

# Standards development committee handbook



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HĪKINA WHAKATUTUKI

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# 1. Overview

## 1.1 Your appointment

- a. You have been appointed as a member of a standards development committee (**the committee**). Standards development committees are central to the standards development process. They operate on a transparent and consensus-based approach that leads to durable, robust standards solutions.
- b. You have been appointed a member of a standards development committee either because you have skills, knowledge, and experience relevant to the standard being considered, or you have knowledge and experience of the sector/s most likely to use the standard.
- c. Committee members are appointed by the New Zealand Standards Executive (**NZSE**) following approval by the Standards Approval Board. One member is appointed by the NZSE as the chair of the committee. Their membership is governed by their letter of appointment, the terms of reference, the handbook and the Standards and Accreditation Act 2015. If the obligations recorded in those membership documents are breached, or alleged to have been breached, the NZSE will investigate the allegations and, together with the chair of the committee, decide how to manage the issue. The NZSE has the ability to remove a member from a committee if he considers that necessary.

## 1.2 Purpose of this document

- a. This handbook explains:
  - iii. the role and functions of the committees
  - iv. the key relationships between committees and other statutory bodies
  - v. the legal obligations of members of the committees
  - vi. specific policies and procedures that members are required to follow.
- b. This document records the terms of appointment for committee members and chairs.
- c. Queries about the policies set out in this handbook should be directed to your committee's standards advisor, who will be able to provide more information.

## 1.7 Users of this document

This document is intended to be used by:

- a. members of standards development committees
- b. chairs of standards development committees.

## 1.8 Standards and Accreditation Act 2015

- a. The purposes of the Standards and Accreditation Act 2015 (**S&A Act**) include to:
  - i. provide for the development, approval, and maintenance of standards
  - ii. ensure that standards are consistent with international best practice, facilitate trade, and protect individuals' health, safety, and well-being
  - iii. establish the New Zealand Standards Executive (**NZSE**) and the New Zealand Standards Approval Board (**Board**).
- b. References in this handbook to 'S&A Act' and 'sections' are (unless otherwise noted) references to the Standards and Accreditation Act 2015 and the relevant sections of that Act.

## 1.4 Role of standards development committees

- a. Broadly, the role of a committee is to:
  - i. draft and advise on the content of new standards
  - ii. review and propose amendments to existing standards
  - iii. consider whether internationally developed standards should be adopted in New Zealand.
- b. The specific statutory functions of committees are discussed in further detail in section 2 of this handbook.
- c. Each committee is appointed in relation to a specific standards proposal and therefore has a specific terms of reference and a designated work programme, which will be initially drafted by the NZSE for review by each committee, and then approved by the NZSE as discussed in 2.6.

## 2. Statutory functions and powers of committees

### 2.1

The committees' functions are set out in section 15 of the S&A Act. They include to:

- a. draft a new standard (or new standards)
- b. review existing standards
- c. consider whether a standard developed by other standards organisations or bodies are suitable for adoption as a New Zealand standard
- d. advise on the content of standards
- e. consider and propose amendments to existing standards.

### 2.2

Committees are constituted so that all relevant significant interests have an opportunity to be represented on the committee. No one interest should dominate a committee and all committee members have a responsibility to ensure the final document is produced without undue influence.

### 2.3

Following approval of committee membership by the Board, committee members are then appointed by the NZSE.

### 2.4

One member is appointed by the NZSE as the chair of the committee.

### 2.5

The tenure of the development committee will last until the publication of the standard, or standards-related publication.

### 2.6

The NZSE will draft a terms of reference when the committee is appointed. The committee will then consider the terms of reference and, if it thinks it is necessary, suggest a revised terms of reference for the NZSE to approve. The purpose of this process is to ensure the terms of reference reflect the technical and sectoral knowledge of committee members, the committee's tasks are clear and focused, and that the resulting work meets the needs of the standards community. Each committee's terms of reference will include the scope of the project, as well as set key milestones and time frames for the committee.

### 2.7

It is the responsibility of each member of a committee, and of the chair of the committee, to ensure that the committee meets its terms of reference.

### 2.8

In order to ensure this occurs, committee members are expected to:

- a. keep to the agreed scope of the project
- b. prepare thoroughly for each meeting
- c. attend all meetings of their committee and devote sufficient time to become familiar with the affairs of the standards development committee and the wider environment within which it operates



- d. contribute to the work of the committee between meetings, including research (for example reviewing the current literature on the topic covered by the standard), drafting the technical content of the standard, reviewing drafted text, and following up on action points
- e. work with Standards New Zealand in a timely and effective manner to ensure deadlines are met
- f. actively contribute to reaching committee consensus (see 2.10 and 2.11)
- g. seek guidance or clarification on specific matters from persons or groups which have knowledge of the subject matter (which may include the member's nominating organisation)
- h. act fairly, impartially, responsibly, and in a trustworthy manner
- i. vote on the final draft by the ballot end date
- j. help promote the use of the standard
- k. refer to the committee's standards advisor any requests for information about the standard, its interpretation, content, or development.

## 2.9

The principles guiding the work of each committee member are to:

- a. ensure all stakeholders' views are considered
- b. have a commitment to working openly and collaboratively with the committee and Standards New Zealand
- c. gain widespread support from stakeholders for the standard being developed
- d. ensure evidence-based criteria are applied to the standard
- e. act consistently with legal requirements.

## 2.10

Committees operate on a consensus basis. The S&A Act defines 'consensus' as:

- a. unanimity; or
- b. general agreement characterised by the absence of sustained opposition on any substantial issue.

## 2.11

The ISO definition of consensus is reflected in the S&A Act's definition. It comments on the process of realising consensus as 'a process that involves seeking to take into account the views of all parties concerned and to reconcile any conflicting arguments...' All members of committees are required to consider the views of other members (who have also been appointed because of their expertise in the field or knowledge of the sector who will use the standard) and to work collaboratively to adopt a workable and robust solution.

## 2.12

As a committee member you must ensure that you carry out your role on the committee in accordance with the policies and procedures set out in this handbook. If you have questions about the documents in this handbook, or are unsure how they apply in a particular scenario, you should contact your committee's standards advisor.

## 3. Process for the development of a standard

### 3.1

Usually there are five stages in the preparation of a standard. They are:

- a. preliminary draft
- b. committee draft or drafts
- c. public comment draft
- d. final draft for postal ballot
- e. standard is published.

### 3.2

The preliminary draft may be an overseas standard, a draft submitted by an interested organisation or individual, or a draft prepared by Standards New Zealand in consultation with the interests concerned.

### 3.3

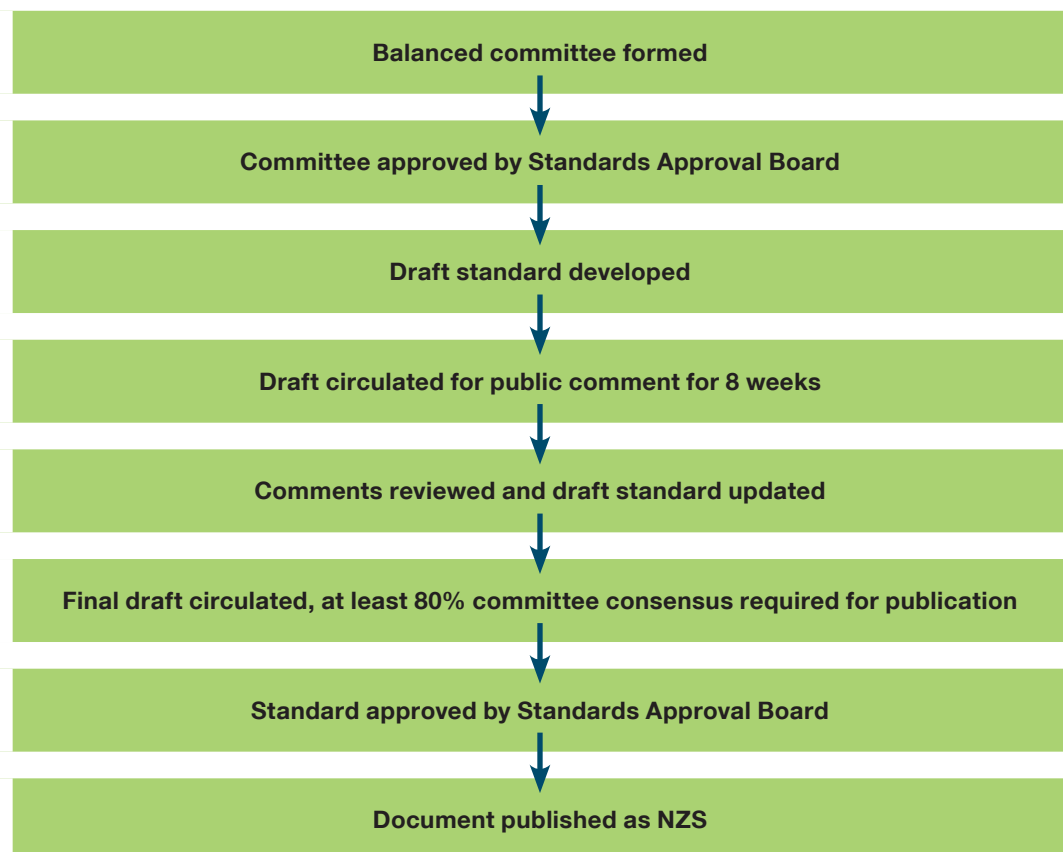
The committee draft incorporates the decisions of the committee arising from its examination of the preliminary draft.

### 3.4

The public comment draft represents the committee's consensus-based recommendations for the standard. The document is made available to the public for their views and comments.

### 3.5

Formal voting for approval of the final draft as a standard is by ballot by voting committee members. The Board must approve the document before it can be published.





## 4. Balloting

### 4.1

Standards are voluntary consensus documents that are developed by agreement and their application is by choice unless the standard is cited or incorporated by reference in a New Zealand Act or New Zealand regulations, or their use is mandated by government or contractually required.

### 4.2

Consensus is the cornerstone of writing standards. It is the philosophy that differentiates New Zealand standards from those written by any other organisation. Consensus will only ever be achieved where the involved parties have a willingness to work together along with total confidence in the rigour of the process and the quality of the consultation undertaken.

### 4.3

The aim of a standards development committee is to produce a standard that meets the test of consensus. When a standards development committee reaches consensus on the technical content of a draft standard, after its issue for public comment, a ballot draft is prepared on which a vote is cast by each member of the committee who is eligible to vote.

### 4.4

Voting members of the committee must submit votes on the ballot draft of the standard by the deadline given. Options can be:

- a. agree to publication of the standard
- b. agree to publication of the standard, with comment
- c. disagree with the publication of the standard, with comment.

### 4.5

Negative votes must be supported by specific, technical reasons for the negative vote. Any negative vote not accompanied by specific technical reasons will be discarded in accordance with the handbook. This is consistent with ISO and IEC Directives, which state: 'Abstentions are excluded when the votes are counted, as well as negative votes not accompanied by technical reasons.' Editorial comments and minor corrections should be submitted as 'yes with comment'.

### 4.6

Differences of opinion on the technical content of a standard need to be resolved using the standards development committee processes. From time to time committee members may have other issues they wish to raise that are not related to the technical content of the standard. The committee's standards advisor needs to be made aware of these issues and will work to develop a satisfactory resolution.

### 4.7

If a member casts a negative vote, the committee's standards advisor must then reconsider the committee's position.

### 4.8

No standard should be submitted to the Board for approval if it is recognised that there is a significant interest opposed to its publication.

## 4.9

With the assistance of the chair, the committee's standards advisor makes every effort to resolve negative votes. The committee member submitting the negative vote must work actively to assist with resolution. Where significant changes are proposed, the committee will be advised of the changes.

## 4.10

If negative votes cannot be resolved, the committee's standards advisor and NZSE (or delegate) may decide to submit the standard to the Board for approval provided that:

- a. a minimum of 67% of those eligible to vote have voted affirmatively
- b. a minimum of 80% of votes received are affirmative
- c. no major sector maintains a negative vote
- d. the committee's standards advisor considers all comments submitted with positive votes, and incorporates these where appropriate into the document.

## 5. Publication

### 5.1

The standards development committee is responsible for developing and approving the technical content of the standard. Final editing and decisions on style, layout, and formatting are the responsibility of Standards New Zealand in consultation with the committee.

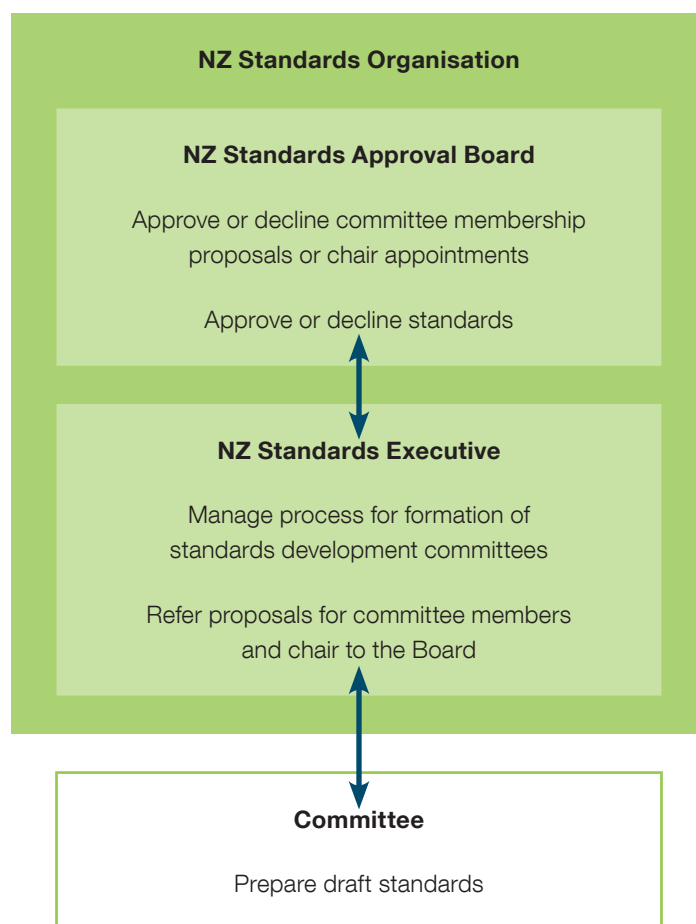
### 5.2

If any standard is cited or incorporated by reference in any Act or regulations, section 10(1) of the Act requires the NZSE to advise the responsible Minister of the proposal to amend, revise, revoke, or replace the standard before the proposal is referred to the Board for consideration.

## 6. Key relationships

### 6.1 Establishment of new entities

- a. In addition to the committees, the S&A Act establishes two key entities – the New Zealand Standards Approval Board and the New Zealand Standards Executive. Together, they make up the New Zealand Standards Organisation (NZSO). The NZSE is responsible for the oversight of New Zealand standards. The NZSE establishes committees to draft new standards. The Board is responsible for approving or declining new standards, and approving or declining committee membership proposals and chair appointments. The separation of these functions is intended to introduce greater independence and transparency into the standards-making process.
- b. The Board also has an advisory function; it can advise the Minister on the currency of standards, priorities for the development and review of New Zealand standards, and other relevant matters identified by the Board (section 12). The NZSE is also expected to report to the Minister on the standards work programme, and current and emerging trends in standards (section 7).
- c. Informally, the expectation is that the Board and the NZSE are likely to require ongoing and regular dialogue to ensure that the Board is aware of the work programme of the NZSE.
- d. The following diagram provides an overview of the relationship between the Board, NZSE, and committees:



## 6.2 Relationship between committees and Board

- a. The committees and the Board do not have a direct relationship, as it is the NZSE that is responsible for referring the work of the committees to the Board.
- b. While the relationship between committees and the Board is not direct there is an element of interdependence. The Board's approval is required for individuals to be appointed as members or as chair of the committees. The Board also approves or declines proposals for new standards (or for modifications to standards). Those standards or modifications are based on work prepared by committees. When the Board considers whether to approve or decline the proposals, section 13 of the Act requires it to be satisfied that it has sufficient information from the committee on these matters to confirm:
  - iii. whether the proposal has been developed using a consensus process, whether the process included public consultation, and whether due weight was given to submissions received
  - iv. whether the proposed standard or modification is based on another national or international standard or a draft standard
  - v. whether the proposed standard or modification is or would be compatible with other national or international standards
  - vi. whether the proposed standard or modification would meet an identified industry, consumer, or regulatory need
  - vii. whether the overall expected benefit of the standard or the modified standard, to the sector(s) most likely to use the standard or to New Zealand as a whole, can be demonstrated
  - viii. that New Zealand standards do not duplicate work of other standards organisations
  - ix. that any differences between the proposed standard and an international standard exist for good reason
  - x. that the proposed standard or modification will not create unnecessary obstacles to international trade and investment.
- c. When committees report to the NZSE, they must ensure that, where appropriate, committee reports comment on those considerations. Guidance has been prepared on what each of these factors mean and is available at the end of this handbook in Appendix A.

## 6.11 Relationship between committees and NZSE

- a. The main interaction between the NZSE and committees is in setting the committee's terms of reference. After receiving the initial terms of reference from the NZSE, the committee considers the terms of reference and whether they need refining to reflect technical or sectoral matters. If necessary a proposed revised terms of reference is submitted to the NZSE for approval. The purpose of this process is to ensure the terms of reference reflect the technical and sectoral knowledge of committee members and that the resulting work meets the needs of the standards community.
- b. The NZSE is responsible for establishing committees, including determining how many committees are necessary and the work that each committee will carry out (section 15(2)).
- c. The NZSE appoints (with the approval of the Board) the members and chairs of the committees (section 16). Together with the power to appoint, the NZSE has the power to remove and suspend members and chairs.
- d. The NZSE is also responsible for referring the work of the committees to the Board for approval (section 7).

## 7. Conflicts of interest


### 7.1 General guidance on conflicts of interest

- a. It is essential that the standards development process occurs in a transparent and impartial manner, to ensure the integrity of the New Zealand standards system. Conflicts of interest that are not identified or disclosed could undermine the quality and integrity of the system or of the standards themselves as well as public confidence in the process. This is discussed in further detail in Appendix B and C.
- b. Committee members must therefore be alive to the possibility that a conflict of interest may arise and understand their obligations to identify, disclose, and manage such conflicts if and when they arise.
- c. The S&A Act contains requirements for managing conflicts of interest arising for committee members. These obligations are discussed below.
- d. A copy of the Committee Conflict of Interest guidance document is attached to this document.
- e. In addition, the State Services Commission and Office of the Auditor General have produced guidance on conflicts of interest in the public sector. This is discussed further below.

### 7.2 What is a conflict of interest?

- a. A conflict of interest arises where two competing interests intersect. In the case of a committee, this could occur if the personal interests of a committee member compete with the interests of the committee, or of the New Zealand Standards Organisation as a whole, in a way that might motivate the member to act in a way that may not be in the best interests of the committee or the organisation.
- b. Generally speaking, if a committee member has an outside interest that others might reasonably think could affect the member's impartiality as a member of the committee, there may be a conflict of interest.

### 7.3 Summary of key conflict of interest obligations for members of committees

- a. The requirements in the S&A Act provide a check on standards becoming unduly influenced by any one individual or group of individuals.
- b. For committees, the obligations for conflicts of interest arise:
  - iv. before you are appointed as a member of a committee (referred to in this document as an initial disclosure)
  - v. for the duration of your membership of the committee (referred to as an ongoing disclosure).
- c. The following applies for initial disclosures.
  - vi. Before you are appointed as a member of a committee, you must disclose **any** interests you have in the work of the proposed committee to the NZSE. You must disclose (where possible) the monetary value of the relevant interest (section 17(1)(b)).
  - vii. The NZSE will notify the Board of any such interests disclosed when referring the membership proposal to the Board for approval (section 17(2)).
  - viii. A person who has a personal interest in the work of a committee may be appointed a member of the committee (subject to the approval of the Board), but may not be appointed (or act) as a chair of a committee (section 18(4)).
  - ix. The interests you need to disclose are those where you may be personally interested in matters relating to the work of the committee. The meaning of 'personally interested' is discussed below under ongoing disclosure obligations. 

- d. The following applies for ongoing disclosures:
  - x. All members of each committee who are personally interested in the work of the committee have a continuing obligation to disclose any such interests as soon as practicable after he or she becomes aware of them.
  - xi. As a committee member, you are personally interested in a matter in the following circumstances (section 4(2) of the S&A Act).
    - A. If you (or your spouse, partner, child or parent) may derive a financial benefit from the matter
    - B. If you may have a financial interest in a person related to the matter
    - C. If you are a director, partner, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates
    - D. If you have some other direct or indirect interest in the matter that might materially influence you (or would reasonably appear to any person to be likely to do so).
  - xii. However, you will not be personally interested in a matter only if:
    - A. you receive insurance cover, remuneration, or other benefits authorised under the S&A Act
    - B. you have past or current involvement in the sector, industry, or practice
    - C. your personal interest is the same, or substantially the same, as: either the benefit or interest of most other people in the industry that they represent; or the benefit or interest of the general public.
  - xiii. This disclosure must be made to the chair of the committee and to the NZSE as soon as practicable after you become aware of the interest (section 19). This obligation continues for the duration of each committee member's membership of the committee.
  - xiv. As above, you must disclose the monetary value of any interest, if that is able to be quantified.

## 7.15 Consequences of failure to disclose an interest

- a. If you fail to comply with the obligations set out in 7.3, the Board and the NZSE must notify the Minister of Commerce and Consumer Affairs (section 20).
- b. Failure to disclose an interest will not automatically lead to the committee member being removed or automatically affect the validity of the committee's work. However, undisclosed conflicts of interest could undermine the integrity of the committee's work and public trust in the standards development process. If a decision or standard is judicially reviewed, and is tainted by conflict of interest, the courts may declare it invalid.

## 7.16 Operational procedures for making ongoing disclosures

- a. The Office of the Auditor General guidance recommends a two-stage process to address conflicts (or potential conflicts) of interest.
  - xvii. Step one: the individual with the conflict is obliged to identify and disclose it to relevant people in a timely and effective manner (preferably in writing).
  - xviii. Step two: the public entity must then carefully consider what, if anything, needs to be done to adequately avoid or mitigate the effects of the conflict (or potential conflict) of interest. The entity must consider any legal requirements, any relevant policy of the entity and whether it should seek professional advice.

- b. Step one: disclosure by the individual.
- xix. The obligation to disclose an interest falls on the committee member concerned. This is because the member has the fullest knowledge of his or her personal interest and will be in the best position to identify whether their work for the committee has a connection with a personal interest.
  - xx. The key question for the individual concerned is **whether the individual's interest creates an incentive for them to act in a way that may or may not be in the best interests of the committee.**
  - xxi. If a member is in doubt about whether a personal interest conflicts with the work of the committee, the member should err on the side of disclosing the interest.
  - xxii. The member must disclose the interest to the chair of the committee and to the NZSE.
  - xxiii. Disclosures must be made in a timely and effective manner, and in writing. Any disclosure should be made using the template available from the committee's standards advisor.
  - xxiv. The member must disclose the monetary value of the interest (if that can be quantified).
  - xxv. If the member becomes aware of a potential interest during a committee meeting, the member should immediately notify the chair and should consider absenting him or herself from the meeting. The member should then follow the written disclosure procedure continued below.
  - xxvi. Any personal information that a member of a committee provides in the course of a disclosure of a conflict of interest will be handled safely and securely and will be protected from disclosure to third parties so far as is possible. Any personal information will be handled in accordance with the Privacy Act 1993 and will be received in confidence to protect as far as possible against disclosure of the information under the Official Information Act (OIA).
  - xxvii. If a member has questions about whether they do or do not need to declare an interest, what information they need to provide, and whether (or how) the interest can be quantified, the member should discuss these concerns with the committee's standards advisor and a process for disclosing the information will be agreed (if necessary).
- c. Step two: managing the conflict.
- xxviii. The chair will consider the nature, size, and seriousness of the interest disclosed in consultation with the NZSE. This assessment will be undertaken on a case-by-case basis. The matters that will be taken into account are set out in this guidance. The member may be asked to provide further information about the interest by the chair or the NZSE.
  - xxix. The chair and the NZSE will then consider what, if any, action should be taken to address the interest disclosed. If the interest disclosed is minor or otherwise of little significance, it may be that no action is necessary. Options for managing a conflict while the member remains on the committee include:
    - A. enquiring whether all affected parties consent to the member's involvement
    - B. imposing additional oversight or review of the member
    - C. withdrawing from discussing or voting on a particular item of business
    - D. exclusion from a committee while it is dealing with the issue
    - E. reassigning certain tasks or duties to another person
    - F. placing restrictions on accessing certain information.
  - xxx. On the other hand, it is possible that declaration of a sizeable or significant interest might warrant the member resigning from the committee. Each assessment will be a case of balancing the risk associated with the member's continued participation in the work of the committee.
  - xxxi. The member must comply with any decision taken by the chair and the NZSE for the purposes of managing the disclosed conflict.



- xxxii. If, following a disclosure by a member of a committee, it is decided that the member may remain a member of the committee, the member must ensure that he or she notifies the chair and the NZSE, using the procedure set out above, in the event that his or her interest changes and needs to be reconsidered.
- xxxiii. The NZSE will maintain a register of interests disclosed for the committee.

## 8. Role of the chair

### 8.1 Appointment

- a. The chair of each committee will be appointed by the NZSE (section 18(1)).

### 8.2 Responsibilities of the chair

- a. The responsibilities of the chair of each committee are set out in section 18(2) of the S&A Act. The chair will be responsible for:
  - iii. running committee meetings
  - iv. ensuring the work of the committee and the development of the relevant standard proceeds efficiently
  - v. ensuring all members of the committee are treated fairly and equitably
  - vi. facilitating discussion and the sharing of ideas between members of the committee
  - vii. managing conflicts of interest that arise in relation to the committee, in conjunction with the NZSE.
- b. The chair is responsible for managing the committee's work programme and ensuring that its terms of reference, including any deadlines, are met. To achieve this, the chair should:
  - viii. ensure the views of all committee members are heard
  - ix. help to facilitate consensus where there are differing views
  - x. facilitate resolution of any technical issues.

### 8.11 Conflicts of interest

- a. As a member of a committee, the chair must adhere to the conflict of interest policy (section 7 of this handbook), and all other policies applying to members of committees in this handbook.
- b. If the chair is or becomes personally interested in the work of the committee, he or she will be disqualified from being or acting as the chair of the committee (although he or she may be able to remain a member of the committee, depending on the outcome of the assessment undertaken by the NZSE as discussed in 7.5(c)).
- c. The chair of each committee is also responsible for receiving information from other members of the committee about any personal interests those members may have in the work of the committee, and helping the NZSE to resolve any such issues, if possible (section 19 of the S&A Act). The process by which this will occur is set out in 7.5(c).

### 8.12 Meetings

- a. If the chair of a committee cannot attend a committee meeting, the members present at the meeting must appoint a temporary chair, from among the members, who will be responsible for chairing that meeting (section 18(3) of the S&A Act).
- b. The committee's standards advisor, in conjunction with the committee's chair, will facilitate the arrangement of meetings. These will take place in accordance with the terms of reference provided to the committee.

## 9. Other relevant legal obligations

### 9.1 Overview

Committee members should also be aware of the following additional legal obligations.

### 9.2 Privacy Act 1993

- a. In the course of carrying out their role as a member of a committee, a member will both provide their own personal information to the committee and the Ministry of Business, Innovation & Employment (**MBIE**) and obtain personal information about fellow committee members and individuals who interact with the committee.
- b. Committee members, the NZSE, and the Board are all subject to the requirements of the Privacy Act. The Privacy Act governs the collection, use, storage, and disclosure of personal information, which is information about an identifiable individual. All personal information, about others as well as your own information, will:
  - iii. be accurately recorded
  - iv. be stored securely
  - v. only be used for the purpose for which it was collected. If MBIE or the chair of the committee wishes to use the information for another purpose, they will consult with you first
  - vi. not be disclosed except in accordance with the Privacy Act.
- c. Likewise, committee members are legally required to treat any personal information they hold about other committee members, or any other persons, in accordance with these principles. If a committee member is in any doubt about the application of the Privacy Act to personal information held by the committee, please speak with the committee's standards advisor.
- d. If you receive a request for personal information that the committee holds, the request should be referred to the committee's standards advisor for advice on answering it.

### 9.7 Official Information Act 1982

- a. Information held by committees is deemed, under the Official Information Act (OIA), to be held by the NZSE, and in turn the information the NZSE holds is deemed to be held by MBIE. Therefore requests for information held by committees are treated as departmental OIA requests.
- b. The NZSE and MBIE are obliged to respond to all requests for official information in accordance with the provisions of the OIA. The NZSE may ask the chair of a committee to provide it with information collected, generated, adapted, or used by the committee. If a committee chair or member is asked to provide official information, the chair or member must do so as soon as possible, at the least within the time frames stipulated by the OIA and the NZSE.
- c. A committee may receive a request for information that it believes is held by the Board. The Board is a separate entity from the NZSE and MBIE for the purposes of the OIA. If a committee considers the information may be held by the Board, the committee's standards advisor should be approached for advice. If the NZSE agrees, the request may be transferred to the Board under section 14 of the OIA.
- d. After receiving a request for official information the principle that information should be made available, unless good reason exists to withhold the information, applies.
- e. Maintaining confidentiality of committee deliberations is an essential element of the consensus-based approach to standard setting. Standards development committee members are to be aware that meetings (including agenda material and minutes) of their committee, together with exchanges of views between committee members during the consensus-forming process, are confidential. Requests for information that the committee has not yet voted on will need to be carefully assessed to determine whether grounds such as the one in (i) apply, and whether that ground overrides the public interest in releasing that material. Good reasons for withholding information include:

- viii. maintaining the effective conduct of public affairs through the free and frank expression of opinions
  - ix. the need to protect information that would prejudice the commercial position of a person
  - x. whether the release would breach the privacy of a natural person.
- f. If an OIA request is received that relates to the work of a committee, the NZSE may ask the members or chair of the committee to comment on the application of any of the grounds set out above to information held by the committee. If you are unsure about how to respond to this request, please discuss it with the committee's standards advisor.
- g. All requests for official information that committees receive will be responded to by the committee's standards advisor and material will be released with the approval of the NZSE, in accordance with the provisions of the OIA.

### 9.11 Public Records Act 2005

- a. The NZSE is subject to the Public Records Act 2005. This means that the NZSE is subject to the requirements in that Act relating to the creation, transfer, and disposal of public records.
- b. So that the NZSE can comply with its obligations under the Public Records Act, committee members must ensure that they:
- xii. do not destroy any information collected or generated by the committee in the course of carrying out its work
  - xiii. follow all other instructions of the NZSE in relation to the information collected or generated by the committee.
- c. If you are unsure about the application of the Public Records Act to the work of the committee, please discuss it with the committee's standards advisor.

### 9.14 Administrative law

- a. It is important that the recommendations of the committees are made in a manner that is consistent with administrative law principles. Committee members (and the chair in particular) should endeavour to ensure that they act in a manner that is fair, reasonable, and according to law. This means that committees need to:
- xv. follow procedurally fair processes
  - xvi. be aware of and act within the powers that they are given in legislation
  - xvii. make sure that any decision they make is a reasonable decision.
- b. Under section 23 of the S&A Act, it is possible that an individual may seek to judicially review the decisions of the Board, the NZSE, and the recommendations of committees.

## 10. Disclosure of information

### 10.1

All committee members have obligations about the disclosure of information received while participating in committee work.

### 10.2

Under section 21 of the S&A Act, committee members must not disclose any information they receive as a member of the committee, or make use of that information, or take any action based on that information. The only exceptions to this are if you disclose, use, or act on the information:

- a. in carrying out the work or functions of the committee
- b. in accordance with the law
- c. to meet your obligations for conflicts of information (which are discussed elsewhere in this handbook)
- d. having first obtained the authorisation of the NZSE or the Minister of Commerce and Consumer Affairs and provided that your disclosure, use, or action will not, or would not be likely to, prejudice the development of standards.

### 10.3

In addition, under section 22 of the S&A Act, if the NZSE asks a committee member to do so, the member must give the NZSE any information that he or she has prepared or collected as part of the member's role on the committee, or any information the member has obtained that was prepared or collected by another member of the committee.

### 10.4

Other than as set out above, committee members must be aware that meetings, including agenda material and minutes, of the committee are deemed confidential. Release of committee correspondence or papers can only be made with the approval of Standards New Zealand. All documents should be kept secure to ensure that this confidentiality is maintained. It is recognised that standards development committee members will need to discuss issues and decisions with peers, nominating organisations, and representative groups to gain feedback and assess consensus. This is an important part of ensuring that the standards-making process is robust, thorough, and transparent. The purpose of the confidentiality clause for committee members is not to impede these discussions, but to protect individual members from being quoted out of context.

### 10.5

There is no intention to prevent discussions and information-sharing of this kind from occurring. The provisions for disclosure of information in the S&A Act, and the guidance above are intended simply to protect committee deliberations (including the contributions of individual members). However, any disclosure of committee business to anyone outside the committee must be pertinent to your work and discreet.

### 10.6

Members are expected to act fairly, impartially, responsibly, and in a trustworthy manner in all their dealings with committees and committee information.

### 10.7


Although you are free to express your own views within the context of committee meetings, or the general business of the committee, you should publicly support a course of action decided by the committee. If you are unable to support a majority course of action, it is your responsibility not to publicly comment on decisions.

# 11. Copyright

## 11.1 Overview of copyright

- a. Copyright protects original works including literary and artistic works. Standards are protected by copyright both in terms of the standards as a whole and the individual literary and artistic works within them. These individual works might include text, tables, diagrams, and photographs.
- b. Overall, our guiding principles for copyright in standards are to respect the ownership and authorship of original content, while getting the most use and exposure for the standards as possible.

## 11.2 Managing copyright in New Zealand standards

- a. Copyright exists in standards. Ownership of copyright enables the person to make copies, sell, or give away copies to the public or to broadcast or communicate the work to the public. The owner can also take action to prevent others from doing any of those things. To determine copyright ownership it is necessary to determine who created the work, the circumstances of its creation, and what if any other agreements have been entered into about that work.
- b. New Zealand standards are created in a number of different ways.
  - iii. By Standards New Zealand with contributions from NZ industry or other parties
  - iv. Adopted from other standards organisations' standards
  - v. Developed in collaboration with another standards organisation
- c. All original contributions to standards by government agencies will be owned by the Crown in the absence of any agreement to the contrary. Standards New Zealand owns, and Crown copyright applies, to all works created by people engaged by the Crown, including work created by employees or contractors of Standards New Zealand. Standards New Zealand's consent is required before any part of a published standard is reproduced. The committee's standards advisor should be contacted and permission sought to reproduce before standards are reproduced.
- d. Committee members' contributions are important to the development of standards. Unless otherwise expressly agreed with the NZSE, every contributor to a standard expressly assigns, by signing the terms of reference, the copyright in all contributions to the Crown. Committee members consent to the inclusion of their material on the basis that it may be used in a standard, distributed and copied for that purpose. It is committee members' responsibility to ensure that they have the legal right to contribute the material that they provide.
- e. Sometimes committee members want to contribute materials to standards that they, their employers, or nominating organisations wish to continue to hold copyright or intellectual property in. Standards New Zealand recognises the right of the originator of the material to continue to hold the intellectual property rights over that original material and to have the right to reproduce such original material, even if it has been included unaltered in the standard. In this situation they should disclose that the copyright is not being assigned to the committee's standards advisor, before contributing the material. The standards advisor will consider whether to include the material under licence, or whether to exclude the material. If the material is included under licence, the standard will refer to the copyright material and identify the copyright owner.
- f. Where other organisations' standards are used in New Zealand standards, such as standards of the ISO, IEC, Standards Australia, or BSI, New Zealand uses that copyrighted material under licence.
- g. Copyright ownership in standards adopted from other standards organisations and developed in collaboration with other standards organisations (such as Standards Australia) differs depending on the identity of the contributors and whether an appropriate agreement was in place between Standards New Zealand and the relevant contributor or their employers. Please check with your committee's standards advisor to clarify ownership of copyright in particular standards. 

- h. Committee members who wish to reproduce a standard should contact [copyright@standards.govt.nz](mailto:copyright@standards.govt.nz). Royalties may apply for the use of reproduced standards content. Standards New Zealand undertakes to prepare and supply a copyright permission statement to be included on, in, or alongside any reproduced content.

## 11.6 Who may access and use New Zealand standards?

- a. All published standards have set access rights. This is to ensure the protection of intellectual property rights where practical and reasonable, as well as making sure that any use of intellectual property in the standards is undertaken in a controlled manner. We balance this with our intention to maximise the use and exposure of the standards.
- b. Access to published standards is governed in the following ways.
  - vii. Copyright statements appear within the standard, setting out how the standard may be used. Usually this is a template statement used for all standards, but in some cases the statement may differ slightly if ancillary products are offered along with the standard.
  - viii. The online library subscribers through our library subscription services are subject to the terms and conditions contained in their subscription agreements. Watermarking processes also stamp each document with the copyright conditions.
  - ix. Third parties who on-sell standards are subject to reseller agreements, which contain copyright conditions.
  - x. Group arrangements may be made with organisations such as libraries and local government. These groups often have licensing agreements for reference viewing or replication for bylaws due to legislative requirements.
  - xi. Copyright licence agreements are also entered into on an ad hoc basis, and all or part of a standard may be non-exclusively licensed to specific parties. These licence agreements are in template form, and contain specific copyright conditions.

## 12. Media enquiries

### 12.1

Committee members are responsible for:

- a. forwarding all media queries to the committee's standards advisor immediately on receipt
- b. ensuring no unauthorised project-related media statements, press releases, or responses to media queries are made
- c. ensuring the committee's standards advisor is provided with requested technical information within the required time frames.

### 12.2

Members must take special care not to represent their sector views as committee views to the media. Generally, only the committee chair in conjunction with Standards New Zealand responds to media enquiries on standards development matters.



## 13. General enquiries

### 13.1

Following the publication of a standard, it is common to receive enquiries and requests for information from industry and the public attempting to apply or implement a document's requirements. Standards New Zealand is often asked to provide clarification on a technical aspect of a standard, the official meaning of the standard's requirements, or the applicability of the standard to a specific practical situation.

### 13.2

Standards New Zealand does not provide technical interpretations of standards. Where the question requires a technical interpretation, Standards New Zealand will forward the request in writing to the regulator (if any) or the commissioner of the standard. If a request relates to the process or information used in the production of the standard, the request will be assessed in accordance with the OIA.

### 13.3

Some requests for clarification may constitute a request under the OIA. See 9.3 for information about how such requests will be handled.

## 14. Liability and protection from legal claims

### 14.1

Under section 23 of the S&A Act, the members of each committee will not be personally legally liable for any work that they do as part of the committee, except if:

- a. the member acts in bad faith
- b. the member commits a criminal offence
- c. the member acts outside the scope of the committee's functions.

### 14.2

A member of a standards development committee is not liable for the work of the committee by reason only of being a member of that committee. Members cannot be liable provided they act in good faith and adhere to performing the committee's functions and legal obligations. Members can still be liable for criminal acts, and standards development committee actions can be reviewed judicially.

### 14.3

One important consequence of a robust standard-setting process is the legal recognition that requiring someone to comply with a New Zealand Standard cannot be regarded as anti-competitive behaviour under the Commerce Act 1986, even if the standard might be seen as lessening the potential for competition in a given market (for example, by requiring the manufacturers of particular goods to comply with the specifications of the standard).

### 14.4

To ensure that the standard itself is beyond reproach, it is essential that a committee and its members approach their involvement in developing the standard without regard to the commercial interests of any third party. Any breach of this standard of conduct, or any other intentional misuse of the NZSE's processes or information, is likely to fall outside the 'good faith' limitation of the immunity referred to above and expose a committee member to personal liability.

### 14.5

A standards development committee does not have a separate legal personality from the Crown and cannot be sued as a body (although proceedings could be brought against individual members). Your acts or omissions in performing the committee's functions under the S&A Act could be judicially reviewed but, as stated above, provided you comply with the criteria in 14.1, you will not be personally legally liable.

## 15. Insurance

### 15.1

Under section 24 of the S&A Act, the NZSE will take out (and pay for) insurance cover for the work that a committee member does as a member of a committee. The NZSE will notify, via email, each committee member of the details of the insurance covering the committee.

### 15.2

The insurance policy that is taken out to cover the work an individual does as a member of a committee will not cover anything that the member does or fails to do:

- a. in bad faith (while acting as a member of the committee or otherwise)
- b. if the member does something other than in the performance (or intended performance) of the committee's functions (which are set out in section 2 of this handbook).

## 16. Project costs

Standards New Zealand is not funded to reimburse committee members for the costs of travel, accommodation, and time expended in attending committee meetings. These costs will need to be met by committee members, or their nominating organisations.

Standards New Zealand operates on a business model requiring projects to be funded by third parties. Where changes to scope, timing, or cost are proposed, Standards New Zealand will be required to agree to any variations under the commercial arrangements with the client.

## 17. Extranet for standards development committee use, SPEX

Standards New Zealand uses an extranet, SPEX, for sharing information with committee members. It is expected that all committee members have access to the internet. All working papers (drafts, minutes, meeting agendas) will be posted to SPEX. In addition SPEX also hosts discussion forums and it is expected these forums will be used to resolve issues from time to time. Full training on SPEX will be provided and the programme administrator will provide any assistance with using the system.

## Appendix A – Section 13 guidance

### Objective underpinning section 13 considerations

The overall aim of the section 13 considerations is to address the key elements that are important for ensuring that New Zealand standards are authoritative, fit for purpose, and internationally aligned. This helps maximise the contribution of standards to a more productive and competitive economy.

The section 13 considerations should also be read with reference to the purposes of the Act, one of which is to make provision for a standards system in New Zealand that is consistent with international practice, facilitates trade, and protects the health, safety, and well-being of individuals.

### International obligations and expectations – WTO TBT Agreement and ISO and IEC principles

The section 13 considerations are consistent with New Zealand's international obligations (i.e. the World Trade Organisation (WTO) Technical Barriers to Trade (TBT) Agreement) and international expectations (that is, ISO and IEC key principles in standards development).

#### WTO TBT Agreement

The WTO TBT Agreement aims to ensure that technical regulations, standards, and conformity assessment procedures are non-discriminatory and do not create unnecessary obstacles to trade. At the same time, it recognises WTO members' right to implement measures to achieve legitimate policy objectives, such as the protection of human health and safety, or protection of the environment. The Agreement requires members to base their measures on international standards as a means to facilitate trade.

The Agreement requires New Zealand to ensure that our central government standardising bodies accept and comply with Annex 3 of the Agreement (Code of Good Practice for the Preparation, Adoption and Application of Standards).

More detail on the WTO TBT Agreement can be found at [www.wto.org/english/tratop\\_e/tbt\\_e/tbt\\_e.htm](http://www.wto.org/english/tratop_e/tbt_e/tbt_e.htm)

#### ISO and IEC key principles

As a member of ISO and IEC the New Zealand Standards Organisation recognises ISO key principles. The ISO key principles in standards development are:

1. ISO standards respond to a need in the market (including industry, consumers, and government)
2. ISO standards are based on global expert opinion
3. ISO standards are developed through a multi-stakeholder process
4. ISO standards are based on a consensus.

More detail can be found at the following links:

ISO: [www.iso.org/iso/home/standards\\_development.htm](http://www.iso.org/iso/home/standards_development.htm)

IEC: [www.iec.ch/about/values/?ref=menu](http://www.iec.ch/about/values/?ref=menu)

## Guidance for the Board in applying considerations

The tables below outline the guidance for the Board in applying the section 13 considerations, and where relevant refers to the specific international obligation or expectation for that consideration.

### Section 12(1)(a) – Considerations when approving or declining proposals for persons to be members of standards development committees

**Documentation:** Briefing to Board for establishment of committees (outlining the nature of the standard, its potential impact, checklist of potential stakeholders, specific questions for Board to consider, and summary of each member’s skills, knowledge and experience).

**Source information:** Project proposal form, CVs from proposed members and statement from either nominating organisations or reliable and informed advice from the New Zealand Standards Executive.

SECTION	CONSIDERATION	GUIDANCE
13(1)(a)	Have regard to the importance of ensuring that members constitute a balanced representation of the stakeholder interests relevant to the proposed draft standard.	<p><b>International consistency</b></p> <p>This consideration is consistent with the ISO principle that standards are developed through a multi-stakeholder process.</p> <p><b>Guidance</b></p> <p>The Board needs to ensure that the committee is made up of a balanced cross-section of interests that would potentially use, or be affected by, the publication of the standard. In doing so, the Board will need to have an understanding of the nature of the proposed standard and what its likely impact will be.</p> <p>The stakeholder interests relevant to the proposed standard could include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• industry (such as manufacturers, importers, exporters, suppliers)</li> <li>• government (such as regulators, policy agencies)</li> <li>• consumers and community interests</li> <li>• research and academic organisations</li> <li>• testing bodies</li> <li>• unions</li> <li>• user and purchasing bodies.</li> </ul> <p>The representatives should have a legitimate interest in the standard. No one interest or interest category should be dominant. For example, major influences may be balanced by the inclusion of smaller organisations which, while only representing a small number of parties, have a significant interest in the standard.</p> <p>The Board might also need to consider whether all relevant representatives from a particular group have been included (for example, large firms and SMEs, established and emerging firms, importers and exporters), and academics with different relevant fields of expertise. These representatives can bring valuable and different perspectives to the development of the standard.</p>

SECTION	CONSIDERATION	GUIDANCE
13(1)(b)	Ensure that each member has the skills, knowledge and experience relevant to the standard, or knowledge and experience of the sector or sectors most likely to use the standard.	<p>The Board needs to ensure that each member is suitably qualified to contribute to the development of the standard.</p> <p>Members can bring:</p> <ul style="list-style-type: none"> <li>technical expertise to the development of the standard (such as expertise in electrical engineering)</li> <li>perspectives from a particular sector or group (such as consumer perspectives on how a standard might be applied in a regulatory context).</li> </ul>

### Section 12 (1)(b) – Considerations when approving or declining proposals for persons to be chairpersons of standards development committees

**Documentation:** Briefing to Board for establishment of committees and appointment of chair (outlining the nature of the standard, its potential impact, checklist of potential stakeholders, specific questions for Board to consider, and summary of the chair’s and each member’s skills, knowledge and experience).

**Source information:** Project proposal form, CVs from proposed members and statements from either nominating organisations or reliable and informed advice from the New Zealand Standards Executive.

SECTION	CONSIDERATION	GUIDANCE
13(2)(a)	Consider whether the person is capable of performing the functions in section 18(2) – ensure the efficient management of committee meetings and the work of the committee, ensure the efficient development of the standard, ensure fair and equal treatment of all committee members, facilitate discussion and sharing of ideas among members, and manage conflicts of interest in relation to members, in consultation with the New Zealand Standards Executive.	<p>A nominated chair could either have technical expertise or have knowledge and experience of the sector(s) most likely to use the standard.</p> <p>The Board needs to ensure that the proposed chair is of high integrity and has sufficient experience and skills to perform the identified functions.</p> <p>The chair should also not have a personal interest (as defined in section 4(2)(a) of the S&amp;A Act). See section 7 of this handbook for more information.</p>
13(2)(b)	Consider whether the person has experience that demonstrates leadership skills, an ability to build consensus and promote effective working relationships, good judgment, and an understanding and appreciation of the need for, and value of, diversity.	The Board needs to ensure that the proposed chair has sufficient experience and skills to perform the identified functions.



### Section 12(1)(c) – Considerations when approving or declining proposals for persons to be members of development committees of other standards organisations

This section applies when the Board needs to approve or decline proposals for persons to become members of standards development committees run by other standards organisations, e.g. ISO, IEC and joint standards projects led by Standards Australia.

**Documentation:** Briefing to Board for establishment of committees (summarising proposed chair’s skills, knowledge, and experience).

**Source information:** CVs from proposed members and statements from nominating organisations or reliable and informed advice from the New Zealand Standards Executive.

SECTION	CONSIDERATION	GUIDANCE
13(3)	Ensure that each member has the skills, knowledge, and experience relevant to the standard, or knowledge and experience of the sector or sectors most likely to use the standard.	<p>The Board needs to ensure that each member is suitably qualified to contribute to the development of the standard.</p> <p>Members can either bring:</p> <ul style="list-style-type: none"> <li>• technical expertise to the development of the standard (for example, expertise in electrical engineering)</li> <li>• perspectives from a particular sector or group (for example, consumer perspectives or how a standard might be applied in a regulatory context).</li> </ul>

### Section 12(1)(d), (e), (f) – Considerations when approving or declining proposed new New Zealand standards, approving or declining to adopt other standards organisations’ standards as New Zealand standards and approving or declining modifications to New Zealand standards

**Documentation:** Briefing to the Board for approval of standards summarising the following.

- How members have voted and whether consensus has been achieved
- Key issues raised by submissions, and how these have been addressed by the committee
- Whether the standard is based on any existing New Zealand standard or international standard or draft standard
- How the standard fits with any relevant wider group of standards it belongs to
- How the standard would meet an identified need
- The overall expected benefit of the standard
- Justification for any duplication with a New Zealand standard or international standard
- Reasons for any differences between the standard and any relevant international standard
- Information on whether the standard creates any unnecessary obstacles to international trade and investment

**Source information:** Project proposal form, report from committee on draft standard.

SECTION	CONSIDERATION	GUIDANCE
13(4)(a)(i)	Have regard to whether the proposed standard or modification has been developed using a consensus process, whether that process included public consultation, and whether due weight was given to the submissions received.	<p><b>Consensus process</b></p> <p><b>International consistency</b></p> <p>This consideration is consistent with the ISO principle that standards are based on consensus.</p> <p>The ISO definition and supporting information relating to the consensus process emphasises the ‘constructive collaboration’ among parties through the development process, rather than focusing on voting rules.</p> <p>Consensus is defined in the ISO/IEC Directives, Part 1 as: ‘General agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking to take into account the views of all parties concerned and to reconcile any conflicting arguments. Consensus need not imply unanimity.’</p> <p>The ISO guidance notes that in practice consensus has its origins in the desire to achieve the general acceptance and application of a standard within its intended sphere of influence. This entails trying to ensure that the interests of all those likely to be affected by it are taken into account and that the individual concerns are carefully and fairly balanced against the wider public interest.</p> <p><b>Guidance</b></p> <p>The Act defines consensus as ‘unanimity or general agreement characterised by the absence of sustained opposition on any substantial issue’. This definition is consistent with the ISO/IEC definition above.</p> <p><b>Consultation</b></p> <p><b>International consistency</b></p> <p>Annex 3 of the WTO TBT Agreement notes that, before adopting a standard, the standardising body shall allow a period of at least 60 days for the submission of comments on the draft standard by interested parties within the member’s territory. The period may be shortened in cases where urgent problems of safety, health, or environment arise.</p> <p><b>Guidance</b></p> <p>The Board needs to ensure that the standard has been publicly consulted on, and that submissions received have been given appropriate consideration in the development of the standard. Consultation does not necessarily mean agreeing to all feedback provided through submissions.</p> <p>The key elements of effective consultation are:</p> <ul style="list-style-type: none"> <li>• entering the consultation process with an open mind</li> <li>• giving participants the opportunity to be heard</li> <li>• providing participants with any relevant information</li> <li>• taking due notice of the views of those participating in the process.</li> </ul>

SECTION	CONSIDERATION	GUIDANCE
13(4)(a)(ii)	Have regard to whether the proposed standard or modification is based (in whole or in part) on any national or international standard or any draft standard.	<p><b>International consistency</b></p> <p>Annex 3 of the WTO TBT Agreement notes that where international standards exist or their completion is imminent, the standardising body shall use them, or their relevant parts, as the basis for their technical regulations except when such international standards or relevant parts would be ineffective or inappropriate, for instance because of fundamental climatic or geographical factors or technological problems.</p> <p><b>Guidance</b></p> <p>The Board needs to have regard to whether the proposed standard or modification is based (in whole or in part) on any relevant codes, guidelines, or standards currently used or produced in New Zealand or other countries to address the problem the standard is expected to address.</p> <p>In some instances, it might not be possible to base a proposed standard on an existing national or international standard – for example, if no standard exists in that particular area.</p>
13(4)(a)(iii)	Have regard to whether the proposed standard is, or the standard as amended by the modification would be, compatible with other national or international standards.	<p><b>Guidance</b></p> <p>The Board needs to have regard to whether the proposed standard would enable interoperability (such as across different technologies), and fit with other national or international standards in the particular subject area. The standard should be considered as part of any relevant wider group of standards (for example, building standards).</p> <p>For example, a standard on screw threads should be compatible with standards on wood components, given the need to ensure that different building materials can be assembled to construct a building.</p>
13(4)(a)(iv)	Have regard to whether the proposed standard or modification would meet an identified industry, consumer or regulatory need.	<p><b>International consistency</b></p> <p>This consideration is consistent with the ISO principle that standards respond to a need in the market (including industry, consumers, and government).</p> <p><b>Guidance</b></p> <p>The Board needs to ensure that the standard or modification would meet a need that has been clearly articulated. This need is likely to have been identified by or through the commissioner for the standard.</p>

SECTION	CONSIDERATION	GUIDANCE
13(4)(a)(v)	Have regard to whether the overall expected benefit of the standard or standard as amended, to the sector or sectors most likely to use the standard or to New Zealand as a whole, can be demonstrated.	<p><b>Guidance</b></p> <p>The Board needs to ensure that the commissioner of the standard and the committee has had regard to the relative benefits and costs of developing a standard in a broad sense, and can demonstrate that the standard will provide a net benefit.</p> <p>A quantitative analysis or full cost-benefit analysis is not expected.</p> <p>One of the purposes of the Act is to facilitate trade and protect the health, safety, and well-being of individuals. The expected benefit may be able to be considered in light of this purpose.</p> <p>In demonstrating an overall expected benefit either to specific sector(s) or New Zealand as a whole, the Board could have regard to qualitative information on the following:</p> <ul style="list-style-type: none"> <li>• evidence of the problem to be addressed by the standard</li> <li>• the objectives of the proposed standard</li> <li>• the level of stakeholder support for the standard and the implementation of the standard</li> <li>• expected impact or effect of the standard</li> <li>• any consequences of not developing the standard.</li> </ul>
13(4)(b)(i)	Ensure that New Zealand standards do not unnecessarily duplicate the standards development work of other national or international standards organisations.	<p><b>International consistency</b></p> <p>Annex 3 of the WTO TBT Agreement notes that the standardising body shall make every effort to avoid duplication of, or overlap with, the work of relevant international or regional standardising bodies.</p> <p><b>Guidance</b></p> <p>The Board needs to have regard to the justification for any duplication with a New Zealand standard or international standard.</p> <p>The benefits of not duplicating the standards development work of other organisations include:</p> <ul style="list-style-type: none"> <li>• facilitating international trade – the use of common standards among trading partners would make it easier and cheaper for goods and services to be traded internationally</li> <li>• tapping into the global expertise that has gone into the development of standards – this is particularly important given New Zealand’s relatively small pool of expertise and distance from markets.</li> </ul>

SECTION	CONSIDERATION	GUIDANCE
13(4)(b)(ii)	Ensure that where a proposed New Zealand standard is based on an international standard, there are good reasons for any differences between the New Zealand standard and the international standard.	<p><b>International consistency</b></p> <p>Annex 3 of the WTO TBT Agreement notes that where international standards exist or their completion is imminent, the standardising body shall use them, or their relevant parts, except when such international standards or relevant parts would be ineffective or inappropriate, for instance because of fundamental climatic or geographical factors or technological problems.</p> <p><b>Guidance</b></p> <p>Where a proposed standard is based on an international standard, the Board needs to have regard to the reasons for any differences between the two standards. The reasons should relate to why the international standard is ineffective or inappropriate.</p> <p>An international standard can be used as a basis for a proposed standard in three ways.</p> <ul style="list-style-type: none"> <li>• Direct adoption of the international standard</li> <li>• Adoption of the international standard with some modification to take into account domestic circumstances</li> <li>• Using material in the international standard as a basis for the development of a New Zealand standard</li> </ul>
13(4)(b)(iii)	Ensure that the proposed standard or modification will not create unnecessary obstacles to international trade and investment.	<p><b>International consistency</b></p> <p>Annex 3 of the WTO TBT Agreement notes that the standardising body shall ensure that standards are not prepared, adopted, or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade.</p> <p><b>Guidance</b></p> <p>One of the purposes of the Act is to facilitate trade.</p> <p>While the WTO TBT Agreement relates to trade in goods, similar principles can appropriately be applied to services and investment.</p> <p>The proposed standard or modification should treat products or services originating from other jurisdictions in a way that is no less favourable to like products and services from New Zealand (that is, it should not discriminate against imports).</p> <p>The proposed standard or modification should enable (rather than create a barrier to) trade.</p> <p>Trade includes imports and exports of goods and services.</p> <p>The proposed standard or modification should not hinder international investment flows, either into or out of New Zealand.</p>

**Section 12 (1)(i), (j), (k) – Considerations when advising the Minister on any matter referred to the Board by the Minister, advising the Minister on the currency of New Zealand standards and on priority areas for the development and review of New Zealand standards, and advising the Minister on any other matter that the Board considers necessary or advisable**

The New Zealand Standards Executive has a function of reporting to the Minister on standards, the standards work programme, and current and emerging trends in standards. The Board could therefore usefully collaborate with the New Zealand Standards Executive when providing advice to the Minister.

SECTION	CONSIDERATION	GUIDANCE
13(5)(a)	Have regard to the value of standards.	<p>The Board should have regard to the value of standards as follows.</p> <ul style="list-style-type: none"> <li>• New Zealand standards have strong domestic and international recognition and are widely used in trade, commerce, and regulation.</li> <li>• In international trade, common standards across our trading partners help New Zealand firms get products to export markets.</li> <li>• In regulation, standards are often incorporated by reference in regulations to avoid duplication of effort, particularly in areas of technical regulation and where there is international standardisation.</li> <li>• Standards help facilitate the creation and diffusion of technology by codifying information on better ways to make products and carry out processes.</li> <li>• Standards can help protect the health, safety, and well-being of individuals.</li> </ul>
13(5)(b)	Have regard to the legitimate use of standards.	<p>The WTO TBT Agreement notes that standards should not be developed with a view to or with the effect of creating unnecessary obstacles to international trade.</p> <p>Standards should also not have a negative impact on competition. Standards should enable open markets and hence increase competition. The development of standards by consensus through balanced committees helps achieve this.</p>
13(5)(c)	Have regard to the importance of maintaining expert input into the standards development process.	<p>The Board should have regard to:</p> <ul style="list-style-type: none"> <li>• the importance of maintaining the contribution of know-how and knowledge from experts, to the development of standards which are authoritative, fit-for-purpose, and internationally aligned</li> <li>• the value of the perspectives of different stakeholders – including those who are affected by the application of standards.</li> </ul>

# Appendix B – General guidance on conflicts of interest in New Zealand standards development committees

## Purpose of this document

This document is intended to facilitate the smooth operation of the standards development process under the Standards and Accreditation Act 2015 (the S&A Act), by providing clear guidance on identifying, disclosing, and managing conflicts of interest in standards development committees.

This document should be read alongside the *Standards development committee handbook*. If you have any questions about this document or conflicts of interest generally, please contact a Standards Advisor at Standards New Zealand.

## Users of this guidance

The guidance in this document would be useful for the following parties.

- Individuals who are being proposed to participate on standards development committees.
- Members of standards development committees.
- Chairs of standards development committees.
- The New Zealand Standards Executive (the NZSE).
- The Standards Approval Board (the Board).

## Why do conflicts of interest need to be managed?

Impartiality and transparency of the standards development process are essential to maintaining the integrity of New Zealand Standards. If left unchecked, conflicts of interest could undermine the quality and integrity of New Zealand Standards and public confidence in the standards system. It is therefore vital that conflicts of interest in standards development committees are effectively identified, disclosed, and managed to ensure standards being developed or adopted are robust.

Most statutory boards and committees exercising public functions are subject to conflict of interest procedures. The new requirements in the S&A Act are designed to bring standards development committees in line with other public entities and international best practice. They also, however, recognise New Zealand's unique context for standards development, allowing a degree of flexibility for how conflicts of interest are managed to reflect the small size of our standards development community.

Managing conflicts of interest is only one of several elements in the standards development process that help ensure standards produced are robust and the process is transparent. The S&A Act also provides for these things by ensuring that standards development committees are balanced and representative, and by requiring consideration of whether committee decisions are consensus-based and include public consultation. These requirements reflect common international practice of other national standards bodies as well as ISO and IEC guidance and WTO expectations.

## Identifying conflicts of interest

**GENERAL RULE:** If you have an interest in an outside matter that other people might reasonably think could affect your impartiality on the standards development committee's work, there may be a conflict of interest.

## What does the S&A Act say?

The test for conflicts of interest in the S&A Act is whether a person is 'personally interested' in a matter of the standards development committee.

This means that the first step in making an assessment of whether a conflict of interest exists is to identify whether a member has a personal interest in the work of the standards development committee.

Section 4(2)(a) of the S&A Act states that a person is personally interested in a matter if he or she:

- i. may derive a **financial benefit** from the matter; or
- ii. is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
- iii. may have a **financial interest** in a person to whom the matter relates; or
- iv. is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
- v. has some other (direct or indirect) personal interest that could **materially influence** him or her, or **would reasonably appear to any person to be likely to have a material influence** on him or her, in the exercise of his or her responsibilities under this Act in relation to the matter.

However, section 4(2)(b) goes on to say that a person is not personally interested in a matter:

- i. merely because he or she receives insurance cover, remuneration, or other benefits authorised under this Act; or
- ii. only because he or she has past or current involvement in the relevant sector, industry, or practice; or
- iii. if his or her personal interest is **the same or substantially the same as:**
  - A. **the benefit or interest of most other people in the industry that he or she represents;** or
  - B. the benefit or interest of the general public.

**NOTE:** Just because you have identified a conflict of interest does not necessarily mean that there is a problem, or that you can't be a standards development committee member. The important thing is to identify potential conflicts of interest so they can be managed appropriately.

## What does this mean?

Determining whether someone is personally interested in a matter is a two-step process. The first step is to establish whether the person is personally interested under one of the definitions in section 4(2)(a). If they are, the second step is to ask whether any of the exceptions in section 4(2)(b) apply.

Taken together, this means that even if a committee member has some kind of direct or indirect interest in the matter under section 4(2)(a), they are not personally interested in that matter for the purposes of the S&A Act if one of the exceptions applies.

For example, if a committee member stands to derive some kind of financial benefit from the work of the committee, they are not considered to be personally interested in the matter if most other people in the industry will also derive the same or a substantially similar financial benefit.

## Key terms explained

### What is a 'financial benefit' or 'financial interest'?

A financial conflict of interest is one where the decision or act could reasonably give rise to an expectation of financial gain or loss to the conflicted person. A financial interest may take many forms and need not involve cash changing hands directly. It could, for instance, relate to effects on the value of land or shares that the person owns, or effects on the turnover of a business that the person is involved in.



Financial benefits or interests may include:

- a shareholding or directorship in a company that stands to gain directly or indirectly from the outcome of the work of the committee
- a remunerative relationship, for example employment, consulting with a business or other organisation that may use the standard being developed by the committee
- property ownership or other investments that may be affected by the committee's work
- beneficial interests in trusts
- gifts and hospitality from organisations interested in the committee's work
- debts.

### What does 'material influence' mean?

This category of personal interests is broad and covers all other direct and indirect interests that are not necessarily financial in nature. This includes all the types of interest listed above and may also include:

- professional or legal obligations
- holding another office
- membership of another organisation
- family or close personal relationships
- personal beliefs or commitments that may suggest predetermination.

### Some examples of conflicts of interest include:

<b>PERSONAL AFFILIATION</b>	A member's spouse might work for a large industrial company that will gain financially from the development of the standard
<b>SOCIAL AFFILIATION</b>	A member might be related to a person on the Standards Approval Board
<b>PROFESSIONAL AFFILIATION</b>	A member might have just become a member of an industry board which is a major opponent of the development of the standard
<b>LEGAL OBLIGATIONS</b>	A member might be a director of a large pharmaceutical company and owe particular legal duties to the company and its shareholders
<b>FINANCIAL OBLIGATIONS</b>	A member might be in a joint business partnership with another committee member and/or the members have been contracted by a major business interested in the development of the standard
<b>GIFTS</b>	An industry organisation might buy tickets to an All Blacks vs France rugby game for some of the committee members
<b>HOSPITALITY/ INVITATION</b>	The members reviewing a standard might be invited to a building site by a firm that uses that standard
<b>PERSONAL BELIEF</b>	A member reviewing a standard on aluminium alloys might hold a strong, public opinion on the environmental degradation caused by aluminium smelting

Not all such interests will meet the threshold of personal interest, however. Only interests that could materially influence the committee member, or would reasonably appear to any person to be likely to have a material influence over the committee member are relevant.

There is no bright-line test for what kinds of interests could have a material influence over a committee member. As a general statement, however, an interest could be considered to have a material influence if there is a reasonable risk that it will influence the committee member's opinion or encourage him or her to act favourably (or disfavourably) in relation to a particular matter. Another way of considering it is to ask the following question:

'Does the interest create an incentive for the committee member to act in a way that may not be in the best interests of the public and/or relevant industry affected by the standard?'

In many cases, it is the appearance of bias or influence, rather than proof of actual influence, that is important. This is why the second limb of the test asks whether the interest 'would reasonably appear to any person to be likely to have a material influence' over the committee member. Again there is no bright-line test, but it is useful to ask the following types of questions:

'Would the reasonable, informed observer think that the impartiality of the committee member might have been affected?'

OR

'Is there, to a reasonable, fair-minded and informed observer, a real danger of bias on the part of the committee member, in the sense that he or she might unfairly regard with favour (or disfavour) the matter under consideration?'

### **When is an interest 'the same or substantially the same as the interest of most other people'?**

Because New Zealand is a small country, it is not unusual for individuals with valuable expertise and knowledge of an industry and who are involved with a standards development committee to also have some kind of personal interest in the outcome of the committee's work.

To accommodate this and allow a degree of flexibility in how conflicts of interest are managed, the S&A Act provides that if a person has an interest that is the same or substantially the same as the interest of most other people in the industry they represent, the person is not considered to be personally interested in the matter.

To give an example, a person might work for a manufacturing company that makes widgets. They get involved in a standards development committee representing manufacturers from the relevant industry. The person's employer stands to derive a financial benefit from the work of the committee because they make widgets that will meet the new standard. The committee member is therefore interested in the matter by virtue of their employment with the company. However, anyone else who works for a manufacturing company in that industry will also derive a financial benefit from the work of the committee because those companies too will be able to make widgets that meet the new standard. Provided the company doesn't have a particular advantage which makes their interest more significant than other companies', the person's interest is therefore the same as most other people in the part of the industry they represent.

#### *How is this exception applied?*

This exception will be considered on a case-by-case basis and it is not enough that only some other people in the industry or part of the industry might have the same or a similar interest; it must be the case that most other people in the industry or part of the industry have the same or a similar interest.

However, the interest does not have to be the same as all other people in the industry, and can also apply across particular sectors or parts of the industry rather than the industry as a whole. So in the example above, the comparison was between the person as a representative of manufacturers in the industry and other manufacturers, not other people in different parts the industry as well, for example, retailers, distributors, service providers etc.

If there is any doubt about whether an interest is the same or substantially the same as most other people, committee members should discuss the matter with the committee's standards advisor or the committee chair.

## Further examples of conflicts of interest

Here are some more examples of where a committee member might have a conflict of interest.

- a. Roger is a director of a company Hard As Steel Ltd, a major steel producer in the Waikato. Because of his expertise in steel manufacturing, Roger wants to be involved in a standards development committee looking to develop a new standard for a particular type of steel product. The new standard could benefit Hard As Steel Ltd as they have the exclusive licence in New Zealand for a technology required to produce steel products that will meet the standard.

Roger stands to derive a financial benefit from the work of the committee by virtue of his directorship in Hard As Steel Ltd as his company has a material market advantage in the industry in relation to the proposed standard. Roger should therefore disclose the directorship to the NZSE as an initial disclosure when he submits his application to be on the committee. [See section 4(2)(a)(i)]

- b. Sally is a businesswoman who has worked for various plumbing companies for over 20 years. Because of her expertise in the industry, Sally has become involved in a standards development committee that is developing a new standard for plumbing and draining systems. The committee has been in place for 6 months and is close to finalising its new standard. Sally's husband Richard is a civil engineer and has just been offered a new job at a company that specialises in installing drainage systems.

Because Richard stands to derive a financial benefit from the new job, Sally has become personally interested in the matter. She should therefore declare her relationship with her husband and her husband's job to the committee chair and the NZSE as an ongoing disclosure as soon as practicable. [See section 4(2)(a)(ii)]

- c. Nick is a food scientist and has been encouraged by his employer to get involved in a standards development committee that is updating the standard for examination of butter and margarine products. In his spare time, Nick loves to play golf and plays every Sunday with his uncle Graham. Graham happens to be a product manager at a large dairy company. The company would prefer not to see the relevant standard change too much because it could lead to significant additional costs in its product development process.

Although Nick would not derive a financial benefit himself from the work of the standards development committee, given Graham's interest in the matter and his close relationship with Nick, other people might think the relationship could have a material influence over Nick's opinions on the committee's work. Nick should therefore disclose the nature of his relationship with his uncle to the NZSE as an initial disclosure. [See section 4(2)(a)(v)]

- d. John is an electrical engineer who occasionally consults for companies that make electrical products, including electrical wiring. John is a member of a standards development committee that is developing a standard for insulated electric cables.

John could potentially benefit from the new standard as some of the companies he consults for might want to make cables that meet the new standard and could engage him to advise on the specifications of the standard. However, it is also the case that any other electrical engineer working in the industry could equally advise on the new standard. Provided John is not advocating for any particular company's perspective in a way that will benefit him, John's interest is the same or substantially similar to most other electrical engineers in the industry. John is therefore not personally interested in the matter for the purposes of the S&A Act and does not have to declare the fact that he consults for certain companies. [See sections 4(2)(a)(i), 4(2)(b)(iii)(A)]

- e. Rachael is a researcher at a medical supplies company. She is involved in a standards development committee that is developing a new standard for measuring wear of hip-joint implants used in surgery. The company Rachael works for owns valuable intellectual property rights in a new design for hip-joint implants which could be used as the basis for the new standard.

Although Rachael's interest is the same as other people in the medical supplies field in the sense that they might also sell hip-joint implants, the company Rachael works for clearly has a particular interest in the standard due to their IP rights in the new implant design. Rachael's interest is therefore not the same or substantially the same as most others in the industry and she should declare her interest. [See sections 4(2)(a)(i), 4(2)(b)(iii)(A)]

## Disclosing conflicts of interest

### Initial disclosures

Before a person can be proposed to be a member of a standards development committee, the person must disclose any interests they have in matters that relate to the work of the proposed committee.

Initial disclosures are made to the NZSE and must include the nature and extent of any interests (including the monetary value if possible) that the person has at that time or is likely to have in matters relating to the work of the proposed standards development committee.

The NZSE then advises the Board of the nature and extent of the proposed member's interests when referring the membership proposal to the Board for approval. The Board has regard to these interests when approving or declining the membership proposal.

Note that a person who is personally interested in the work of the standards development committee is disqualified from being, or acting, as the chair of the committee.

If the person is successfully appointed to the committee, the NZSE discloses the details of the person's interests to the chair of the committee and records the details in an interests register.

### Ongoing disclosures

The S&A Act also requires that committee members must disclose any personal interests that may arise or that they become aware of during the course of their involvement with the committee. These ongoing disclosures must be made as soon as practicable after the member becomes aware of the interest. This is a continuing duty that applies throughout the member's participation on the committee. The chair of the committee should include an agenda item on conflicts of interest at every meeting to facilitate disclosure.

Ongoing disclosures are made to the chair of the committee and the NZSE and must include the nature and extent of any interests, including the monetary value if possible. The NZSE then records the details of the interest in the interests register.

**YOUR PERSONAL INFORMATION WILL BE PROTECTED:** Any personal information that you provide in the course of an initial or ongoing disclosure will be handled safely and securely and be protected from disclosure to third parties to the fullest extent possible. All personal information will be handled in accordance with the Privacy Act 1993 and will be received in confidence to protect as far as possible against disclosure of the information under the Official Information Act 1982.

**IF IN DOUBT, DISCLOSE THE INTEREST:** It is better to err on the side of openness if you think there may be a conflict of interest. If in doubt, disclose your interest or discuss it with the chair of the committee or a committee standards advisor.

## Managing conflicts of interest

### Assessing the conflict of interest

Conflicts of interest will vary in their nature, size and seriousness. No two situations will be the same so each conflict needs to be assessed on a case-by-case basis to determine how to manage it. Although common factors will appear regularly, the decision about how to treat some conflicts will be the subject of discretionary judgement by the NZSE, committee chair or the Board when it considers committee membership proposals.

Factors we consider when we assess conflicts include:

- the nature or size of the committee member's other interest
- the nature or significance of the particular work being undertaken by the committee

- the degree to which the committee member's other interest could affect, or be affected by, the committee's work
- the nature or extent of the committee member's current or intended involvement in the committee's work
- the practicability of any options for avoiding or mitigating the conflict.

Nature of the personal interest:

- The nature of the personal interest will generally follow the categories of personal interest outlined in section 4(2)(a) above.
- The nature of a conflict of interest can also be:
  - actual: where the conflict already exists
  - potential: where the conflict is about to happen, or could happen
  - perceived: where others might reasonably think that an individual has a conflict.

Size and seriousness of the conflict of interest:

- Conflicts of interest can vary in size and seriousness. It may be helpful to classify the conflict as 'material' or 'immaterial'.
- The seriousness of a conflict is a question of degree. This may depend on the directness and significance of the conflict.
  - 'Directness' relates to how closely the two interests concern each other.
  - 'Significance' relates to the magnitude of the potential effect of one on the other.

### Options for managing conflicts of interest

The existence of a conflict of interest does not necessarily create a problem. In some cases where the conflict of interest can safely be regarded as remote or insignificant, it may be enough that the interest has been recorded in the interests register and no further action is required. In other cases, further steps may be necessary. It is possible that declaration of a sizeable or significant interest might warrant the member resigning from the committee.

Depending on the assessment of the conflict, options for managing the situation include:

- simply disclosing the interest and recording it in the interests register
- discussing with committee members about whether they agree to the member's involvement
- re-assigning certain tasks or duties to another member
- imposing additional oversight over the member with the interest
- withdrawing or imposing restrictions on the member's involvement in the matter, eg excluding the member from committee discussions on a particular topic
- excluding the member from voting – the member may be required, or may choose, to be excused from voting on an issue where they have a conflict of interest
- relinquishing the interest – the member relinquishes the personal interest that created the conflict
- withdrawing – the member might withdraw from participating on the committee. This option should only be considered if the conflict of interest cannot be resolved in any other workable way.
- being a member only, not the chair.

As noted above, the decision about how to treat conflicts of interest is a matter for the NZSE, chair or Board's discretionary judgement. Some types of conflict might not be able to be dealt with by a firm rule one way or another, since the seriousness of the intersecting interests may be a question of degree. Each assessment will be a case of balancing the risk associated with the member's continued participation in the work of the committee.

## Appendix C – Conflicts of interest in context

The following diagram briefly walks through the process of developing and approving standards, identifying where conflicts of interests need to be identified, disclosed, and managed.

