters of Expectations to specific categories of public agencies, including Crown entities, are also issued from time to time by the Government.

The Chief Executive regularly reports to the Board regarding Pharmac's progress towards meeting the expectations set by the Minister and Government.

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[2] Refer PSC Guidance, p32

8.2.2 Statement of Intent and Statement of Performance Expectations

All Crown entities are required to have a Statement of Intent (SOI) and a Statement of Performance Expectations (SPE).[3]

Statement of Intent

The SOI's purpose as set out in s138 of the CE Act is to "promote the public accountability of a Crown entity by:

- enabling the Crown to participate in the process of setting Pharmac's strategic intentions and medium-term undertakings;
- setting out for the House of Representatives those intentions and undertakings; and
- providing a base against which Pharmac's actual performance can be assessed."

The SOI provides a high-level description and explanation of Pharmac's strategic intentions over a four-year period.

In broad terms, the SOI will explain:

- the nature and scope of Pharmac's functions and intended operations;
- how Pharmac intends to manage its functions and operations to meet its strategic intentions;
- how Pharmac proposes to manage its organisational health and capability; and
- how Pharmac proposes to assess its performance.

Statement of Performance Expectations

The SPE's purpose as set out in s149B of the CE Act is to:

- enable the responsible Minister to participate in the process of setting annual performance expectations;
- enable the House of Representatives to be informed of those expectations; and
- provide a base against which actual performance can be assessed.

The SPE reflects more operational matters than the SOI and it relates to a shorter time-period of one financial year. It includes a concise explanation of what each reportable class of outputs is intended to achieve and explains how the performance of each class of outputs will be assessed.

Wider Context of SOI and SPE

Pharmac's SOI and SPE must also:

- be consistent with any formal directions from Ministers where appropriate
- be consistent with Government policy where appropriate
- contain any particular information agreed with the Minister of Health.

[3] Refer PSC Guidance page 59-62.

The SOI and SPE are public, and are key accountability documents designed to give Ministers, Parliament and stakeholders a full and balanced view of Pharmac's intentions regarding strategy, capability and performance. They also provide a base against which the entity will later report in its Annual Report (s150 and s151 CE Act). The information in the SOI and SPE should be set out in a way that is clear and accessible to varied audiences.

Pharmac's current SOI and SPE are available on the Pharmac website.

8.2.3 Annual Output Agreement

Each year, the Minister of Health and Pharmac may enter into a contractual Output Agreement. The purpose of an Output Agreement is to:

- assist the Minister and Pharmac to clarify, align and manage their respective expectations and responsibilities for the funding and production of certain outputs; and
- set the particular standards, terms and conditions under which Pharmac will deliver and be paid for the specified outputs.

Pharmac's Output Agreement is available on the Pharmac website.

8.2.4 Annual Report

An Annual Report is one of the most important means by which Crown entities discharge accountability to Parliament and the public. It is the key resource for financial reviews of the performance and current operations of each Crown entity by select committees (see 5.2 below).

The CE Act requires Pharmac's Annual Report to disclose its progress against the performance measures and standards as set out in the SOI and SPE. The focus of the Annual Report should be on providing a coherent account of what has been done and achieved in the year and explaining variations between planned and actual achievement.

Pharmac's Annual Report is available on the Pharmac website.

8.3 Other Legislative Obligations

Pharmac's General Counsel reports regularly to the Board on Pharmac's compliance with legislation. Set out below are some specific statutory obligations that Board Members should be aware of.

8.3.1 Consultation and Notification

Section 70 of the Pae Ora Act requires that:

"in carrying out its functions, Pharmac must, when it considers it appropriate to do so:

(a) consult on matters that relate to the management of pharmaceutical expenditure with any sections of the public, groups, or individuals that, in the view of Pharmac, may be affected by decisions on those matters; and

(b) take measures to inform the public, groups, and individuals of Pharmac's decisions concerning the Pharmaceutical Schedule."

8.3.2 Fiscal responsibility (s69(2), Pae Ora Act)

Pharmac must operate in a financially responsible manner and for this purpose must endeavour to cover all its annual costs (including the cost of capital) from its net annual income.

8.3.3 Provision of Information (s65, Pae Ora Act)

In addition to Pharmac's reporting obligations set out in the CE Act, Pharmac must, when required by notice from the Minister of Finance, supply that Minister, or any other person or class of persons that the Minister specifies, economic or financial forecasts or other economic or financial information relating to Pharmac that are notified.

8.3.4 Being a Good Employer (s118 CE Act)

As a Crown entity, Pharmac must operate a personnel policy that complies with the principle of being a good employer including provisions requiring:

- good and safe working conditions;
- an equal employment opportunities programme;
- the impartial selection of suitably qualified persons for appointment;
- recognition of:
    - the aims and aspirations of Māori; and
    - the employment requirements of Māori; and
    - the need for involvement of Māori as employees of the entity;
- opportunities for the enhancement of the abilities of individual employees;
- recognition of the aims and aspirations and employment requirements, and the cultural differences, of ethnic or minority groups;
- recognition of the employment requirements of women; and
- recognition of the employment requirements of persons with disabilities.

A considerable body of legislation applies to Pharmac as an employer in respect of matters such as holiday entitlements, employment relations and health and safety. Employment matters are handled by the Chief Executive under delegation from the Board (see Part 7).

8.4 Specific Statutory Exemptions and Restrictions

8.4.1 Commerce Act Exemption (s 74 Pae Ora Act)

In carrying out its role, Pharmac has a limited exemption from the trade practices provisions of the Commerce Act 1986, contained in Part II of that Act. The exemption applies to entering into and giving effect to contracts for the purchase of pharmaceuticals. Achievement of Pharmac's statutory objective relies on promoting competition, not suppressing it. It is in neither Pharmac's short term nor long term interest to lessen competition.

s53. Exemption from Part II of the Commerce Act 1986 –

(1) In this section, unless the context otherwise requires:

"agreement"

(a) includes any agreement, arrangement, contract, covenant, deed, or understanding, whether oral or written, whether express or implied, and whether or not enforceable at law; and

(b) without limiting the generality of paragraph (a), includes any contract of service and any agreement, arrangement, contract, covenant, or deed, creating or evidencing a trust.

"pharmaceuticals" means substances or things that are medicines, therapeutic medical devices, or products or things related to pharmaceuticals.

(2) It is declared that nothing in Part 2 of the Commerce Act 1986 applies to—

(a) any agreement to which Pharmac is a party and that relates to pharmaceuticals for which full or part-payments may be made from money appropriated under the Public Finance Act 1989; or
(b) any act, matter, or thing, done by any person for the purposes of entering into such an agreement; or
(c) any act, matter, or thing, done by any person to give effect to such an agreement.

8.4.2 Statutory Directions (s66 Pae Ora Act and s103-115 CE Act)

A Crown entity must give effect to a direction given to it by its responsible Minister or a whole of Government direction, when such directions are given in accordance with the CE Act (s103-115 CE Act).

No direction may be given by the Minister of Health under s103 of the CE Act that would require Pharmac to purchase a pharmaceutical from a particular source or at a particular price or provide any pharmaceutical or pharmaceutical subsidy or other benefit to a named individual (s66, Pae Ora Act).

Of particular relevance to Pharmac are the directions to support a whole of government approach for Procurement and Property issued in June 2014. The Procurement direction requires Pharmac to comply with the Government Procurement Rules, available at www.procurement.govt.nz.

8.4.3 Dealings with Land (Schedule 6, clause 99 Pae Ora Act)

Pharmac may not, without the prior written approval of the Minister of Health:

- sell, exchange, mortgage, or charge land; or
- grant a lease or licence for a term of more than 5 years over land.

8.5 Other legislation with general application

8.5.1 New Zealand Bill of Rights Act 1990 & Human Rights Act 1993

Compliance with human rights obligations is of fundamental importance to Pharmac. These obligations arise from a range of sources including the New Zealand Bill of Rights Act 1990, the Human Rights Act 1993, and case law. On occasion, specific issues related to these obligations arise, such as where a funding decision involves targeted access criteria based on age or gender.

In order to ensure compliance with these important obligations in such circumstances Pharmac staff will give consideration to these issues, and may seek legal advice where necessary, prior to presenting any proposal to the Board. In other circumstances, where access is not targeted in this way, the application of the careful evaluation processes used to support Pharmac's statutory objective of securing "best health outcomes … within the funding provided", and reported in all decision papers, is the primary mechanism by which Pharmac ensures compliance with its human rights obligations.

8.5.2 Official Information Act 1982

Pharmac Board minutes are among the documents that can be requested under this legislation (the OIA). A version of the Board minutes for Public Release (excluding confidential information) are published on the Pharmac website.

The general expectation, as expressed by the Chief Ombudsman, is for official information to be released (either proactively or in response to a request), unless there are clear grounds to withhold it under the Act.

For further guidance on the OIA, see: www.ombudsman.parliament.nz.

8.5.3 Privacy Act 2020

The principles in the Privacy Act provide a framework for protecting an individual's right to privacy including:

- how an organisation collects and stores personal information and what procedures are required to protect the security of that information;
- how long an organisation can keep personal information; and
- what personal information can be used for, and when it can be disclosed.

  Pharmac has a Privacy Policy and Privacy Statement which give effect to these requirements, as well as a breach reporting process to ensure compliance with the obligation in s114 of the Privacy Act to notify the Commissioner of notifiable privacy breaches.

For further guidance, see: www.privacy.org.nz.

8.5.4 Protected Disclosures Act 2022

The Protected Disclosures Act provides for the reporting of wrong-doing in workplaces (sometimes called 'whistle-blowing') to an appropriate authority, such as an Ombudsman. All Crown entities must have a protected disclosures policy. Under this Act, current or former employees of an entity, contractors and Board Members can make a disclosure that will be 'protected' if the information they are disclosing is about serious wrongdoing in or by the organisation, and they reasonably believe that the information is true or likely to be true.

For further guidance, see: www.ombudsman.parliament.nz.

9. Role, Responsibilities and Duties of the Board

9.1 The Board's Role

The Board is the governing body of Pharmac and has a leadership role to play for the organisation and its personnel. The Board, through its governance arrangements with management, ensures compliance with the law and is the ultimate point for accountability to the Minister for all aspects of the organisation's performance. In addition to enacting its legal responsibility, the Board ensures compliance with internal policies and governance documents, modelling and reinforcing the behaviours that it expects the Chief Executive and staff to demonstrate in both in-house and public settings.

The Board has the authority, in Pharmac's name, to exercise the powers and perform the functions of Pharmac. All decisions relating to the operation of Pharmac must be made by, or under the delegated authority of, the Board (s25, CE Act).

In carrying out its functions and powers, the Board should ensure that it:

- has a clear understanding of its own role, and of the role of the Minister of Health and the Ministry of Health (the monitoring department);
- is well informed about the entity it governs, and about the relevant legislation;
- does not act outside its powers and functions, and only delegates activities responsibly and as permitted by law;
- arranges for appropriate induction and training of Members, to complement that provided by Ministers, the Minister's advisers and/or departmental officials;
- takes appropriate advice; and
- reviews its own performance.

Apart from the above general responsibilities, the Board's role includes the following key elements:

Setting strategic direction and policy

Setting strategic direction and development of policy must be done in a manner consistent with the statutory and policy frameworks within which Pharmac operates, including the Letter of Expectations and Output Agreement and must take account of the broader interests of the Crown as communicated to it in whole of Government directions.

Making Decisions that the Board has reserved to itself

The Board makes decisions relating to expenditure from the Pharmaceutical Budget that it has not otherwise delegated to the Chief Executive.

Accountable to Minister

The Board is accountable to the Minister of Health and provides information and advice to the Minister. The Minister of Health takes into account the functions that Pharmac performs and the advice that the Minister might require in determining the provision of funding to Pharmac.

Appointing a Chief Executive

The Board has the power under s17 of the CE Act to employ staff, including a Chief Executive. The Board appoints the Chief Executive of Pharmac and negotiates the terms and conditions of employment with him or her.

The Board may not finalise the terms and conditions of employment (or agree to any amendments to such terms and conditions) without first obtaining the consent of the Public Service Commissioner (section 117(2A) of the CE Act).

Monitoring the performance of the entity and its CE

The Board is a key monitor of Pharmac’s performance. The Board is required to present an annual report (the Annual Report) to the Minister who, in turn, must present the Annual Report to Parliament. The Chief Executive is answerable to the Board. The Board is accountable to the Minister of Health, and ultimately to Parliament.

The Minister of Health has a statutory power to review Pharmac's operations and performance and can require information from it. The Ministry of Health has a role as agent of the Minister, including seeking and analysing information on the Minister's behalf.

An Ombudsman can investigate matters of administration arising in respect of the agencies scheduled to the Ombudsmen Act 1975. The Public Service Commissioner's 'performance' powers in respect of Crown entities are mostly confined to investigating code of conduct breaches. The Prime Minister, the Minister of Health or the Chief Executive of Pharmac can ask the Commissioner to investigate more broadly under s24 of the Public Service Act 2020. The investigative powers of the Auditor-General cover "public entities" as defined in the Public Audit Act 2001.

Maintaining relationships with the Minister of Health, Parliament and the public

The Minister's role, subject to any legislation to the contrary, is to oversee and manage the Crown's interest in Pharmac's operations. He or she may be called on to answer questions in Parliament and is seen as answerable to the public for any problems or controversies arising in connection with Pharmac. As a result, a "no surprises" policy forms part of the Government's expectations of Crown Entities to ensure that the Minister is informed of any matters relating to Pharmac which may be discussed in public or that may require a ministerial response. However, the Minister's responsibilities do not absolve Pharmac (and the Board) from accountability for its actions.

9.2 Board Accountability

All Board Members are accountable to the Minister of Health for performing their duties as members of the Pharmac Board.

Relationship with Ministry of Health NZ

The CE Act provides for the Minister of Health to monitor Pharmac's performance against its strategic direction, as agreed with the Minister and set out in the SOI, SPE and Output Agreement. The Minister of Health is supported in this engagement by officials from Ministry of Health NZ which in this role, is known as the 'monitoring department'.

While legislation does not specifically define its role, the Ministry of Health provides the Minister with information about Pharmac's performance, ensures that Pharmac's approach is consistent with Government goals, and supports the appointment process for Board Members.

The Public Service Commission has issued an Operating Expectations Framework for Statutory Crown Entities setting out relevant guidance for Ministers, entities and monitoring departments. This is available at the Public Service Commission website.

Parliamentary Select Committees

Pharmac is accountable, through the Minister of Health, to the House of Representatives (s3 CE Act). One mechanism for scrutiny is through parliamentary select committees. The most regular contact Pharmac is likely to have with select committees is for financial reviews, inquiries, consideration of petitions, and occasionally when making submissions on legislative bills. Board Members should be particularly aware of:

- *Examination of the Estimates:* The estimates are the Government's request for appropriations/ authorisation for the allocation of resources, tabled on Budget Day. Pharmac officials do not attend the select committee when it examines the estimates, but the Minister of Health and Ministry of Health may be questioned about the intended activities and expenditure of Pharmac.

- *Financial Review:* The financial review is of Pharmac's performance in the previous financial year and of its current operations. The select committee will provide written questions for answer. If Pharmac is asked to appear, further questions may be asked on the day.

Board Members and Pharmac staff who appear before a select committee do so in support of Ministerial accountability. Generally, the Chair and the Chief Executive will represent Pharmac at select committee hearings although this is a matter for the Board to decide. The Board is answerable to the Minister of Health, who is in turn accountable to the House of Representatives for the operations of Pharmac.

Representatives of Pharmac appearing before select committees have an obligation to manage risks and ensure no surprises for the Minister of Health. This applies even when they appear on matters which do not involve ministerial accountability, such as appearing in a personal capacity. Board Members or employees who wish (or are invited) to make a submission on a bill on behalf of Pharmac are expected to first discuss the matter with the Minister of Health.

Guidance on appearing before select committees is available on the Public Service Commission website.

9.3 Board Membership

A list of current Pharmac Board Members, their appointment date, duration of appointment and a short profile of each is available on the Pharmac website.

9.3.1 Appointment

Members

The Board comprises up to six Members. The Minister of Health, in accordance with s28 of the CE Act, appoints all Members.

Before a person is appointed as a Board Member, the person must consent in writing, certify that he or she is not disqualified from being a Member, and disclose to the Minister of Health the nature and extent (including monetary value, if quantifiable) of all interests that the person has at that time, or is likely to have, in matters relating to the statutory entity (s31 CE Act).

Board Members hold office for up to three years and may be reappointed. Despite the expiry of his or her term of appointment, a Member continues in office until reappointed, a successor is appointed, or until notified by the Minister of Health that the Member is not to be reappointed and no successor is to be appointed (s32 CE Act).

Chair and Deputy Chair

The Minister of Health determines who the Chair and Deputy Chair shall be (Schedule 5, clause 1 CE Act).

The Chair and Deputy Chair hold office until removed by the Minister, the term of office specified by the Minister expires, or until he or she ceases to be a Board Member or resigns from the office of Chair or Deputy Chair (Schedule 5, clause 2 CE Act).

The Deputy Chair has and may exercise all the functions and powers of the Chair, in relation to a matter if the Chair is unavailable or has a conflict of interest in relation to any particular matter. The Board may, by resolution, appoint a temporary Deputy Chair, who may exercise all the functions and powers of the Chair in relation to a matter if there is no

Deputy Chair, the Deputy Chair is unavailable or interested in the matter (Schedule 5, clause 5 CE Act).

9.3.2 Removal

Members

The Minister of Health may, at any time and entirely at his or her discretion, remove a Board Member from office by written notice stating the date on which the removal takes effect (s36 CE Act).

A Board Member is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office (s43 CE Act).

Chair and Deputy Chair

The Minister of Health, may, after consultation with the person concerned, remove the Chair or Deputy Chair from that office by written notice to the person (with a copy to Pharmac) stating the date on which the removal takes effect (Schedule 5, clause 4 CE Act).

9.3.3 Resignation

Members

A Board Member may resign from office by written notice to the Minister of Health (with a copy to Pharmac) with the resignation effective on receipt by the Minister or at any later time specified in the notice (s44 CE Act).

Chair and Deputy Chair

A Chair or Deputy Chair may, without resigning as a Member of the Board, resign from the office of Chair or Deputy Chair by written notice to the Minister of Health (with a copy to Pharmac). The notice must specify the date the resignation takes effect (Schedule 5, clause 3 CE Act).

9.4 Board Members' Duties

Pharmac Board Members must reflect an ethos of public service and an understanding of the accountabilities and sensitivities that apply in the public sector. Consistent with the duties below, the Pharmac Board also endorses the public Sector Standards of Integrity & Conduct (set out in Schedule Three) as being consistent with the expectations of Board Members set out in the CE Act.

9.4.1 Collective duties

The collective duties of the Pharmac Board (s49-51 CE Act) are to:

- act consistently with its objective, functions, Statement of Intent, and Statement of Performance Expectations;
- perform its functions efficiently and effectively, consistently with the spirit of service to the public, and in collaboration with other public entities where practicable;
- operate in a financially responsible manner; and
- ensure that the entity complies with the CE Act requirements relating to its subsidiaries and other interests.

The collective duties of the Board and its Members are duties owed to the Minister of Health. Should the Board not comply with any of the collective duties, all or any of the Members may be removed from office, however, a Member is not liable under the CE Act for a breach of a collective duty.

9.4.2 Individual duties of Members

The individual duties of statutory entity Board Members (s53-57 CE Act), when acting in that role, are to:

- comply with the Crown Entities Act and the entity's enabling legislation;
- act with honesty and integrity, in good faith and not at the expense of the entity's interests;
- act with reasonable care, diligence, and skill;
- avoid disclosing information, except in accordance with the entity's functions as permitted or required by law; and
- exercise the same care, diligence and skill that a reasonable person would in the same circumstances, taking into account the nature of the entity and of the action, the position of the Member and the nature of his or her responsibilities.

The individual duties of Board Members are duties owed to the Minister of Health and to Pharmac. Should a Member not comply with any of his or her individual duties, he or she may be removed from office and Pharmac may bring an action against the Member for breach of any individual duty under the CE Act.

In addition to the duties set out in the CE Act, all Board Members are considered “Officers” under the Health and Safety at Work Act 2015. This means they each have a personal legal duty to exercise due diligence to ensure that Pharmac complies with its duties under the Health and Safety at Work Act.

9.4.3 Chair’s Role

The Chair provides leadership to the Board, ensuring that the Board’s processes and actions are consistent with its policies. As appropriate, the Chair represents the Board and the organisation to outside parties. It is expected that the Chair will promote a culture of stewardship, collaboration and cooperation, modelling and promulgating behaviours that define sound directorship. Key aspects of the Chair’s role are as follows:

- The Chair has no authority to unilaterally change any aspect of Board policy.
- The Chair will ensure that the Board develops and implements processes and systems that result in Board effectiveness including:
    - The development, review and monitoring of the organisation’s strategy and risk management.
    - Board Member and Board professional development.
    - Board performance assessment.
    - Serving as a mentor to individual Members.

    NB: Some or all of these tasks may be delegated to a Board committee.

- The Chair will ensure that Board meetings are properly planned, including the development and distribution of Board papers in a timely manner and that the minutes accurately reflect the deliberations and decisions of the Board.

- The Chair will ensure that all Board decisions or directions are understood by Members and accurately recorded in writing via the minutes of the Board or within Matters Arising.
- The Chair will chair Board meetings ensuring that:
    - Meeting discussion content is confined to governance matters as defined in the Board's policies.
    - All Members are treated even-handedly and fairly.
    - All Members are encouraged and enabled to make a contribution to the Board's deliberations.
- With the approval of the Board, the Chair may establish a regular communication arrangement with the Chief Executive in which there is an exchange of information. This might also provide an opportunity for the Chief Executive to use such sessions as a sounding board for proposed actions or to check interpretations of Board policy. However:
    - The Chair will recognise that such sessions are not used to 'personally' supervise or direct the Chief Executive.
    - The Chair will maintain an appropriate professional distance from the Chief Executive to ensure objectivity and attention to governance matters and concerns.
    - The Chair will not inhibit the free flow of information to the Board necessary for sound governance. Therefore, the Chair will never come between the Board and its formal links with the Chief Executive.

The Chair may delegate aspects of the authority accompanying the position but remains accountable for the overall role.

9.5 Liability and Insurance

Insurance cover is provided to Board Members under Directors and Officers Liability and Overseas Travel Policies (including personal injury).

The CE Act sets out civil immunity for acts and omissions of Board Members in good faith, in performance or intended performance of Pharmac's functions, and also indemnifies Board Members for such acts or omissions (s20-21, s122-125 of the CE Act).

9.6 Conflicts of Interest

The CE Act provisions on conflicts of interest are underpinned by the following principles:

Board Members must ensure they perform all aspects of their work impartially, by:

- avoiding any situation where actions they take in an official capacity could be seen to influence or be influenced by their private interests (eg company directorships, shareholdings, financial rewards);
- avoiding situations that could impair objectivity or create personal bias that would influence their judgements; and
- ensuring they are free from any obligation to another party.

The Board maintains a register of all interests declared by its Members and shall review the register at the commencement of each Board meeting. Members advise any amendments prior to or at the meeting.

Each Board Member is responsible for disclosing any interests he or she considers may be a conflict of interest and the Board as a whole relies on each Board Member to robustly undertake this self-assessment. A conflict of interest disclosure form is provided to Board Members along with guidance on assessing interests, a copy of which can be found in Schedule Four.

Disclosure of interests can also be made through a 'standing disclosure' if the Member has an ongoing interest in a matter which could be the subject of regular discussion by the Board. Standing disclosures must be updated as soon as there is any material change to the interest disclosed.

Staff who support the Board's work will be made aware of the interests contained in the register; Members who have declared an interest must not be provided with information relating to that interest unless the Board has determined that the interest does not pose a conflict, or the Member has been permitted to act under s68 of the CE Act (see below).

Additional guidance on assessing conflicts of interest and the relevant statutory provisions is attached as Schedule Four.

10. Board-Chief Executive Interrelationship Policy

10.1 Board Commitment to the Chief Executive

1. The Board will delegate to the Chief Executive, the responsibility to implement Pharmac's SOI, SPE, and all statutory functions necessary to achieve Pharmac's statutory objective while complying with the Delegation Expectations and Limitations set out in the Chief Executive Delegation policy (Schedule Five)**.**
2. The Board will respect the principle that the Chief Executive is the sole point of operational authority and accountability between the Board and the operational organisation, including the employment, management and determination of salary and benefits of all employees and contractors, and that the Chair is the main point of contact between the Board and the Chief Executive.
3. Instructions to the Chief Executive for the execution of his/her role, eg implementation of the SOI and SPE, parameters of authority and performance expectations, will be communicated to the Chief Executive in writing and will reflect whole of Board decisions.
4. The Board will set Pharmac's SOI and SPE including performance indicators to be applied when reviewing Pharmac's and the Chief Executive's performance.
5. The Board will make clear to the Chief Executive in writing any limitations it chooses to place on his or her freedom to take actions or make decisions that the Board deems unacceptable. Limitations placed on the Chief Executive by the Board are limitations imposed on all employees.
6. The Board will permit the Chief Executive to make any reasonable interpretation of the Board's policies or written policies (further defined in 6.2). Provided a reasonable interpretation is demonstrated, the Board will respect and support his or her choice of actions.
7. The expert knowledge and experience of individual Board Members will be available at any time to the Chief Executive.

10.2 Chief Executive Remuneration

CE remuneration will be decided by the Board based on terms and conditions that reflect Pharmac's performance and executive market conditions.

1. Remuneration will be competitive with similar roles and similar performance within the marketplace.
2. A committee process may be used to gather information and to provide remuneration options and recommendations for the Board for its consideration and decision.

10.3 Chief Executive Performance Assessment

The Chief Executive's performance will be continually, systematically and rigorously assessed by the Board against achievement of the SOI, SPE, and other targets as reflected in the Chief Executive's Performance Agreement and compliance with Chief Executive Delegation policies.

1. The Board will regard the Chief Executive's performance as synonymous with organisational performance.
2. The Board's assessment of the Chief Executive's performance will be against the role description, key capabilities and performance indicators that have been agreed.
3. The Chair and Deputy Chair and/or up to two Board members will be responsible for the process of assessing the Chief Executive's performance, however all decisions will be made by the Board.
4. The Board may monitor any Board policy at any time but will normally base its monitoring on a predetermined schedule defined in the Annual Agenda.
5. The Board may use any one or more of the following three methods to gather information necessary to ensure Chief Executive compliance with Board policies and thus determine its satisfaction with their performance:
    - Chief Executive reporting,
    - Advice from an independent, disinterested third party, or
    - Monitoring by the Board or group of Board Members.

11. Delegations

The Board's choices on what and to whom it may delegate are restricted by the CE Act which prescribes processes and conditions for delegation (and sub-delegation). The Board is required to formulate and maintain a policy for the exercise of its powers of delegation and make the policy (and any amendments to or replacements of the policy) publicly available.

Under previous legislation, the Board's delegation policy and amendments to it were to be approved by the Minister of Health; however, this is no longer a requirement under the Pae Ora Act.

The Board may delegate to Members, employees, office holders and Committee Members, Crown entity subsidiaries, and other persons or classes of persons approved by the Minister of Health. The Board remains legally responsible for delegated functions and powers (see s73-76 of the CE Act).

A delegate to whom functions or powers are delegated may perform the function and power as if the delegate were the Board (unless the delegation provides otherwise) and may only delegate the function or power with the prior written consent of the Board subject to the same restrictions as imposed by the Board in the original delegation (s74 CE Act).

Delegations may be revoked at will by resolution of the Board (and written notice to the delegate) or by any other method provided for in the delegation (s76 CE Act).

11.1 Further guidance on delegations

Board Members have a duty of care under the law. While certain elements of this duty can be delegated, there are other elements that most boards determine should not be.

This is where delegation Expectations and Limitations, as set out in the Chief Executive Policy at Schedule 5, are intended to have effect. Because of the risks involved or in response to statutory or constitutional prohibitions, the Board has determined that certain decisions cannot or should not be delegated. It has also set expectations around how the Chief Executive's delegation should be treated, including certain matters the Board expects to happen, such as keeping the Board informed and observance of the 'no surprises' protocol. These expectations are supplemented by the general performance expectations of the Chief Executive role, underpinned by a trust based employment relationship with the Board.

If in doubt as to the interpretation of their delegation, the Chief Executive should approach either the Chair or the Board to seek guidance on an interpretation of the policy.

When the Chief Executive approaches the Board (or the Chair) for guidance, he or she is not asking permission to act. Rather the approach should be to seek confirmation that the Board intended its Chief Executive to have the freedom to make the specific decision or take the action; in other words, to check the interpretation.

11.2 Delegations Monitoring and Review

The role of the Board includes ensuring that the Chief Executive has adequate systems and processes in place to manage any sub delegations that had been issued.

The Chief Executive delegation should be subject to regular review, both in terms of compliance with limits and the effectiveness of those limits.

12. Operation of the Board

Schedule 5 of the CE Act sets out the procedures for Boards of statutory entities and generally states the Board may regulate its own procedure (except as otherwise provided by legislation (Schedule 5, clause 6, CE Act)).

12.1 Te Rōpū

The Board have established a partnership with Te Rōpū, allowing them to call on the support and guidance of Te Rōpū to provide strategic direction and input to the Board. The impetus for this partnership is to ensure that Board ensures that Pharmac gives effect to its Te Tiriti o Waitangi responsibilities under the iGPS, Health Strategies and the Health Sector Principles as set out in the Pae Ora Act.

The health sector principles state that the health sector should provide opportunities for Māori to 'exercise decision making authority on matters of importance to Māori and for that purpose have regard to both the strength or nature of Māori interests in a matter and the interests of other health consumers and the Crown in the matter'.

Pharmac's Te Tiriti o Waitangi responsibilities are further detailed in our Te Tiriti o Waitangi Policy.

Agreed principles of engagement between the Board and Te Rōpū include:

- A shared vision
- Shared decision making to matters related to Māori
- Trust and respect in their relationship
- Transparency
- Ensuring equity of outcomes for medicines and medical devices for Māori.

12.2 Board Meeting Protocols and Conduct

12.2.1 Meetings

The Board or the Chair must set the times and places of ordinary meetings which may be held either by a number of the Board Members who constitute a quorum being assembled together at the place, date and time appointed for the meeting; or by remote media (as detailed in 8.2.4).

The Chair, or any two Members, may call a special meeting of the Board by giving at least 5 working days' notice of the meeting and the business to be transacted. The notice must state the time and date of the meeting and may be delivered, sent by post or by electronic communication and must be sent to all Board Members who are in New Zealand. Only the business stated in the notice may be transacted at a special meeting.

An irregularity in a notice of a meeting is waived if all Members either attend the meeting without protesting about the irregularity or do not attend the meeting, but agree before the meeting is held to the waiver of the irregularity (Schedule 5, clause 7, CE Act).

12.2.2 Quorum

The quorum for the Board is half the number of Members (if the board has an even number of members) or a majority of members (if the board has an odd number of members) and no business may be transacted at a meeting of the Board if a quorum is not present (Schedule 5, clause 9, CE Act).

12.2.3 Notice of Unavailability

A Board Member, upon becoming aware that he or she may for any reason be unable to attend a particular meeting of the Board, or unavailable over a particular period to attend any meetings of the Board, must notify the Chair as soon as possible of such inability or unavailability and, where possible, the period for which the Board Member expects to be unavailable to attend meetings of the Board.

On receiving notice from a Board Member or upon otherwise becoming aware that a Board Member may be absent from more than two concurrent meetings of the Board, the Chair must notify the Minister of Health – who may or may not wish to appoint an alternate Board Member to act in place of the unavailable Board Member on such conditions as the Minister considers fit.

12.2.4 Meetings by Remote Media

The Board may, if the Chair agrees (and the meeting has a quorum), hold a meeting by contemporaneously linking together by remote media conference (such as teleconference or videoconference).

To the extent practicable, the rules and procedure relating to Board meetings will apply to a meeting held by remote media conference. In addition, the following rules shall apply:

- notice of the meeting must have been given to every Member; and
- each Member taking part in the meeting by remote media conference must:
    - at the start of the meeting, acknowledge the Member's participation in the meeting to the other Members taking part;
    - be able to hear the other Members taking part at all times throughout the meeting; and
    - on any vote, individually express his or her vote at the meeting.
- a Member may not leave a meeting held by remote media conference by disconnecting his or her remote media connection unless they have first obtained permission from the Chair;
- a Member is presumed to have been present, and to have formed part of the quorum (of three) at all times during a remote media meeting unless he or she has been expressly permitted to leave;
- a Member must ensure their participation in the meeting is confidential and, in the event that their comments may be overheard by a third party they must declare this to other Members at the commencement of the meeting.

12.2.5 Chairing and Voting

The Chair presides if he or she is present and does not have a conflict of interest in relation to the matter before the Board. If the Chair is not present or has a conflict of interest then the Deputy Chair presides (Schedule 5, clause 11, CE Act).

Each Member has one vote. In addition to his or her general vote, the Chair at the meeting has, in the case of an equality of votes, a casting vote. A resolution of the Board is passed if it is agreed to by all Members present without dissent or if a majority of the votes cast on it are in favour of it. A Member present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless he or she expressly dissents from or votes against the resolution at the meeting (Schedule 5, clause 12, CE Act).

A resolution signed or assented to in writing (whether sent by post, delivery, or electronic communication) by all Members is valid (Schedule 5, clause 13, CE Act).

12.2.6 Minutes of Board Meetings

The Board must ensure that minutes are kept of all proceedings at meetings of the Board.

A version of the Board minutes for Public Release (except for information which may have been excluded due to confidentiality) are published on the Pharmac website.

12.2.7 Other procedures

Except as set out in this Board Governance Manual and Schedule 5 of the CE Act, the Board may regulate its own procedure.

12.2.8 Standing Agenda items

The Chief Executive will liaise with the Chair to agree and set the items for each Board meeting. Standing agenda items are likely to include the following:

1. Directors-only discussion.
2. Interests Register – a review and update of the Interests register.

3. Chair's report – a verbal briefing of activities the Chair has undertaken during the past month.
4. Chief Executive's Report – matters likely to arise prior to the Board's next meeting that the Chief Executive wishes to advise the Board of or to seek the Board's views (rather than decisions) on.
5. Board correspondence – copies of all correspondence to the Board will be made available for review.
6. Key issues – separate briefing papers on matters which may normally fall within Schedule & Funding Decisions or Strategic Planning & Policy but that are considered by the Chief Executive or Chair to be of such significance that they should be considered as a priority at the meeting and drawn to the particular attention of Board Members.
7. Schedule and Funding Decisions – briefing papers are provided for each decision the Board is asked to consider, as well as a transaction and investment report providing information about recent and upcoming activity.
8. Strategic Planning and Policy – a separate briefing paper is provided for each planning or policy issue requiring Board decisions or guidance.
9. Regular Reports – regular reports may vary over time.

The Pharmac Annual Board Agenda is agreed by the Board on an annual basis and is provided to the Board Members as part of the Board pack prior to each meeting.

12.3 Board Member Induction

The Board will provide, to all new Members, a thorough induction into the affairs of both the Board and Pharmac at large.

All prospective Board Members will be provided with all relevant information, subject to confidentiality requirements.

Upon appointment and prior to attendance at their first Board meeting, new Members will:

- Meet with the Chair for a governance familiarisation. This meeting may be held as a group session or with individuals,
- Meet with the Chief Executive for an operational familiarisation,
- Receive:
    - a copy of the Board's Governance Manual including Governance policies and relevant legislation,
    - current and recent meeting papers,
    - an organisational chart,
    - contact details for other Board members and key staff,
    - a glossary of key terms, definitions and acronyms,
    - the current year's meeting schedule and the annual agenda, and
    - a range of current background information.

12.4 Remuneration and Expenses

Each Member of the Board is entitled to receive, from the funds of Pharmac, remuneration at a rate and kind determined by the Minister of Health in accordance with the relevant fees framework (s47, CE Act).

Members travelling to meetings, or on Board business (where the Members are required to be away from their normal places of residence), are entitled to reimbursement, out of Pharmac funds, of out of pocket travelling, meal and accommodation expenses actually and reasonably incurred (s48, CE Act).
The rate of reimbursing allowance is to be paid to Members of the Board in accordance with the Travel & Expense Policy for Board Members and Committee Members attached as Schedule Eight.

Where a Member is absent from Board business for a period of greater than two months, then the annualised fee will be pro-rated to take account of this absence (eg an absence of two months would result in payment of 10/12 of their annual fee). Where there are frequent absences over the period of a year, the annual fee will also be pro-rated to take account of those absences.

12.5 Board and Member Performance Reviews

By attendance - Where a Member fails to attend two consecutive meetings, or fails to otherwise perform the duties as a Member, the Chair will raise the issue of expectations about performance with the Member and, if necessary, with the responsible Minister.

Collective Review of Board Performance - The Board will, at least every two years, undertake a process to review its own overall performance. The Chair will decide and run this process. A formal independent assessment is considered good practice every three to four years[4].

Individual Board Member Reviews - Individual Board Member performance will be assessed each financial year. The Chair will decide and run this process.

The aim and benefits of evaluating individual board member performance include:

- providing feedback to individual board members, so their contribution to the board's work can be maximised
- the ability to put in place mentoring, development or training for individual Board members or the Board as a whole
- reinforcing the accountability of the Chair for the effective performance of the Board
- assisting the responsible Minister with succession planning, appointment and reappointment processes.

The Chair is expected to provide assurance to the monitoring department that a process for performance evaluation is in place and that it is undertaken.[5]

12.6 Governance Policies

The following Governance Policies, not otherwise mentioned elsewhere in this Manual, have been developed and approved by the Board:

- Operating Policies & Procedures (available on Pharmac's website);

[4] Ref PSC Guidance pg 63

[5] Ref PSC Guidance pg 63-64

- Acceptance of Gifts and Invitations (attached as Schedule Nine); and
- Legal Risk Fund Policy (attached as Schedule Ten).

Pharmac also has two strategies and a Te Tiriti policy, approved by the Board, that focus on ensuring equitable access to medicines for Māori and Pacific peoples, both available on the website.

- Te Whaioranga - Māori responsiveness strategy
- Pacific responsiveness strategy
- Te Tiriti o Waitangi Policy.

An Equity Policy was approved by the Board at their February 2024 meeting.

12.7 Organisational Policies

Pharmac has a number of organisational policies that can be accessed on request to the Chief Executive, and that are generally provided to the Board, on an informational basis, following finalisation or any significant amendment. The Board's interest in operational policies is to be assured that they have been developed in accordance with applicable public sector standards and legislative requirements, and are followed and regularly reviewed.

13. Committees of the Board

The Crown Entities Act permits the Board, by resolution, to appoint committees of the Board (s14, Sch 5 Crown Entities Act). Reasons for creating committees include providing increased scrutiny over key areas and efficient use of resources such as individuals contributing in areas specific to their expertise.[6]

Pharmac has a number of Board committees. This section provides an overview of the current committees and sets out a summary of the Board's responsibilities in relation to those committees.

13.1 Responsibilities of the Board for Committees

The Board remains accountable for decisions that are made by committees and therefore clear Terms of Reference (ToR) must be maintained to set out the roles, responsibilities, processes and reporting requirements of a committee. The ToR should include explicit reporting requirements back to the Board that allow members to question committee members and assess the effectiveness of the Committee.

Committees can either be:

- advisory in nature (to advise on the entity's functions and powers) or
- can hold delegations and perform or exercise any of the Board's functions and powers delegated to it by the Board. In this scenario, the committee must include at least one member of the Board and any other persons the Board thinks fit.

Clause 86 of the Pae Ora Act requires that, in making appointments to a committee of the Board, the Board must endeavour, where appropriate, to ensure representation of Māori on the committee.

[6] Refer PSC Guidance, p49-50.

All Committee members must disclose to the Board any personal interests they may have prior to the appointment and have an ongoing obligation to disclose personal interests as they arise. This disclosure is required to be made to both the Chair of the Committee and the Board (s15, Sch 5).

13.2 Statutory Advisory Committees

The Board is required by statute to establish and maintain two advisory committees (as required by s71 of the Pae Ora Act).

13.2.1 Pharmacology and Therapeutic Advisory Committee (PTAC)

PTAC is established "to provide objective advice to Pharmac on pharmaceuticals and their benefits" (s71 Pae Ora Act).

The ToR for PTAC are set by the Board and must be reviewed biannually. The ToR are available on the Pharmac website.

Section 71(2) of the Pae Ora Act requires that the Members of PTAC are appointed by the Director-General of Health in consultation with the Board of Pharmac in accordance with an appointment protocol developed by the Director-General in consultation with the Board.

The membership of PTAC, and a short profile of each member, is available on the Pharmac website.

13.2.2 Consumer Advisory Committee (CAC)

CAC is established "to provide input from a consumer or patient point of view" (s71 Pae Ora Act).

CAC's ToR are set by the Board and must be reviewed annually. The CAC ToR are available on the Pharmac website.

The Board appoints CAC Members in accordance with clause 14(1)(a) of Schedule 5 of the CE Act.

The membership of CAC, and a short profile of each member, is available on the Pharmac website.

13.3 All other Board Committees

13.3.1 Audit & Risk Committee

The Board has established an Audit and Risk Committee to provide assurance and advice to the Board of Pharmac on the organisation's risk, control and compliance framework, and its external accountability responsibilities, in particular the following:

- Audit and assurance framework
- Risk management framework and policy
- Financial management and performance report
- Compliance with applicable laws, regulations and standards
- Strategic financial management
- Any other matters as directed by the Board.

The Terms of Reference of the Audit and Risk Committee are attached as Schedule Six.

13.3.2 Health and Safety Committee

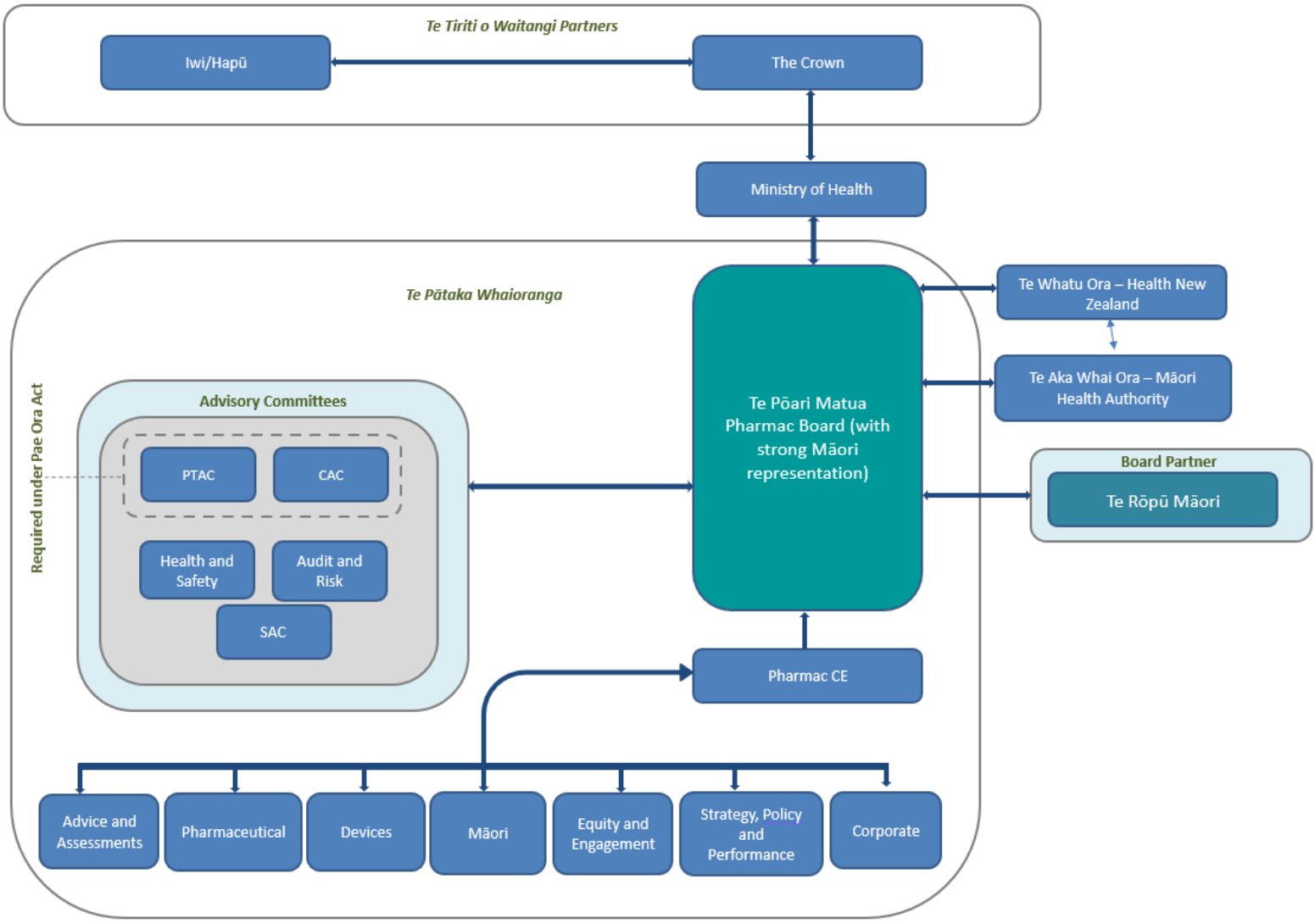
The Board has established a Board Health and Safety Committee to assist the Board to provide leadership and policy in discharging its health and safety management responsibilities within the Organisation.

The Terms of Reference of the Health and Safety Committee are attached as Schedule Seven**.**

13.3.3 Specialist Advisory Committee (SAC)

SAC are appointed to provide PTAC and/or the Board with specialised advice on particular therapy areas. Information about the SAC that exist and their membership is available on Pharmac's website.

The SAC ToR are set by the Board and should be reviewed biannually, they are available on the Pharmac website.



Schedules:

Schedule One	Minister of Health's Direction to Pharmac
Schedule Two	The Public Service and Crown Entities
Schedule Three	Public Service Code of Conduct
Schedule Four	Guidance Regarding Conflicts of Interest
Schedule Five	Chief Executive Delegation Policy
Schedule Six	Audit And Risk Committee TOR
Schedule Seven	Health And Safety Committee TOR
Schedule Eight	Board and Committee Members Travel and Expense Policy
Schedule Nine	Board Acceptance of Gifts and Invitations Policy
Schedule Ten	Use of Legal Risk Fund Policy

Schedule One

Minister of Health's Direction to Pharmac

New Zealand Gazette

Notice Number:	6737
Year:	2001
Publication Date:	27 September 2001
Page Number:	3384
Title:	**Authorisation of Pharmac to perform an additional function, August 2001**

Under section 48 (e) of the New Zealand Public Health and Disability Act 2000, after consulting with the board of PHARMAC in accordance with the requirements of that section, I authorise PHARMAC to perform the function specified in the Schedule to this authorisation.

This authorisation is effective from the date of signing and shall remain in force until it is revoked by the Minister of Health.

Schedule

PHARMAC is authorised to manage the purchasing of any or all pharmaceuticals, whether used either in a hospital or outside it, on behalf of DHBs.

In carrying out this function PHARMAC will need to address, at a minimum, the following factors:

(i) Developing a management strategy;

(ii) consulting and communicating with DHBs and other interested parties as PHARMAC considers appropriate;

(iii) amending PHARMAC's planning, funding, and policy documents to the extent appropriate;

(iv) compiling and analysing information from DHBs on pharmaceutical volumes, expenditure, and contractual arrangements;

(v) adjusting the pharmaceutical schedule as necessary; and

(vi) carrying out purchasing on behalf of DHBs.

Dated at Wellington this 4th day of September 2001.

ANNETTE FAYE KING, Minister of Health.

See:
https://gazette.govt.nz/notice/id/2001-go6737

Schedule Two

The Public Service and Crown Entities

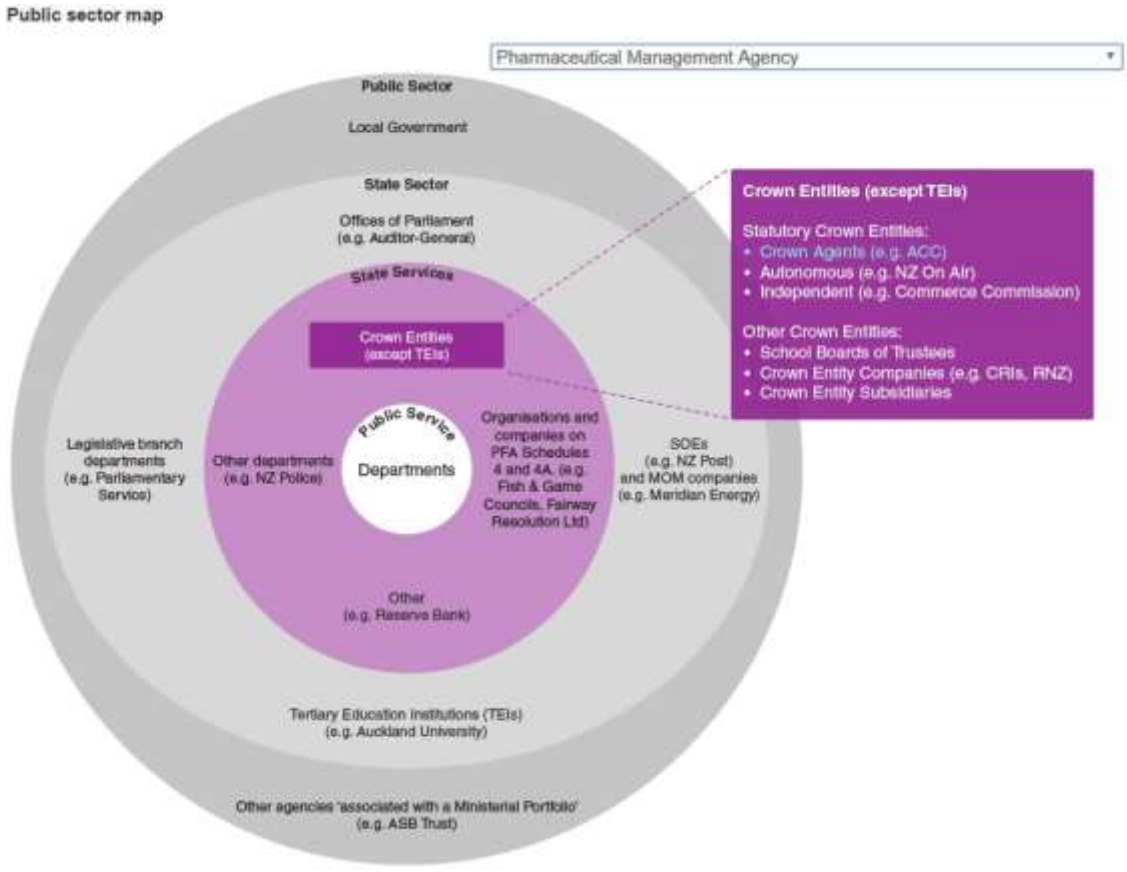
Throughout the public sector some responsibilities of Government are devolved to agencies. Normally these are Crown entities, like Pharmac, and are covered by the CE Act but they can also be independent organisations that have a Crown connection. All of these agencies have an obligation to operate legally, financially and ethically in a manner consistent with their status as public organisations who receive substantial taxpayer funding.

The fact that there are entities under the devolved model does not mean that Ministers can divorce themselves from all responsibility. The Constitutional framework of New Zealand is such that Ministers are still accountable to the Government for their relevant portfolios. For Crown entities this has been underlined by the CE Act.

Pharmac Board Members need to be constantly aware of the 'ownership interest' that the Minister of Health has in Pharmac.

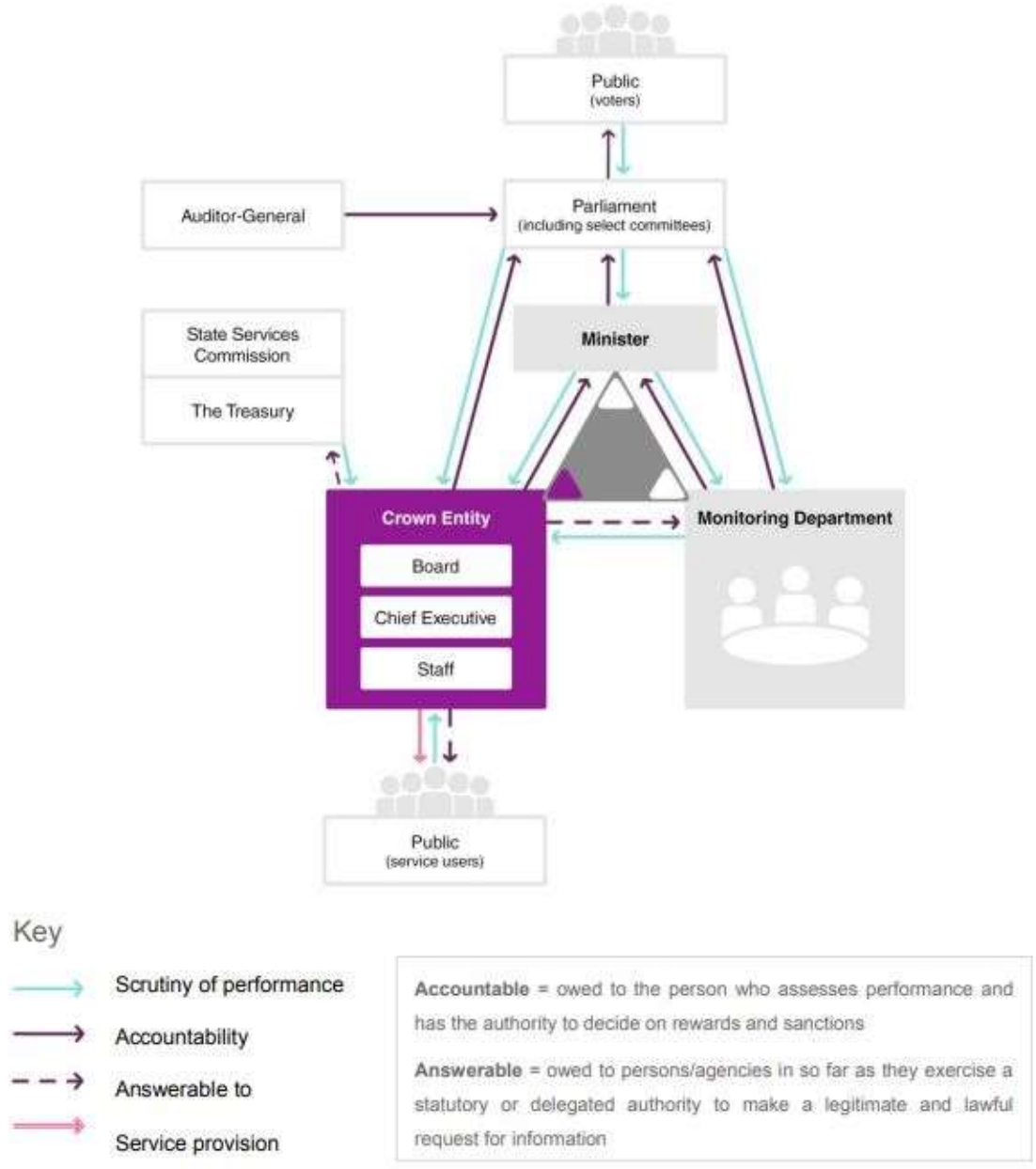
The Government must be able to have confidence in the performance of Crown entity agencies and in particular their Boards. Therefore, a skilled and committed Board is crucial to the success of these entities whether they are formally or informally connected to the Crown.

The Public Sector



The Governance Framework for Crown Entities

The table below sets out the Governance framework for Crown Entities: https://www.publicservice.govt.nz/resources/guidance-depts-crown-entities/?e793=4678-a-roles-and-relationships



Schedule Three

Public Service Code of Conduct

Code of Conduct
For Crown Entity Board Members

Te Kawa Mataaho
Public Service Commission

Crown entities deliver public services, exercise significant powers and directly impact the lives of New Zealanders. To be effective, Crown entities must have the trust and confidence of New Zealanders and the Government.

ACTING IN THE SPIRIT OF SERVICE

Boards oversee the operations and performance of Crown entities. As board members we bring to our roles a spirit of service to the community and a desire to improve the wellbeing of New Zealand and New Zealanders, including of Māori consistent with Te Tiriti o Waitangi. A key requirement of our roles is to act with the highest levels of integrity and professional and personal standards.

RESPONSIBILITIES UNDER THIS CODE

PERSONAL INTEGRITY

We are honest and open

We act with honesty and with high standards of professional and personal integrity.

We are truthful and open. We speak up in board meetings on decisions or advice that may be detrimental to the public interest.

We are fair

We deal with people fairly, impartially, promptly, sensitively and to the best of our ability.

We do not act in a way that unjustifiably favours or discriminates against particular individuals or interests. We help create an environment where diverse perspectives and backgrounds are encouraged and valued. We treat other members and staff employed by the entity with courtesy and respect.

We speak up

We report unethical behaviour when we see it. We treat all concerns raised by others seriously.

We support the entity to have clear policies and procedures in place that help expose serious threats to the public interest, and encourage open organisation cultures where all staff feel safe speaking up.

PROFESSIONAL CONDUCT

We use our positions properly

When acting as a member, we do not pursue our own interests at the expense of the entity's interests.

We do not misuse official resources for personal gain or for political purposes. We behave in a way that reflects well on the reputation of the entity and do not do anything to harm that reputation.

We never seek gifts, hospitality or favours for ourselves, members of our families or other close associates. We inform the Chair or other proper authority, or otherwise follow our entity's procedures, in relation to any offers of gifts or hospitality. We ensure that, where a gift or hospitality is accepted, it is recorded in a register as required under the entity's procedures.

Issued by the Public Service Commissioner under section 17(3) of the Public Service Act 2020 to apply to board members of statutory entities (excluding corporations sole) and Crown entity companies (excluding Crown Research Institutes and their subsidiaries)

IMPLEMENTATION

This Code sets out minimum standards of integrity and conduct. The board should put in place a board charter or governance manual to guide its governance activities, which includes ethics provisions for board members as appropriate, to support these standards and suit the entity's particular circumstances.

This Code should be read in conjunction with the collective and individual duties of members as set out in the Crown Entities Act 2004. This Code does not override any statutory provisions including those in an entity's empowering legislation, the Crown Entities Act 2004, the Public Service Act 2020, the Public Finance Act 1989 and the Companies Act 1993. This code is not intended to limit the ability of an entity or statutory officer to act independently in regard to any statutorily independent function.

We use information properly

We use information we gain in the course of our duties only for its intended purpose and never to obtain an advantage for ourselves or others or to cause detriment to the entity.

We are well informed about privacy, official information and protected disclosures legislation. We fully comply with entity procedures and only disclose official information or documents when required to do so by law, in the legitimate course of duty or when proper authority has been given.

We are politically impartial

We act in a politically impartial manner. Irrespective of our political interests, we conduct ourselves in a way that enables us to act effectively under current and future governments. We do not make political statements or engage in political activity in relation to the functions of the Crown entity.

When acting in our private capacity, we avoid any political activity that could jeopardise our ability to perform our role or which could erode the public's trust in the entity. We discuss with the Chair any proposal to make political comment or to undertake any significant political activity.[1]

We use care, diligence and skill

We carry out our work with care, diligence and skill.

We give proper consideration to matters and seek and consider all relevant information.

ACTING LAWFULLY

We meet our statutory and administrative requirements

We understand and act in accordance with all statutory and administrative requirements relevant to our roles.

We play a full and active role in the work of the board and fulfil all our duties responsibly. We respect the principle of collective decision-making and corporate responsibility. This means once the board has made a decision, we support it. We follow board protocols for public comment.

We identify and manage conflicts of interest

We identify, disclose, manage and regularly review all interests.

We become familiar with, and follow, all conflicts of interest requirements, including those of the board, the entity, and all statutory and professional requirements including the Crown Entities Act 2004, sections 62-72.

[1] *These provisions apply to elected board members in the same way as to appointed members. However elected board members have a relationship with their constituency in addition to their accountability to the responsible Minister. Elected Board Members must consider how to maintain that relationship while, as for all members, ensuring their actions do not jeopardise the effective governance of the entity.*

Schedule Four

Guidance Regarding Conflicts of Interest

What is a Conflict of Interest?

In simple terms a conflict of interest is a situation where an individual has (or may be perceived to have) divided loyalties. A common example is where an individual provides advice professionally to two different organisations which have different objectives. The individual has a duty to give the best possible advice to each organisation when they are advising them. However, in some circumstances, the best advice for one organisation might harm the interests of the other organisation. In this situation there is a risk, or at least a perception, that the individual's advice to the first organisation might be influenced by the interests of the second organisation – hence they have a "conflict" of interest(s). Conflicts of interest can also often arise from a conflict between an individual's personal interests (such as financial interests) and a professional activity they are involved in. Conflicts of interest are a reality of professional life and the priority is to ensure they are effectively managed.

From both a legal and reputational perspective it is important to note that a *perception* of a conflict of interest is as much of a problem as an actual conflict of interest. Ultimately it is how the matter looks, or would look, to a reasonable observer that is important. It is not relevant whether a member is in fact influenced by the conflicting interest, which will generally be unknowable in any case.

Why is this an important issue?

Decisions made by public sector bodies can be, and often are, challenged in the Courts because of conflicts of interest. Complaints can also be made to the Ombudsman, Auditor-General or others. Our approach to conflicts of interest is designed to minimise the risk of such challenges.

Equally importantly, Pharmac's success is built on a reputation for independence and objectivity. Our approach is designed to safeguard that reputation to help us continue to deliver the best health outcomes for New Zealanders.

What is the difference between an "Interest" and a "Conflict of Interest"?

It is helpful to understand the distinction between an "interest" and a "conflict of interest". A board or committee member's interests will include a wide range of professional and personal interests – financial holdings, family relationships, professional activities etc. A conflict of interest only arises when a member is considering a matter before the relevant board or committee where their private or external interests are potentially at odds with the objectives and best interests of the board or committee. It is routine practice for members to declare relevant interests that might conceivably lead to a future conflict in relation to the types of matter likely to come before the board or committee, as well as declaring any specific interests relevant to a particular agenda item. This is the approach taken by Pharmac. It is by no means the case that all declared interests will amount to a potential or actual conflict of interest. This distinction is important but often overlooked.

What types of Interest can lead to a Conflict of Interest?

Common categories of interest which can give rise to a conflict include professional interests, financial interests, and personal interests. Some specific examples which may be relevant to the Pharmac context are provided below.

Professional Interests could include:

- Directorships of other agencies within the health sector or public sector;
- Membership or officeholding in professional bodies, particularly where these have an advocacy role;
- Consulting or contracting to other health sector entities.

Financial Interests could include:

- Shareholdings in companies that supply pharmaceuticals or may otherwise benefit from funding decisions;

Personal Interests could include:

- Personal health status, or that of close family members;
- Close personal friends or family members who hold professional or financial interests like those above.

How do I know when an Interest has become a Conflict of Interest?

It is only possible to identify whether a given interest amounts to a conflict in the context of a specific "matter" (in the Board context, a specific agenda item where advice is sought). This is because it is only in that context that it becomes clear what the "interest" of Pharmac, and its objective of achieving best health outcomes, is in the particular circumstances. Only then is it possible to determine whether this interest intersects, and potentially conflicts, with the other interests of the member.

For example, if the Board was considering whether to fund a specific supplier's product and a member had a financial interest (eg shareholding) in that supplier, or some other reason to support that supplier, then this would be a potential conflict: on the one hand the member is duty bound to act in the best interests of Pharmac even if this might be to decline the funding proposal, on the other hand it is in the supplier's interests, and by extension the member's interests, that the product be funded.

There is a significant exercise of judgment required to identify whether an interest amounts to a conflict. If in doubt, you should declare the interest so that a discussion with the Chair and, if necessary, advice can be sought from Pharmac's General Counsel. All potential conflicts should be declared. A good starting point is to consider how the situation might look to a party who is adversely affected by the relevant advice (eg a competing supplier).

The legal rules around conflicts of interest do recognise that below a certain threshold there is no real risk of influence. The Crown Entities Act (CE Act) provides that a member has no conflict where "his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities". While it is important not to stretch this too far, it does provide room for some "common sense" in the exercise of judgment over what is and isn't a conflict.

What does the Crown Entities Act say about conflicts of interest?

The CE Act does not override any of the general legal requirements relating to conflicts of interest, but it does provide a procedure to be followed for Board and Committee members in declaring interests. These procedures are set out in sections 62 to 72 of the CE Act.

In summary, members are required to declare any conflict of interest to the Chair and ensure it is recorded in the Register. Permission of the Chair is required to participate in a matter in which the member has a conflict of interest.

Relevant Statutory Provisions

- CE Act s62-72.

Other Available Guidance

Additional guidance on the management of conflicts of interest in the public sector is available from the following agencies, and can be accessed via their websites:

- The Office of the Controller and Auditor-General: www.oag.govt.nz.
- Public Service Commission www.publicservice.govt.nz.

How does the process for declaring interests work?

When members first join the Board, they are asked to declare any relevant interests. The purpose at this stage is to determine whether there are any interests which might potentially become a conflict of interest in relation to specific matters that may come before the Board. The declared interests are entered into a Register maintained by the Board Secretary and included in each Board meeting pack.

All declared conflicts (and the steps taken to manage them) are to be recorded. Pharmac could be required to release these if requested under the Official Information Act, unless there was a particular reason to withhold information in a specific case.

What should be included in a declaration?

Declarations should contain sufficient detail about the interest to allow the Chair and/or Pharmac staff to evaluate the potential conflict. This requires a level of detail regarding the nature of the interest and the magnitude of it. For example, if referring to a shareholding it is generally necessary for the size of the shareholding to be declared.

What are the options for managing a Conflict of Interest?

Where a conflict of interest meets the CE Act threshold (described in the Act as being "interested in a matter") the default position is that the member is to be excluded from participation in any discussion and voting on the relevant matter. Only the Chair can give permission for a member to participate in situations where a conflict exists.

Another option for resolving a conflict is for the member to take steps to remove it by (for example) resigning from the conflicting entity, or divesting shares. There is no expectation that members will do this but depending on the circumstances, particularly if there are recurring conflicts, it is an option to be aware of.

In some situations, a conflict may be so acute that it would be inappropriate for the member to receive any information about the matter. These situations are dealt with on a case-by-case basis.

In many situations it may be determined that a declared conflict of interest does not in fact meet the threshold to be considered a conflict of interest under the CE Act. In such situations no action is necessary, but this outcome needs to be recorded.

What about Conflicts of Interest relating to my health or that of close family members?

Sometimes a medical condition may give rise to a conflict of interest because it means that the member (or someone close to them) would stand to benefit if a particular treatment was funded. This is a difficult area because understandably members may not wish their health information to be known. A separate guidance note has been produced regarding personal health interests and is available from Pharmac staff.

CONFLICT OF INTEREST DECLARATION FORM

Name: **Date:**

Position/Role for Pharmac (Board/Committee):

- I declare the following interests: ☐
- I declare that, to the best of my knowledge, there is no actual or potential current conflict of interest that will, or may arise, as a result of my involvement with Pharmac Board/(or I have no new interests to declare). ☐

When you declare an interest, you must declare both:

- *the nature of the interest (eg shareholding, specific professional interest, relevant relationships) AND*
- *either the monetary value of the interest or, if there is no monetary value, details that allow the Chair to understand the extent of the interest, eg specifics of role, approximate size of shareholding, any applicable monetary value of an interest, the nature of a relationship and any other detail you believe that the Chair should be aware of.*

Note that where you have declared an interest, you must not participate or vote in relevant agenda items or sign any related documents unless you have the Chair's permission to act. The Chair's permission can be given where the Chair considers it is in the public interest.

Declared Interest	**Monetary Value (if none, state N/A)**	**Other information about the extent of the interest (must be completed if you replied N/A on monetary value)** **Please provide the Chair with enough information to be able to accurately assess your interest.**	**CHAIR'S ASSESSMENT AND PERMISSION TO ACT (s68 CEA)** **NB Further management steps may be required where a conflict exists – Chair to specify below if further steps are required such as disposing of shares or standing down from other roles.**				
			Not a relevant interest	Must not participate or vote in relevant matters.	Permitted to participate but not vote on relevant agenda items	Permitted to participate and vote on relevant matters	Any additional conflict management steps required

I undertake to declare the details of any conflict, potential conflict or apparent conflict, or interest that may give rise to such conflict, which arises during the duration of my involvement with the Pharmac Board. I agree to take any appropriate steps to manage a conflict where such a conflict arises, should I be required to.

Member's signature Date

Chair's signature Date

Schedule Five

Chief Executive Delegation Policy

Introduction

The Crown Entities Act 2004 (CE Act) prescribes processes and conditions for delegation (and sub-delegation) of Board functions and powers.

The Board may delegate to Members, employees, office holders and Committee Members, Crown entity subsidiaries, and other persons or classes of persons approved by the Minister of Health. However the Board remains legally responsible for delegated functions and powers (see s73-76 of the CE Act).

A delegate to whom functions or powers are delegated may perform the function and power as if the delegate were the Board (unless the delegation provides otherwise) and may only delegate the function or power with the prior written consent of the Board subject to the same restrictions as imposed by the Board in the original delegation (s74 CE Act).

Delegations may be revoked at will by resolution of the Board (and written notice to the delegate) or by any other method provided for in the delegation (s76 CE Act).

Chief Executive Delegation Policy

The Board delegates to the Chief Executive the authority to make decisions on all management and operational matters relating to Pharmac. This includes delegation of all statutory functions and powers necessary to achieve Pharmac's statutory objective (including the power of sub-delegation) and implement Pharmac's Statement of Intent, subject to the Chief Executive complying with the Delegation Expectations and Limitations set out in this Policy. Those matters stated in this policy as being matters reserved to the Board are not delegated.

The Board authorises the Chief Executive to subdelegate these delegated functions and powers to Pharmac kaimahi as the Chief Executive considers appropriate for effective organisational performance. No further sub-delegations are permitted. The Chief Executive shall establish, and be accountable for, all authorities and sub delegations to employees.

The Chief Executive may sub-delegate his or her delegated authority to any Acting Chief Executive duly appointed from time-to-time. Any such delegation shall be in writing and notified to the Board.

Delegation Expectations

1. The Chief Executive must not take, allow or approve any action or circumstance in the name of Pharmac that:
    - is in breach of statute, regulation or Ministerial direction, is imprudent, which contravenes any government policy, direction or expectation, any public service ethic or the Public Service Standards of Integrity and Conduct or is in breach of applicable accounting standards or generally accepted business practices.
    - could cause financial harm or threaten Pharmac's financial integrity, cause financial harm or threaten the financial integrity of the Pharmaceutical Budget or its future funding path.

- could cause reputational harm, is directly or indirectly demeaning or derogatory or damaging to, or causes other material risk to Pharmac, to the broader Public Service or to the government.

2. The Chief Executive must ensure the Board is informed in a timely, accurate and understandable way about issues and concerns essential to the meeting of its duty of care, the carrying out of its responsibilities and the meeting of its accountabilities to the Minister of Health and key stakeholders. This includes but is not limited to:

    - financial reports that make clear significant trends, data relevant to agreed benchmarks and Board-agreed measures and other Board financial data as determined by the Board from time-to-time.
    - informing the Board of significant external environmental trends, adverse media publicity, achievement of, or progress towards the achievement of, the Statement of Intent, Statement of Performance Expectations, or changes in the basic assumptions upon which the Board's policies are based.
    - informing the Board when there is actual or anticipated non-compliance with a Board policy.
    - ensuring the Board is notified in writing of any forecast overspend to the Combined Pharmaceutical Budget.
    - keeping the Board appropriately informed regarding the use of sub-delegations.
    - informing the Board of any serious legal conflict or dispute or potentially serious legal conflict, pending lawsuits or disputes that have arisen or might arise in relation to matters affecting Pharmac.
    - ensuring the Board is provided with the necessarily wide range of views and perspectives in support of effective decision-making.
    - dealing with the Board as a whole, except in relation to the role of Chair, or when responding to individual requests for information or requests from Board Committees or working parties or when accessing the expert knowledge and experience of individual Board Members.

3. The Chief Executive must ensure that they provide a workplace environment compliant with Pharmac's Good Employer obligations and the Public Service Standards of Integrity and Conduct.

4. The Chief Executive must ensure there are appropriate business continuity plans in place including an emergency management regime that can operate in the event of unexpected loss of the Chief Executive's services.

5. The Chief Executive must consult with the Board on any material organisational structure changes and on all SLT appointments.

6. The Chief Executive must ensure that Pharmac's 'no surprises' obligations are met.

7. The Chief Executive must ensure that all communications to the media, Ministers, Government agencies and other stakeholders reflect an accurate interpretation of Board and organisational policy and/or current Board decisions and concerns.

8. The Chief Executive must ensure compliance with the Delegation Limitations.

Delegation Limitations

Pharmac operates in accordance with principles of good governance. This means there are occasions when a matter should be referred to the Board. These delegation limitations outline the functions, duties and powers that the Board has decided to retain. The Board may choose to delegate these matters on an ad hoc basis.

Relationships with Ministers and the Legislature

The primary relationship between Ministers and Pharmac is through the Board. However, day to day communications are delegated to the Chief Executive. The Board must be kept up to date with the nature of such communications and consulted on matters of significance.

Policies

The Board will be responsible for the approval of and subsequent changes to the following policies:

- The Board Manual and appendices, including:
    - Members Travel and Expenses policy
    - Board Acceptance of Gifts policy
    - Use of the Legal Risk Fund policy
- The Pharmac Health and Safety policy
- Te Tiriti Policy
- Equity Policy.

Financial and Operations Management

1. Adoption of the Annual Budget.
2. Expending more funds than have been received in the financial year unless offset by approved borrowings or approved withdrawals from reserves.
3. Approval of Chief Executive international travel.
4. Make any purchase of goods or services in circumstances where there is an unmanaged conflict of interest.

Financial Management - Pharmaceutical Budget

1. Approval of any funding proposal that would result in the Pharmaceutical Budget and its future funding path being exceeded.
2. Approval of any pharmaceutical funding proposal that has an estimated Financial Impact of more than $10,000,000 on the Pharmaceutical Budget and the future funding path where:
    - Financial Impact: of a proposal means and is to be calculated on the basis of the Net Present Value (NPV) of the proposed subsidy and/or purchase (ex-manufacturer, exclusive of GST) over 5 years at a discount rate of 8% to be paid by the funder for the product(s) and the forecast demand, taking into account any effect of the change/decision on that demand, versus the status quo.
    - Net Present Value: of a proposal is calculated as the sum of all the component parts of a transaction, discounted by the appropriate interest factor. For example, if a transaction has NPV savings of $6 million and NPV investments of $5 million, the NPV of the transaction would be $11 million, not $1 million.
3. Approval of any pharmaceutical funding proposal that:
    - is not consistent with previous Board decisions or policy;
    - is legally, politically, medically, publicly or for any other reason contentious. For example: it has potential long-term financial risks, such as listing a product for which demand may increase dramatically.

4. In the event of a forecast overspend, approval of any funding proposal inconsistent with the agreed overspending management plan.

Remuneration

1. Changes to Chief Executive salary and/or benefits.
2. Approval of compensation that deviates materially from the professional market range for the skill employed or from any formally communicated Government expectations concerning compensation.
3. Causing unfunded liabilities to occur or in any way commit Pharmac to benefits that incur unpredictable future costs.
4. Expending more funds than have been allocated in each relevant year's financial plan for personnel expenses without prior Board approval.

Strategy and Significant matters

The Board will approve Pharmac's Statement of Intent, Statement of Performance Expectations and other strategic documents. It will also make all decisions on all significant new ventures, projects, policies, or practices or changes to existing ventures, projects, policies, or practices, that:

1. are likely to significantly affect outputs or change access to Pharmac's services
2. are likely to attract significant adverse publicity; or
3. can with reasonable foresight be predicted to result in legal action of material consequence being taken against Pharmac

Statement to the media

1. Making media statements relating to matters of governance or Board accountability unless specifically authorised by the Board or the Chair.

Legal Agreements

1. Entering into contracts or agreements relating to the formation of joint ventures.
2. Entering into a deed or agreement to lease of more than 5 years duration.
3. Execution of all other deeds (these may be co-signed with Chief Executive).
4. Settling any claims against Pharmac if the settlement to be paid by Pharmac is greater than $100,000.
5. All decisions in relation to ex gratia payments of $75,000 or more.

Owner(s)	General Counsel		
Policy Reviewed	February 2024	**Next Review**	February 2026

Schedule Six

Audit and Risk Committee
Terms of Reference

INTRODUCTION

The Audit and Risk Committee (the Committee) is a sub-committee of the Board of Pharmac (the Board). The Committee exercises its objectives and responsibilities in line with the Board Governance Manual and as directed by the Board. The Committee's Terms of Reference set out the objective, role, responsibilities and procedures, of the Committee, as approved by the Board.

COMMITTEE OBJECTIVE

The objective of the Audit and Risk Committee (the Committee) is to provide assurance and advice to the Board of Pharmac on the organisations risk, control and compliance framework, and its external accountability responsibilities, in particular the following:

- Audit and assurance framework
- Risk management framework and policy
- Financial management and performance reporting
- Compliance with applicable laws, regulations and standards
- Strategic financial management
- Any other matters as directed by the Board.

GOVERNANCE ROLES

Membership of the Committee is determined by the Board and should be considered periodically, at least on an annual basis. The Board appoints the Chair of the Committee, who shall not be the Chair of the Board.

The Committee shall be comprised of three Board members. The Board may choose to rotate the Committee members from time to time but will have regard to the continuation of membership to retain institutional knowledge. Attendance at the Committee meetings is open to all Board members.

At least one member of the Committee will ideally have an accounting, audit, economic or financial background.

Any recommendations or decisions of the Committee must be ratified by the Board, unless authority has already been delegated to the Committee.

The Committee Chair may invite Pharmac's Chief Executive, Director of Corporate & Financial Services, Audit NZ representative and other relevant external parties or Pharmac staff to attend the meetings as necessary.

The Board Secretary, or such other person as agreed by the Committee, shall act as the Committee Secretary.

The Board authorises the Committee, within the scope of its responsibilities (refer *Committee Objective* above) to seek any information it requires from any employee of Pharmac and external parties; and to obtain external professional advice as required.

GOVERNANCE RESPONSIBILITIES

The Committee's primary responsibility is to ensure that adequate internal controls, audit, risk management and legal compliance frameworks operate within Pharmac. The Committee considers the adequacy of internal controls after consultation with internal and external auditors and Pharmac management. In accordance with the Committee objectives, the Committee shall have oversight of the following key areas:

Internal and External Audit

The Committee will:

a. Have input into the appointment and reappointment of the external auditors by the Auditor-General

b. Ascertain the independence of the external auditors

c. Review the annual external audit scope and plan, timetable and fees with the external auditors. This will include consideration of how well their efforts are co-ordinated with internal audit

d. Review internal and external audit reports and recommendations arising from them

e. Review the status (including management action taken) of recommendations made by the internal and external auditors

f. Ascertain the level of independence of internal auditors. This will include approving the annual audit programme including how well it aligns with the risks identified by management.

Risk Management

The Committee will:

a. Annually review, approve and monitor compliance of the risk policy and framework. Management will be responsible for drafting changes or improvements to these

b. Regularly review all risks that exceed the Board's identified risk tolerance, with particular focus on risks rated 'critical' and 'high'

c. Forward any risk reports to the Board and provide feedback to the Chief Executive and the Board on strategic and extreme risks and control treatment when deemed necessary.

Pharmac management will raise any new extreme risks that emerge in between Board or Committee meetings with the Board Chair as they emerge. This includes any plans that the organisation intends to implement to reduce risk to acceptable levels.

Financial Management

The Committee will:

a. Review the draft annual financial statements and recommend to the Board for endorsement

b. Review accounting policies, changes in generally accepted accounting practice, and new accounting and reporting requirements.

Other Responsibilities

Other responsibilities of the Committee will include:

a. Oversight of legislative compliance

b. Any other responsibilities as referred to the Committee by the Board.

COMMITTEE PROCEDURES

Meetings

The Committee will meet at least three times a year having regard to Pharmac's reporting and audit cycle. There shall be at least one meeting at the conclusion of the auditing period each year.

The Committee Chair or any Committee member or the Chief Executive may request a meeting at any time if considered necessary. The Committee Chair has the discretion to determine if an extraordinary meeting is required.

At the Committee meetings, time may be set aside to meet in a closed session with external and internal auditors.

Meeting dates for the Committee are agreed annually, once the Board programme has been confirmed for the following year. The Chair has the discretion to change the dates after consultation with other Board members. Timely notice of meetings shall be provided.

Quorum

The quorum of the Committee meetings shall be two Committee members. No business may be transacted at a meeting of the Committee if a quorum is not present. Attendance at the Committee meeting by any other Board Members cannot be counted towards a meeting quorum.

Minutes and Reporting

The Chair will report the Committee's meeting outcomes and provide a copy of the minutes to the Board at the next possible Board meeting.

The Committee may, at any time, report to the Board on any other matters it seems of sufficient importance to do so.

The Committee will regularly, but at least once a year, report to the Board on its operations and activities. This report may be in conjunction with the report of Pharmac's external auditor where the Committee will provide a report to the Board, including the Committee's view on the report of the external auditor. The Committee will also participate in any formal evaluation as directed by the Board.

Other attendees

The Committee may have in attendance other members of management or other suitable experts as it considers necessary to provide appropriate advice, information and explanations.

CONFLICTS OF INTEREST

Committee members will comply with the rules set out in the Board Governance Manual. In particular, Committee members will disclose any potential conflicts prior to the meeting to the Committee Chair and Committee Secretary.

AUTHORITY

The Committee is authorised by the Board to obtain, at the expense of Pharmac, external legal or independent professional advice. This may include attendance at meetings of external parties with relevant experience and expertise if necessary.

REVIEW OF TERMS OF REFERENCE

The Terms of Reference will be reviewed annually alongside the annual review of Committee membership. Responsibility for drafting the revised Terms of Reference sits with the Committee Secretary or such other person as appointed by the Committee. The Committee will agree any revision and recommendation to the Board for approval.

Approved July 2021.

Schedule Seven

Health and Safety Committee
Terms of Reference - Approved February 2024

Objective

The objective of the Health and Safety Committee (the "Committee") is to assist the Board to provide leadership and drive policy in order to discharge its health and safety governance responsibilities.

Role of The Committee

The Committee's role is to assist the Board in carrying out its functions by fulfilling the responsibilities listed below. Pharmac | Te Pātaka Whaioranga kaimahi will provide such reports as are requested by the Board or the Committee, or initiated by staff, to support fulfilment of these responsibilities.

The Committee's responsibilities are to:

- review, monitor and make recommendations to the Board on the organisation's health and safety risk management framework and policies to ensure that the organisation has clearly set out its commitments to manage health and safety matters effectively
- review and make recommendations for Board approval on strategies for achieving health and safety objectives
- review and recommend for Board approval targets for health and safety performance and assess performance against those targets
- monitor the organisation's compliance with health and safety policies and relevant applicable law
- ensure that the systems used to identify and manage health and safety risks are fit for purpose, being effectively implemented, regularly reviewed and continuously improved. This includes ensuring that the Board is properly and regularly informed and updated on matters relating to health and safety risks
- seek assurance that the organisation is effectively structured to manage health and safety risks, including having competent workers, adequate communication procedures and proper documentation
- review health and safety related incidents and consider appropriate actions to minimise the risk of recurrence
- make recommendations to the Board regarding the appropriateness of resources available for operating the health and safety management systems and programmes
- carry out any other duties and responsibilities which have been assigned to it from time to time by the Board.

For the avoidance of doubt, all health and safety related functions remain the responsibility of the Board. Matters relating to the Committee's responsibilities may, as a result of timing or other considerations, proceed directly to the Board without first being considered by the Committee.

Membership & Constitution

Membership of the Committee is determined by the Board and should be considered periodically, at least on an annual basis. The Board appoints the Chair of the Committee, who shall not be the Chair of the Board.

The Committee shall be comprised of three Board members. The Board may choose to rotate the Committee members from time to time, but will have regard to the continuation of membership to retain institutional knowledge. Attendance at the Committee meetings is open to all Board members.

The quorum for meetings of the Committee shall be any two members.

For the avoidance of doubt, membership of the Committee does not include any members of Pharmac's kaimahi (including management). The role of Pharmac kaimahi is to assist the Committee.

Authority

The Board authorises the Committee, within the scope of its role to:

- through the Chief Executive or Director of Corporate and Financial Services, seek any information it requires from any employee of Pharmac
- obtain external professional advice as required
- investigate any matter within the scope of its role.

The Committee does not have the authority to make a decision in the Board's name or on its behalf. The Committee will make recommendations to the Board on all matters requiring a decision.

Meetings

The Committee will meet as determined by the Board, but shall meet at least twice yearly. The Committee will conduct meetings as it sees fit and at its discretion, may meet with or without Pharmac kaimahi and management.

The Director of Corporate and Financial Services, or other manager designated by the Chief Executive, will act as the secretariat for the Committee and be the first point of contact within Pharmac for the Committee.

Reporting

The Committee will provide the Board with an indicative workplan which will be reflected in the Board Annual Agenda.

Minutes of meetings of the Committee will be provided to the Board at the next opportunity.

The Committee may choose to report to the Board directly as and when it wishes, or through the relevant kaimahi report where the Committee's views accord with Pharmac management.

Review of Terms of Reference

The Terms of Reference will be reviewed annually.

Schedule Eight

Board and Committee Members Travel and Expense Policy

Purpose

The policy provides guidance on requirements for booking business related travel and reimbursement of approved expenses. This policy may be supported by procedures that may be revised from time to time.

Guiding Principles

Pharmac is an organisation that seeks to obtain value for money and spend taxpayers' money responsibly. All travel expenses must be prudent, for legitimate business purposes and good value for money.

When travelling on Pharmac business, Board and Committee members are expected to conduct themselves in an appropriate manner at all times and should be mindful of the State Sector Standards of Integrity and Conduct which require all state sector employees to be fair, impartial, responsible and trustworthy. The full Code is available on the Te Kawa Mataaho (Public Service Commission) website https://www.publicservice.govt.nz/code.

Policy Detail

Travel Approval

Domestic travel (including travel to Australia) must be made via the Orbit online booking system (Zeno)(electronic request form) and must be authorised by the approving Manager in advance using this system.

International travel proposals (other than to Australia) must first be in the form of a Board paper outlining:

- the nature and purpose of the travel,
- the benefits to Pharmac,
- the full costs of the travel, and
- whether there is funding available within the relevant budget.

The travel proposal will be considered by the Chief Executive and forwarded to the Board for approval, at the Chief Executive's discretion. The Board will determine whether the travel is to be part or fully funded by Pharmac.

Travel bookings

Bookings for travel arrangements are made by the Committee Secretariat or Business Service Support Team member using Pharmac's preferred providers as per the All of Government Air Travel Memorandum of Understanding.

By using our preferred suppliers, Pharmac tries to get the best deal possible on flights. Travel and accommodation expenditure should be economical and efficient, having regard to purpose, distance, time, urgency, personal health, security, and safety considerations is what makes the best deal at the time.

Flights

For domestic travel (including to Australia) approval may be granted based on consideration of the merits of each application for:

- most suitable (eg best fare, flight time, destination, etc) available;
- The health and wellbeing of the Board or Committee member traveling
- economy class for flights that are four hours or less in duration;
- one class up from economy class for flights in excess of four hours.

For international travel (excluding Australia) one class up from economy class travel may be approved prior to travel in certain circumstances, including:

- the health and wellbeing of the Board or Committee member traveling;
- the security, and safety considerations of the destination;
- if the total flying time includes at least one flight in excess of four hours, excluding stopovers unless the airline schedules make a stopover unavoidable;
- if flights are so over-booked that the higher-class travel is the only option available; or
- where the person is upgraded at the discretion of the carrier.

It is best practice that domestic flights as part of an overseas trip should be economy class, except where the ticket has to be common rated premium economy or business class.

Accommodation

Personal expenses

All costs not covered as approved expenses by this policy **must be met by the person who incurred the charges on checkout from accommodation.** It is not acceptable to charge Pharmac for the costs of personal expenses, even where repayment is intended and subsequently occurs.

The following may be claimed as Board and Committee members' business expenses:

- Laundry/ dry-cleaning for travel greater than five working days
- Valet parking where there is no other suitable parking option
- General car parking to attend business appointments.

And for the avoidance of doubt, the following are classified as personal expenses **"Approval Not Granted":**

- all alcohol
- all items used from mini-bars in excess of the daily limit for meal expenses
- Pay TV, DVDs and in-house movies
- Optional valet parking
- Parking tickets and/or traffic infringements.

Private Accommodation

If a Board or Committee member chooses to stay privately while on a business trip, they are able to submit an expense claim, receipts required, to Pharmac up to the value of $100 per night which can be spent on meals, gifts or other contributions for the host in lieu of accommodation costs, recognising the win-win nature of such arrangements and overall cost savings to Pharmac. Arrangements of this nature should be discussed with your Committee Secretariat or Business Service Support Team member prior to travel being approved.

Hotels/Motels

Accommodation is expected to be in modest hotels or accommodation of an equivalent level. The assessment of modest will be made on a case-by-case basis in conjunction with the travel agent and taking into account prevailing standards at the destination.

For domestic purposes, accommodation costs should be up to and including $250 per night (exclusive of GST). Accommodation will be booked by Business Services Support Team members using preferred providers, where possible, to take advantage of corporate or best available rates.

For international travel, accommodation costs should ideally not exceed the equivalent in the relevant currency of NZ$350 per night (exclusive of GST). However, costs in excess of this can be approved by the Board as part of an overall travel budget where it is not possible or desirable to find accommodation within the lesser price bracket (eg such as for reasons of security or proximity).

Accommodation such as Air BnB and Holiday Homes are not permitted at this stage via our travel agent.

Meals

Pharmac will reimburse the actual and reasonable cost of meals while travelling away from home. This includes the costs of all meals within that 24-hour period. Board and Committee members are expected to use judgement as responsible public servants and to minimise costs to Pharmac. Should a Board or Committee member choose to consume alcohol while traveling on Pharmac business, it is expected that they always conduct themselves in an appropriate and professional manner. Any alcohol consumed must be modest and all associated costs covered by the committee member personally (refer to Drug and Alcohol Policy).

Meal costs while travelling domestically should not exceed NZ$85 per person per 24-hour period (inclusive of GST). As above, committee members are expected to use their own best judgement, particularly if requesting reimbursement for short day trips.

When travelling internationally, as a guideline meal costs should not exceed the equivalent in the relevant currency of US$100 per 24-hour period, though it is recognized that this amount may not be sufficient in some locations and additional amounts may be approved in this circumstance by the appropriate Manager.

Motor vehicles

Rental cars

Pharmac uses a preferred supplier of rental cars. A rental car can be arranged through the Committee Secretariat or Business Service Support Team member. The class or size of rental vehicle booked should be suitable to the requirements for the trip. Drivers of rental vehicles must be over 21 years of age and hold a current full driver's license.

People travelling on Pharmac business will automatically be covered by insurance included in Pharmac's preferred customer agreement. Any traffic infringements such as speeding, or parking offences are a personal expense.

Board and Committee members will automatically be covered by insurance included in Pharmac's preferred customer agreement.

Private motor vehicles

While air travel or hire cars are the usual option for business travel, people travelling on Pharmac business may use their private vehicle, with the prior agreement of their Committee Secretariat or Business Service Support Team member, where there is a demonstrable cost saving to Pharmac or, if not, significantly improved flexibility or other benefits to justify the cost difference.

Use of a private vehicle will be reimbursed at the rate published by the Inland Revenue Department
https://www.ird.govt.nz/income-tax/income-tax-for-businesses-and-organisations/types-of-business-expenses/claiming-vehicle-expenses

The person whose vehicle is being used is responsible for ensuring appropriate insurance cover.

Pharmac will reimburse parking costs incurred during business travel, but it will not reimburse infringement fines such as parking or traffic/speeding fines.

It is Pharmac's expectation Board and Committee members abide by the law concerning use of mobile phones while driving a vehicle. At present, this requires the use of bluetooth or hands-free technology while using a mobile phone when operating a vehicle. You are not expected to make or receive business phone calls on your mobile phone whilst you are in control of a vehicle.

Taxis

People travelling on Pharmac business using taxis regularly can be issued with a Pharmac Taxi charge card. Alternatively, taxi chits are available from your Committee Secretariat or Business Service Support Team member.

Taxi fares should only be charged to Pharmac where the taxi is required for travel to or from:

- a business meeting or conference being attended for business reasons; or
- the airport for business related travel.

Details of taxi journeys should be recorded on the receipt and in the traveler's calendar (date, location, time, travel purpose).

Health, Safety and Security

Committee members are responsible for their health, safety, and security at all times – especially while traveling overseas. As a government employee traveling for business, there could be additional risk factors to consider. Refer to the Pharmac travel guide and also seek up-to-date advice from the Safetravel website.

Expenses

Pharmac will reimburse actual and reasonable expenses incurred by Board and Committee members (including PTAC, PTAC Subcommittees, CAC, Panels and Working/Advisory Groups) in connection with Pharmac Board meetings, Committee meetings or other Pharmac related travel where those expenses are incurred in accordance with this policy.

PTAC members have Board approval for $5,000 per annum for conferences as per the Pharmacology & Therapeutics Advisory Committee (PTAC) and the NPPA Panel terms of reference.

GST detailed receipts are required to support claims for reimbursement of expenses. Expense claims must be accompanied by all relevant receipts and include the dates and reasons for travel or other expenditure. Expense claims should be linked with the relevant (approved) travel request form and should detail all expenses for the day, even where paid for by another person travelling on Pharmac business. Expense claims must be verified for completeness and accuracy by the person making the claim before being submitted for approval.

All expense claims by Board members will be submitted to the Chair for approval. The Chair's expenses will be approved by one of the other Board members (who will be nominated for this purpose) in conjunction with the Chief Executive. If Board members prefer, the Board Secretary can submit expense claims on the member's behalf provided GST receipts have been provided, and provided the member verifies the claim being made on their behalf. Once approved, expense claims should be forwarded to the Finance Manager for payment on at least a quarterly basis. International travel (excluding Australia) by any Pharmac Board member must be approved by the Board in advance.

Committee expense claims will be approved as follows:

1. All expense claims by PTAC Committee members will be submitted to the PTAC Secretary.
2. All expense claims by PTAC Subcommittee members will be submitted to the Support person for the Subcommittee either the PTAC Secretary or Clinical Advice Coordinator.
3. All expense claims by Seminar Series Directors and delegates will be submitted to the Seminar Series Coordinator.
4. All expense claims by CAC Committee members will be submitted to the CAC Secretariat.
5. All expense claims by Panel members will be submitted to the appropriate Panel Coordinator.

Once approved, expense claims should be forwarded to the Finance Manager for payment on at least a quarterly basis. International (excluding Australia) travel by any advisory committee or panel member (aside from PTAC or NPPA Panel for international conferences) must be approved by the Chair of that committee or panel and the Pharmac Board. It is not envisaged that members of other committees will need to undertake international travel on behalf of Pharmac. However, in such a situation, the relevant travel proposal must be approved by the Chair of that committee/panel and the Pharmac Board.

Costs associated with international travel

Insurance

Board and Committee members travelling overseas will automatically be provided with travel insurance under a comprehensive policy covering Pharmac's operations.

Travel documents

Pharmac will pay the cost of visas or any other travel documents required for travel on Pharmac business. However, the cost of issuing or renewing passports will not be met by Pharmac. It is the traveller's responsibility to ensure they have a valid passport.

Currency

When travelling overseas it is preferable to take a small amount of local cash and/or travellers' cheques, credit or debit card. Receipts must be obtained for expenditure on cash advances. Unused cash and travellers' cheques that were originally provided by Pharmac must be returned to Pharmac.

Environmental Impact of Traveling

Pharmac's expectations is that our procurement of goods and services support the broader outcomes for sustainability.

Some of the broader outcomes that are applicable to Pharmac travel is supporting the transition to a zero net emissions economy (ie use of transportation), support local and Māori owned business (ie for accommodation and meals) and to offset our carbon emissions (ie for flights). Although we do not record, measure or mandate these broader outcomes with this policy they can be considered at the time of seeking approval (ie could video conferencing be used as an alternative to travel) and when selecting goods and services at the time of booking travel.

Policy Sponsor

The Director of Corporate Services/CFO is responsible for reviewing and approving this policy, with approval by the Senior Leadership Team (and Board, as required) for significant changes.

Related Policies

- Health Safety and Security Advice while travelling (A1253640)
- Giving and Acceptance of Gifts (A554858)
- Technology Acceptable Use Policy (A1191524)

Owner(s)	Manager, Business Services		
Policy Reviewed	June 2021	**Next Review**	June 2023

Schedule Nine

Board Acceptance of Gifts and Invitations Policy

Purpose

To provide guidance for Board Members on accepting gifts and invitations received in the course of working with or representing Pharmac.

Policy Sponsor

The Audit Committee is responsible for reviewing and updating this policy for approval by the Board. All Pharmac Board Members are responsible for implementing and complying with the policy.

Guiding principles

- Pharmac Board Members have a duty to be impartial in their decisions.
- Conflicts of interest must be avoided – these may be either real or perceived.
- As a Government agency, Pharmac needs to be selective about the gifts and invitations that are accepted by Board Members.

Policy Detail

Gifts

It is important that Pharmac Board Members are impartial and objective in undertaking their roles and are not influenced, or perceived to be influenced, by possible personal gain through their role at Pharmac.

Other than for exceptions noted below, all gifts should be:

a. disclosed to the Chair of the Board;

b. recorded in a "gifts register" maintained by the Board Secretary; and

c. provided to the Board Secretary for inclusion in a gift pool for periodic, random distribution to Pharmac staff members (such as through a random draw of names, or alternate process (including for any perishable items).

Exceptions

Occasionally, there may be exceptions to the above policy where, for cultural or other reasons, it may be appropriate for an individual to retain a gift presented to them (and make redistribution inappropriate). This may include gifts of cultural significance to Māori, such as greenstone/pounamu, kete (woven baskets), whalebone pendants and kakahū (feather cloaks).

Where a Board Member believes that a gift is an exception, the Board will discuss the matter and decide the appropriate treatment, including to recognise any relevant cultural considerations.

Where a Board Member retains a gift, they must be conscious of their overarching obligations to Pharmac.

Maintaining a reputation for impartiality and objectivity is central to Pharmac's effectiveness, and Pharmac does not accept that there is any obligation of reciprocity implied or expected, in accepting a gift from another party.

Invitations to events

Pharmac Board Members may receive invitations from pharmaceutical companies or service providers to attend various functions and events. In considering any invitation for hospitality, the nature of Pharmac's relationship with the party extending the invitation is central in deciding whether or not it is appropriate to accept. In the majority of cases, it will not be appropriate to accept invitations. In some cases, attendance at a function may provide an opportunity to network and foster relationships with representatives from organisations that Pharmac works with. Any invitations accepted by Pharmac Board Members must provide an opportunity to network. Invitations in the form of tickets to an event, within limited opportunity for networking, will not usually be approved.

Any invitation for hospitality from any stakeholder or service provider is to be declared and attendance approved by the Chair of the Board, or in the case of an invitation received by the Chair, by the Deputy Chair.

If attendance at a function has been approved as having a valid business purpose, then attendees need to remember that they are representing Pharmac, and expectations about appropriate conduct apply, particularly with regard to the consumption of alcohol.

Policy Approved September 2009

Schedule Ten

Use of Legal Risk Fund Policy – November 2010

Purpose

The purpose of this policy is to ensure that Pharmac can access funding for litigation in a timely manner, while ensuring that expenditure from the Legal Risk Fund (the Fund) meets appropriate criteria.

Background

When the Health Funding Authority was disestablished in January 2001, all assets and liabilities were transferred to the Ministry of Health. As part of the transfer, Cabinet approved the transfer of $5M to the Ministry so that it would have funding available to manage litigation risks against Pharmac.

The Fund was transferred to Pharmac in 2004. It was agreed between the Minister of Health and Pharmac that the Fund should be managed by Pharmac in a manner that is consistent with the following principles:

(a) maintaining transparency in the Fund's use and application including a clear separation between Pharmac's operational legal expenditure, and the yearly maximum allowable use of the Fund;
(b) ensuring accountability for its use;
(c) effective reporting of its use;
(d) managing potential conflicts of interest when accessing and using the Fund;
(e) effective and efficient auditing of the Fund.

Model for the management of the Fund by Pharmac

Pharmac, the Ministry of Health and the Treasury have agreed to the following model for managing the Fund:

Definition of litigation / Permitted uses of the Fund

Permitted uses of the Fund are to meet legal costs and expenses incurred by Pharmac when:

(a) defending litigation;

(b) taking/initiating litigation, where:

  (i) the Pharmac Board has considered a business case provided to them for the purposes of their decision as to whether or not to proceed with that particular litigation, and has considered the independent review; and

  (ii) the business case contains evidence-based analysis of relevant information; and

  (iii) following consideration of the business case and the independent review, the Pharmac Board proceeds with the litigation based on its conclusion that the reasonably likely outcomes and benefits of taking the litigation outweigh the anticipated costs and risks (in the event that the Board conclusion differs from that of the business case or independent review, the Board minutes must record the reasons for the Board's conclusion);

(c) participating in litigation proceedings to which Pharmac is not a party, for example, providing affidavit evidence or making a non-party application to the Court as part of existing proceedings, in situations where the anticipated expenses cannot be covered from Pharmac's operational litigation budget;

(d) proceeding to mediation, or alternative dispute resolution mechanisms, as a genuine alternative to defending or taking litigation;

(e) defending complaints, litigation, or disciplinary proceedings against employees, officers, or Board members in relation to the performance or intended performance of the functions of Pharmac, but not including where the Pharmac Board considers that the employee, officer, or Board member has not acted in good faith, and not including defence of alleged criminal conduct. Where the court or other disciplinary body determines that the employees, officers, or Board members did not act in good faith, Pharmac will repay to the Fund any monies that had been used to defend the complaint, litigation, or disciplinary proceeding.

For the purposes of using monies from the Fund, litigation means actual or threatened Court proceedings.

For the avoidance of doubt, funding for 'taking/initiating litigation', referred to in (b) above includes reimbursement for preliminary work already undertaken which was necessary to determine and prepare the strategy and/or business case for taking the litigation.

Decision making process

The Pharmac Board will be responsible for approving access to the Fund.

For defending litigation, the Board will use its current processes and procedures to approve applications that fit the Fund's permitted use.

For initiating litigation funded by the Fund, the following process has been agreed:

(a) Pharmac management presents a business case to the Board:
    (i) an independent lawyer (that being one who does not benefit from expenses incurred as a result of that litigation) reviews the validity of the business case and provides an opinion to the Board as to whether, of all the options, litigation is a viable and justified option taking into account risks, costs and benefits; and
    (ii) the Pharmac Board can then assess both the business case and the independent review before making its decision.
(b) Where the Board approves the initiation of litigation, it will specify the amounts to be drawn from the fund for each phase of the litigation.
(c) The General Counsel will update the Board on a monthly basis on the conduct of active litigation matters.

Costs, damages and undertakings

The Fund may be used for awards of court costs against Pharmac. Costs awarded to Pharmac will be returned to the Fund on the basis that costs awarded cover litigation expenses paid for from the Fund.

The Fund will not be used to pay damages if those costs relate to pharmaceutical costs. These should be met by Health New Zealand.

In relation to damages awarded to Pharmac, Health New Zealand needs to agree whether part or all of any damages awarded go into the Fund or are reimbursed to Health New Zealand as part of their pharmaceutical budget.

The Fund can be used in a manner similar to “bridging finance” to enable Pharmac to make an undertaking promptly. If, however, the undertaking is called upon, then such sum must be met from the Health New Zealand | Te Whatu Ora pharmaceutical budget, the same way as damages awarded against pharmaceutical companies to Pharmac are injected into the Health New Zealand | Te Whatu Ora pharmaceutical budget. Pharmac will include the management of undertakings in the Health New Zealand / Pharmac relationship agreements.

Accounting treatment

The Fund is in a separate interest-bearing bank account and the interest will be added to the Fund. Deductions from the Fund will be for actual expenses only.

At the end of the financial year, the remaining portion of Pharmac’s unspent operational budget for litigation will be transferred to the Fund, up to the amount drawn from the Fund that year. This has been agreed in order to ensure that the Fund is used for expenses over and above the amount in Pharmac’s operational budget for litigation.