

MANUAL:	Governance
POLICY AREA:	General Governance and Board Policies
POLICY NAME:	Trustee Code of Conduct
AUDIENCE:	Board
EFFECTIVE DATE:	June 2022
REVIEW PERIOD:	Three yearly
NEXT REVIEW DATE:	June 2025



TRUSTEE CODE OF CONDUCT

PURPOSE

To set the framework within which the Trustees conduct themselves when governing the affairs of the Trust.

DEFINITIONS

- (a) **Trust Deed** means the Otago Community Trust Deed of Trust dated March 2021.

POLICY

1. Principles of good conduct

a. To be familiar with the principal legislation, the Trust Deed & Trust policies

The standards of conduct recognise that the Trustees have duties and responsibilities under legislation and the Trust Deed. The Trustees have a responsibility principally to hold, distribute and apply Trust funds for the purposes of the Trust specified area which is (more or less) the community of Otago.

The Community Trusts Act 1999 and the Trust Deed direct the Trustees, mostly in very general terms, in relation to the Trust's operating activities.

In keeping with developing best practice, there are also voluntary standards of governance which the Trustees develop from time to time for purposes of best practice.

The Trust Deed and subsequent variations are available to the public on the Trust's website.

The Trusts Act 1956 is going to be replaced by the Trusts Act 2019, which sets out the Trustees' responsibilities to the beneficiaries in relation to the investment of the Trust Fund.

The Trusts Act 2019 came into effect on 30 January 2021 and updates or restates law that exists already, either in statute or in case law. The Trusts Act 2019 has introduced a number of changes which Trustees should be aware.

The Act contains 'mandatory' and 'default' duties for Trustees.

b. Mandatory duties

Mandatory duties are obligations imposed on Trustees that cannot be modified or excluded by the Trust Deed.

In summary, these duties include:

- Know the terms of the Trust;
- Act in accordance with the terms of the Trust;
- Act honestly and in good faith;
- Act to further the Trust's purpose; and
- Exercise powers for proper purpose.

c. Default duties

Default duties are obligations that are imposed on Trustees (unless modified or excluded by the settlor in the Trust Deed).

In summary, the default duties that apply to the Trust are:

- General duty of care;
- Invest prudently;
- Not exercise power for own benefit;
- Consider exercise of power;
- Not to bind or commit Trustees to future exercise of discretion;
- Declare and manage conflict of interest;
- Impartiality;
- Acting unanimously and;

Please note that the default duties not to profit from the Trust and to act for no reward have been modified by clause 24 of the Trust Deed.

d. Trust documentation

Trustees will also have new duties relating to trust documentation. This should bring a new level of rigour to trust record-keeping, which can sometimes be lacking.

The Act requires each Trustee keep copies of the Trust Deed and any variations made to the Trust Deed. Trustees must also be satisfied that another Trustee holds the other 'core trust documents' (which are defined in the Act) and will make them available on request. If a Trustee is not confident in their fellow trustees' ability to hold the core trust documents, they will need to keep these core trust documents personally.

The Trust Deed, variations to the Trust Deed and other core documents are available on BoardPro, the Trust's online Board paper platform which is accessible to all Trustees.

e. To serve the public interest

The Trustees have a duty to serve the overall interests of the community which are the residents of the area as specified in the Trust Deed and not just that the part of the area where the Trustee resides. Collectively, the Trustees are responsible to the community and while the Trust decisions are not made in public, the process of decision making should be managed in a way that would maintain public confidence were it subject to public scrutiny.

f. To act honestly and with integrity

The Trustees should act honestly and openly, with integrity and in good faith. They should avoid placing themselves in situations where these ideals might be questioned.

g. To use personal judgement

The Trustees may have regard to the views of others but should reach conclusions in matters before them independently, based upon their own judgement.

h. To be diligent and objective

The Trustees should make decisions feeling properly informed and without bias after thorough consideration of the merits of the situation or proposal.

i. To disclose all conflicts of interest

Trustees shall submit and maintain their Interest Register within BoardPro. Additionally material interests in transactions and potential transactions must be disclosed and managed in accordance with the Board's Trustee and Staff Conflict of Interest Policy. Usually, any involvement or association with a party to a transaction where that involvement or association could influence, or be seen as capable of influencing Trustee's views would be disclosed to the Chair, either before or during a Board meeting.

j. To be committed

Trustees are expected to attend the Trust meetings punctually and devote sufficient time to preparing for those meetings so as to be informed and able to contribute to decision making. Trustees attending conferences and workshops on behalf of the Trust should take a full and active part in proceedings and provide feedback to the Board on the outcomes. It is expected that Trustees are available on most occasions to attend the regional visits. The Trustees are also encouraged to be available from time to time to represent the Trust at community events and activities. The Trustees should respond positively to requests from the public for assistance or guidance in relation to the Trust's activities and if unsure on any matter encourage them to communicate with the Trust's staff.

k. To understand the difference between governance & management

The Trustees should understand and respect the distinction between the respective roles and responsibilities of the Board and the management

l. To respect confidentiality and privacy

The Trustees must not use or disclose confidential information for any other purpose than the purpose for which the information was provided to Trustees. Confidential information includes all information other than that approved for wider circulation and the personal views expressed around the Board table. Trustees must ensure that all information (electronic or hard copy) in their possession or control is kept safe and accessed, used, stored or disposed of appropriately. Trustees will always observe an individual's right to privacy when dealing with personal information.

m. To show collective responsibility

Once Board decisions are reached, the Trustees are expected to abide by the principle of collective Board responsibility and accountability. When speaking externally, the Trustees should reflect and support the implementation of the agreed position of the Board, notwithstanding that their personal views may differ.

n. To observe financial probity

Trustees must claim only for fair and legitimate expenses in relation to costs incurred on Trust business.

Trustees should not solicit, demand, or request any gift, reward or benefit by virtue of their position. The Chairperson and/or Chief Executive should be notified if any gifts accepted by a Trustee in his or her capacity as a Trustee exceed \$150 in value. Any such disclosures shall be reported by the Chief Executive at the subsequent Board meeting.

2. Disqualification of Trustees under the Community Trusts Act 1999

Under the Community Trusts Act 1999, a Trustee will be deemed to no longer be a Trustee if he or she is:

- a bankrupt who has not obtained a final order of discharge, or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled; or
- convicted of an offence punishable by imprisonment for a term of 2 years or more; or

- subject to an order under section 383 of the Companies Act 1993 (a court order disqualification of a director); or
- not a resident in the area or region of the Trust.

3. Relationships

a. Fellow Trustees

In order to preserve Board effectiveness, the Trustees should show respect towards their fellow Trustees by acting professionally, positively and constructively. The views of fellow Trustees should be encouraged and understood. The Trustees should show respect to the Chairperson and adhere to meeting procedures.

b. Staff

The Trustees should act in accordance with the Trust's responsibility to be a good employer. All employees should be treated with courtesy and respect. The Trustees should recognise the authority of the Chief Executive, on behalf of the Trust, to deal with employment matters.

c. Applicants

The Trustees should refrain from raising expectations prior to board decisions on applications.

d. The Public

The Trustees are expected to abide by the principles of collective responsibility when engaging in communications with members of the public.

The Trustees are expected to be available from time to time to represent the Trust at community events or functions to which the Trust has been invited.

The Trustees should respond to enquiries for information or guidance positively and impartially. The staff have knowledge of grants and investment policies and practice, detailed enquiries should be directed to them.

e. The Media

All relations with the media must be dealt with in terms of the media policy. Media relations are handled by the Chairperson or the Chief Executive.

4. Breaches of the Code of Conduct

If a Trustee considers that the conduct of another Trustee is or maybe perceived to be in breach of this Code he/she has an obligation to raise it with the Chairperson, Deputy Chairperson or AR&FC Chair as soon as possible. If appropriate the matter should be raised with the Trustee concerned by the Chairperson or Deputy Chairperson.

In the event the issue persists, it should be raised for discussion at a meeting of the Board with adequate notice being provided to the trustee affected. The affected Trustee should have the opportunity to respond after which following the departure of the affected Trustee, the Board shall determine the matter.

Outcomes of this process might include:

- Cessation of the matter causing concern;
- A facilitated resolution;
- Retraction;
- Censure; or
- Such other actions as the Trustees are able to lawfully undertake.

RELATED DOCUMENTS

- Trust Deed
- Trusts Act 2019
- Community Trusts Act 1999
- Trustee and Staff Conflict of Interest Policy

Document Management and Control

Recommended by: Audit, Risk and Finance Committee

Approved by: Board

Date approved: June 2022

Review date: June 2025

Version Tracking:

Change #	Date approved	Changes made
1.	March 2021	Full legal review undertaken.
2.	June 2022	Definitions (b) remove Trust Deed variation dates and replace with "March 2021 ". Conflict of interest paragraph rewritten to reflect the Boards Staff and Trustee Conflict of Interest Policy.
3.	June 2022	Delete – Definition (a) Act means Trusts Act 2019