



BOARD CHARTER

The charter sets out the structure, role and responsibilities of the board of the Banking Ombudsman Scheme.

Purpose of scheme

The scheme helps to resolve complaints about banking service providers participating in the scheme. The scheme's investigation and dispute resolution service is free. To take advantage of the service, complainants must first have attempted to resolve their complaint directly with their provider.

Independence of scheme

The scheme is independent of the financial institutions ("participants") that fund its operation. It is also independent of government and any consumer group. Its independence is reinforced by its status as a legally incorporated company, the Banking Ombudsman Scheme Limited.

Board composition

The board has five members: two bank representatives, two customer representatives and an independent chair. The New Zealand Bankers' Association chooses the bank representatives. The Minister of Consumer Affairs chooses one consumer representative, and the board chooses the other. The board also selects the independent chair. Each member's term varies and is by mutual agreement.

The scheme's five board members are also the company's five directors. In acting as directors on the board of the company, they are acting as board members for the scheme.

As far as practicable, the chair ensures, through the choice of appointments and the professional development of those selected, that the board has the most suitable mix of skills and experience.

Role and responsibilities

The board provides strategic direction for the company, protects the independence of the Banking Ombudsman's office, oversees management and ensures sufficient resources and finances to fulfil the company's functions. In particular, it:

Appoints the Banking Ombudsman:

- Having regard for candidates' objectivity, qualifications (including legal and/or alternative dispute resolution qualifications), experience and personal attributes; and subsequently:
- Helps develop the skills of the Banking Ombudsman
- Sets out its expectations of the Banking Ombudsman
- Works with the Banking Ombudsman to identify potential successors
- Approves the remuneration policy for the Banking Ombudsman and senior management.

Offers assistance to the Banking Ombudsman whose role is to:

- Consider, subject to the scheme's terms of reference, complaints about any participant's provision of financial services
- Help resolve or withdraw complaints, whether by making recommendations or awards or by any other means deemed expedient
- Promote the scheme and help participants with good complaint-handling practices
- Ensure the scheme complies with its principles of accessibility, accountability, effectiveness, efficiency, fairness and independence.

Approves any change to the scheme's participation agreement and terms of reference:

- After consulting the governing body of the New Zealand Bankers' Association
- By a unanimous vote of the full board.

Sets selection criteria for registered banks and deposit takers to become a scheme participant and decides applications to become a participant:

- By a unanimous vote of the full board.

Sets the company's values and strategic direction by, among other things:

- Approving the strategic plan
- Monitoring management's implementation of the plan.

Carries out policy work consisting of:

- Formulating and monitoring organisational policies that help achieve the company's objectives
- Determining the structure of the company's operation
- Communicating these decisions to management.

Carries out financial duties, including:

- Approving the company's budget and levy funding
- Monitoring the company's financial performance
- Ensuring, within three months after the company's balance date, that the company completes financial statements that comply with the Financial Reporting Act 1993, and that two directors date and sign the statements on behalf of all directors.

Oversees risk management functions, including:

- Monitoring how effectively the company manages risks, in particular satisfying itself through reporting and oversight that there are sufficient internal controls in place, and that the company is meeting all legal obligations.

Carries out review functions, including:

- Reviewing internal and external audit functions
- Reviewing the quality of internal management reporting and external reporting.

Undertakes reporting functions, including:

- Tabling an annual report describing the scheme's activities in the previous financial year, as well as a report summarising the company's operations for the same period, at the annual meeting for consideration by the sole shareholder, the independent chair, and scheme participants
- Ensuring a copy goes to the shareholder and each scheme participant not less than 10 working days before the date fixed for holding the annual meeting.

Carries out record-keeping, including:

- Ensuring accurate minutes are kept of all proceedings at board meetings.

Promotes the scheme among stakeholders and interested parties, including:

- The financial services sector, consumer advocacy groups and relevant Ministers and government agencies.

Banking Ombudsman

The Banking Ombudsman is responsible for day-to-day administration of the scheme, subject to specified delegations from the board and the budget approved by the board.

In consultation with the chair and subject to specified delegations from the board, the Banking Ombudsman can appoint and dismiss employees, consultants, independent contractors and agents on behalf of the company and determine their terms of employment or engagement.

The Banking Ombudsman attends each meeting of the board (with the exception of directors-only private discussions) and gives the board any information and assistance it requests (including general information about any complaint) unless the Banking Ombudsman and the company agree otherwise.

Directors' code of conduct

Directors must comply with all company policies except where inconsistent with this charter or relevant legal or regulatory requirements.

The board must maintain processes to deal with governance breaches and complaints.

A director must:

- Act honestly, in good faith and in the best interests of the company
- Use due care in exercising the powers of office
- Recognise that his or her primary responsibility is to the company's shareholder, but must also have regard to the interests of all of the company's stakeholders
- Not make improper use of information obtained as a director
- Not take improper advantage of the position of director
- Be independent in judgment and actions and take all reasonable steps to satisfy him or herself that the board's decisions are sound
- Abide by the board's confidentiality and conflict of interest requirements set out below
- Not engage in conduct likely to discredit the company
- Comply with the spirit and letter of the code of conduct.

Chair

The chair is responsible for:

- Leading the board, setting the broad direction of its activities and ensuring it carries out its role effectively
- Ensuring the efficiency of the board's operation, including preparing, in consultation with the Banking Ombudsman, the agenda for board meetings; chairing board meetings; and ensuring board members and executives behave in accordance with the code of conduct set out above
- Ensuring directors receive information that is accurate, clear and timely so they can discharge their duties (all directors being entitled to ask for more information if they consider it necessary to make informed decisions)
- Ensuring directors update their skills, knowledge and familiarity with the scheme in order to fulfil their roles
- Ensuring new directors receive a formal, tailored induction on joining the board, including a letter of appointment setting out the commitment in time expected of them in their role
- Facilitating an effective contribution from all directors at board meetings, ensuring the perspectives of both the banking industry and its customers are heard and considered, and that directors act in the best interests of the scheme
- Promoting constructive and respectful interactions between directors, and between the board and management.

Company secretary

The Banking Ombudsman or a company-nominated employee acts as secretary of the company. That individual is:

- Responsible for co-ordinating all board business, including agendas, board papers, minutes and all statutory and other filings (including ensuring board papers are distributed as requested by individual directors either electronically or by post at least two weeks before board meetings)
- Entitled to attend all annual and other meetings (other than directors-only private discussions) of the board and shareholder and may be heard on any matter.

Power of delegation

The board may delegate to a committee of directors, a director or employee of the company, or any other person, any of its powers other than those specified in the Second Schedule to the Companies Act 1993.

Board meetings

The board meets about four times a year, the chair determining the frequency of meetings. Meetings may be held outside scheduled times and conducted by email or teleconference.

The chair must ensure:

- Agendas are comprehensive and appropriate
- A conflict of interest register is tabled
- Management or the company's auditor prepares board papers
- Each meeting has time for directors-only private discussion
- Recommendations fit within the board's broad strategic direction.

Any director may, through the chair, ask to add items to the agenda.

As meeting facilitator, the chair must ensure:

- No director dominates discussion
- Directors are forthcoming with relevant opinions
- Appropriate and constructive discussion takes place
- Discussions result in logical, understandable outcomes.

Advice and reliance

In seeking advice, the director must:

- Act in good faith
- Make proper inquiry about confidentiality where circumstances indicate the need for inquiry.

The board collectively, and each director individually, has the right to seek independent professional advice at the company's expense, subject to the chair's approval.

A director may rely on reports, statements, financial data and other information prepared or supplied by, or on professional or expert advice given by, any of the following:

- An employee of the company whom the director reasonably believes to be reliable and competent about the matters concerned
- A professional advisor or expert on matters the director reasonably believes to be within that person's professional or expert competence
- Any other director, or any committee of directors the director did not serve on, about matters within the director's or committee's designated authority.

Resolutions by email

When all directors entitled to receive notice of a board meeting sign or give assent by email to a resolution in writing, that resolution is valid just as if passed at a duly convened meeting.

Board performance

The board will periodically assess and review its performance.

Conflict of interest

Directors are expected to avoid taking any action or position or having any interest that would conflict, or appear to conflict, with the company's interests.

A director with a material personal interest in a matter relating to the company's affairs must give the other directors notice of the interest.

The company secretary maintains a register of declarations of interest by directors and reports any declarations to the board.

Confidentiality

Directors are bound by the following confidentiality obligations:

Duty to keep information confidential:

No director, unless required to do so by law, may, during or after his or her membership on the board, disclose any confidential information about company business that came to his or her knowledge while with the company

A director may not use confidential information for his or her personal benefit.

Return of confidential information:

At the end of each director's term of office, he or she must return all confidential documents in his or her possession to the company or guarantee their secure disposal.

Notice of disclosure:

If a director intends to disclose to third parties possible confidential information he or she has become aware of, that director must inform the chair and identify the recipient, giving sufficient notice for the chair to assess the situation and advise on the appropriate course of action. This applies to official as well as to personal statements that by their content and form are clearly intended for the board alone.

Publication of charter

A copy of this charter is to be published on the scheme's website.