

Delegations Policy

Effective date	1 April 2020	Policy owner	Chief Executive
Version	1	Policy Section	Governance
Approved by	NZIST Council	Policy review frequency	Annually
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1. Introduction

- 1.1 The New Zealand Institute of Skills and Technology (NZIST) is a tertiary education institution established under the Education (Vocational Education and Training Reform) Amendment Act 2020 (Amendment Act) which amends the Education Act 1989 (Education Act). It is a Crown entity for the purposes of the Crown Entities Act 2004 (CE Act) and is treated as a statutory entity for the purpose of applying the provisions of Part 2 of the CE Act and Part 2 of Schedule 13A of the Education Act.
- 1.2 The main function of NZIST, as New Zealand's largest tertiary education provider, is to create a sustainable, national network of regionally accessible vocational education and training. As at 1 April 2020, NZIST brings together 16 existing Institutes of Technology and Polytechnics as new Crown entity subsidiary limited liability companies (each, an NZIST subsidiary), and over time will develop the capability to support work-based, provider-based and online learning in a unified system.
- 1.3 This Policy specifies the delegations from the NZIST Council to the Chief Executive or Interim Chief Executive (as applicable) (CE) (including as set out in Appendix 1), together with the limitations on those delegations. It also sets out the Council's agreement to certain permitted sub-delegations by the CE. Appendix 2 to this Policy sets out the form of written notice to be given to the CE as required by section 73 of the CE Act. Appendix 3 to this Policy sets out the form of written notice to be given to any sub-delegate notifying that person of the relevant sub-delegations.
- 1.4 The CE must act within the scope of their delegated authority as set out in this Policy and in a responsible manner.

2. Objectives

- 2.1 The objectives of this Policy are to ensure that delegations are implemented in a way that ensures that:
 - NZIST performs its functions and gives effect to its charter efficiently and effectively, and in a financially responsible manner which maintains NZIST's long term viability;
 - the Council is able to meet its statutory and other obligations, including public accountability; and;
 - NZIST operates in a manner consistent with its functions and charter, current statement of intent, and current statement of performance expectations.

3. General Delegation

3.1 The Council delegates to the CE all management powers and functions necessary for the operation of NZIST, subject to the limitations set out in this Policy.

4. Principles of Delegation

4.1 In accordance with section 73 of the CE Act¹, this Policy does not delegate the general power of delegation. In addition, it is recorded that, per section 73 of the CE Act, no functions or powers specified in the Education Act as not being capable of delegation have been delegated under this Policy on the basis that, as at the date of this Policy, there are no such functions or powers specified in the Education Act in respect of the NZIST Council.²

4.2 The delegations set out in this Policy are standing delegations made in relation to positions within NZIST, rather than named individuals.

4.3 NZIST's organisational structure as at the date of this Policy is:

- the CE, who reports to the Council (Tier 1);
- 6 direct reports to the CE (Tier 2), being:
 - Deputy Chief Executive Transformation and Design;
 - Chief Delivery and Academic Officer;
 - Chief Learner Journey and Experience Officer;
 - Chief Employer Journey and Experience Officer;
 - Deputy Chief Executive, Māori Partnerships;
 - Chief Operating Officer; and
- staff who report to a Tier 2 Manager (Tier 3).

4.4 The CE and any sub-delegates must act in good faith and in a manner that maintains the reputation of NZIST and is consistent with and gives effect to NZIST's functions (as set out in section 222B of the Education Act) and NZIST's charter (as set out in Schedule 22 of the Education Act).

4.5 If and to the extent this Policy conflicts with other internal policies of NZIST, this Policy takes precedence.

¹ Note this applies pursuant to Part 2 of Schedule 4 of the CE Act and Part 2 of Schedule 13A of the Education Act.

² Note that while section 222 of the Education Act provides that the council of an institution may delegate to the chief executive of the institution or to a committee appointed under section 193(3) any of its functions and power under the Education Act except the power to appoint a Chief Executive, section 222(1) provides that section 222 does not apply to NZIST's Council.

5. Matters reserved for the Council

5.1 Notwithstanding anything to the contrary in this Policy, the CE does not have any authority to:

- undertake any action or transaction exceeding the limits delegated to the CE pursuant to this Policy;
- in accordance with sections 192(4) of the Education Act:
 - sell or otherwise dispose of property assets (land and buildings) or interests in property assets; or
 - mortgage or otherwise charge assets or interests in assets; or
 - grant leases of land or buildings or parts of buildings; or
 - borrow, issue debentures or otherwise raise money,

in each case, unless the Council provides a separate express authority to do so;

- enter into:
 - any commitment or arrangement exceeding NZIST's applicable annual budget; or
 - any commitment or arrangement exceeding any sub-limit within NZIST's applicable annual budget; or

in each case, unless the Council provides a separate express authority to do so;

- approve any change in the strategy or direction of NZIST that is likely to significantly affect the operation of NZIST;
- approve any proposal that, in the opinion of the CE, might attract significant adverse publicity, could with reasonable foresight be predicted to result in legal action against NZIST or would otherwise reasonably be expected to be materially detrimental to the interests of NZIST (when taken in the context of NZIST's purpose and operations),

and such authority shall remain with the Council.

5.2 In the event the CE is uncertain as to the scope of the CE's delegated authority, the CE must discuss the matter with and take direction from the Chairperson of the Council prior to exercising the delegated authority and may, if the CE still considers it necessary after having discussed with the Chairperson, take appropriate legal or other advice prior to exercising the delegated authority.

5.3 Any or all delegations to the CE under this Policy may be withdrawn, amended (where this involves a partial revocation of a delegation) or reduced at any time by a written confirmation from the Chairperson of the Council to the CE, or may be amended (where, alternatively, this involves any further delegation) by a formal Council resolution.

5.4 Where this Policy conflicts with any laws or regulations or any decision made by the Council, the laws, regulations or Council decision (as applicable) take precedence.

6. Ability of CE to sub-delegate

6.1 Appendix 1 to this Policy identifies the specific functions and powers, delegated to the CE in accordance with this Policy, which the CE may sub-delegate, together with specific limitations relating to such delegation (including where consultation with others may be required). The Council has given its standing consent to the sub-delegations set out in Appendix 1.

6.2 The CE may sub-delegate the identified functions and powers set out in Appendix 1 to:

- any one or more of NZIST's Tier 2 fixed-term or permanent employee(s); and/or
- having taken legal advice as to the appropriateness of the delegation in the circumstances including with reference to the fact that NZIST is a Crown entity, to any one or more temporary or contracted Tier 2 (or equivalent) staff member, including secondees, who have an assignment of 6 months or more.

6.3 Any sub-delegation must be consistent with this Policy and subject to the sub-delegate agreeing to comply with all specified delegation limitations (including those in this Policy) in the form attached as Appendix 3.

6.4 When taking leave, the CE must make arrangements for their responsibilities, including the exercise of their delegated authority, to be carried out by a Tier 2 employee in accordance with this Policy (or as otherwise consented to by the Council). The Council has given its standing consent to this sub-delegation, subject to the limitations set out in this Policy.

6.5 Any sub-delegation given by the CE pursuant to this Policy may be revoked at will by written notice to the sub-delegate in accordance with section 76 of the CE Act.

6.6 The CE must notify the Council as soon as possible and at least every six months of any sub-delegation that has been made in accordance with this paragraph 6 and of any sub-delegation that has been revoked pursuant to paragraph 6.5.

7. Conflicts of Interest

7.1 Where the Council has delegated any of its functions or powers to the CE, the CE must consider whether or not he or she has a conflict of interest in respect of the matter before exercising the delegated authority.

7.2 Equally, where the CE has sub-delegated any of their delegated authority pursuant to, and in accordance with, this Policy, the sub-delegate must consider whether or not he or she has a conflict of interest before exercising the delegated authority.

- 7.3 If the CE or the relevant sub-delegate identifies the risk of an actual, potential or perceived conflict of interest, he or she must give the Council (through the CE in the case of sub-delegates) a statement in good faith disclosing the nature of the conflict. Any such statement will be recorded in NZIST's Interests Register.
- 7.4 Except with the prior written approval of the Council, neither the CE nor any sub-delegate may exercise any delegated authority in relation to a matter where he or she has a conflict of interest.
- 7.5 Each delegate under this Policy should have regard to NZIST's conflicts of interest policy from time to time (and to the extent applicable).

Appendix 1 - Schedule of Delegations

Notes:

- for any of the following which are prepared as a deed, the CE may only enter into the deed on behalf of NZIST if the CE has been appointed by NZIST as its attorney, in accordance with sections 127(2) and 129 of the CE Act; and
- unless a sub-delegate has been appointed as an attorney, it will not be entitled to enter into any deeds on behalf of NZIST.

A. APPROVAL OF NZIST RESERVED MATTERS

	AUTHORITY TO	DELEGATED TO	REQUIREMENTS	MAY BE SUB-DELEGATED TO	REQUIREMENTS
1.	<p>Approve or decline any requests from NZIST subsidiaries for approval by NZIST of any matters which require the approval of NZIST as a reserved matter under the NZIST subsidiary's constitution or under any Operational and Financial Parameters Direction:</p> <ul style="list-style-type: none"> • up to an amount equal to any specified equivalent limit in this Delegations Policy in respect of NZIST, as set out in this Appendix 1; or • where the CE has delegated authority in respect of the relevant matter in relation to NZIST itself (but where there is no specified equivalent limit in respect of NZIST in relation to the particular matter). 	CE	<p>Chairperson to be notified of any approvals given to NZIST Subsidiaries in accordance with this delegation.</p> <p>If:</p> <ul style="list-style-type: none"> • the requested matter is for an amount higher than an amount delegated to the CE in respect of NZIST in respect of the same matter under this Delegations Policy, or • the CE does not have delegated authority in respect of the relevant matter in relation to NZIST itself, the CE must obtain the Council's consent to the matter. 	N/A	N/A

B. CONTRACTS FOR GOODS AND SERVICES / OPERATING EXPENDITURE

The contracts for goods and services referred to in this section exclude employment matters, the relevant limitations for which are set out separately below.

For the avoidance of doubt, the CE has the authority to enter into (in writing) the contracts set out below on behalf of NZIST, including where they are deeds (provided an attorney is in place), pursuant to sections 127(2) and 127(3) of the CE Act.

	AUTHORITY TO	DELEGATED TO	REQUIREMENTS	MAY BE SUB-DELEGATED TO	REQUIREMENTS
Financial contracts and commitments					
1.	Approve and sign contracts which are likely to involve annual expenditure of up to \$1,000,000 (plus GST, if any).	CE	Chairperson to be notified prior to commencement of all contract negotiations exceeding \$1,000,000 (plus GST, if any) per annum. Any contracts less than the financial threshold, but which may (in the CE's opinion) have wider material ramifications for NZIST will at the discretion of the CE be brought to the Chairperson's attention prior to execution. Does not apply to contractors which is dealt with below under Human Resources.	Tier 2 individuals, in accordance with paragraph 6.2 of this Delegations Policy.	Authority given but subject to reduced threshold of \$200,000 (plus GST, if any).
2.	Approve operating expenditure within the annual budget (including any sub-limits) up to \$1,000,000 (plus GST, if any) per item or related series of items.	CE	Chairperson to be notified prior to commencement of all contract negotiations exceeding \$1,000,000 (plus GST, if any) per annum. Any contracts less than the financial threshold, but which may (in the CE's opinion) have wider ramifications for NZIST will at the discretion of the CE be brought to the Chairperson's attention prior to execution.	Tier 2 individuals, in accordance with paragraph 6.2 of this Delegations Policy.	Authority given but subject to reduced threshold of \$200,000 (plus GST, if any).
3..	Authorise individual purchase orders/or invoices within the annual budget (including any sub-limits) where there is an existing contract.	CE	N/A	Tier 2 individuals, in accordance with paragraph 6.2 of this Delegations Policy.	N/A
4.	Authorise individual purchase orders or invoices up to \$1,000,000 (plus GST, if any) within the annual budget (including any sub-limits) where there is no existing contract.	CE	Inform the Chairperson prior to entry.	Tier 2 individuals, in accordance with paragraph 6.2 of this Delegations Policy.	Authority given but subject to reduced threshold of \$200,000 (plus GST, if any).

	AUTHORITY TO	DELEGATED TO	REQUIREMENTS	MAY BE SUB-DELEGATED TO	REQUIREMENTS
5.	Sign leases (as lessee) up to \$1,000,000 (plus GST, if any) per annum where the total term, including renewals, is less than 10 years. <i>Note, as a lease is a deed, the CE may only enter into a lease on behalf of NZIST if the CE has been appointed by NZIST as its attorney, in accordance with sections 127(2) and 129 of the CE Act.</i>	CE	In consultation with the Council.	N/A	N/A
Non-financial contracts and documentation					
6.	Approve and sign contracts which do not involve NZIST incurring any expenditure.	CE	Any contracts which may (in the CE's opinion) have wider material ramifications for NZIST will be brought to the Chairperson's attention prior to execution.	N/A	N/A
7.	Without limiting paragraph 3.1 of this Policy, Authority to approve and sign any administrative documents or forms necessary for, or in connection with, NZIST's operations or business.	CE	N/A	Tier 2 individuals, in accordance with paragraph 6.2 of this Delegations Policy.	N/A
Finance related functions					
8.	Approve the issue of any Purchasing-Cards up to \$1,000 limit.	CE	N/A	N/A	N/A
9.	Write off bad debts up to \$50,000	CE	N/A	N/A	N/A

Procurement

As a tertiary education institution, and a wider state sector and public sector agency, NZIST is encouraged to have regard to the Government Procurement Rules as good practice guidance. The exercise of any delegated authority in relation to purchasing by NZIST of goods or services should have regard to the Government Procurement Rules, and when applying the Government Procurement Rules as good practice guidance, the "must" Rules will be interpreted as "should" Rules, in accordance with Rule 5.7 of the Government Procurement Rules.

C. CAPITAL EXPENDITURE

	AUTHORITY TO	DELEGATED TO	REQUIREMENTS	MAY BE SUB-DELEGATED TO	REQUIREMENTS
1.	Approve capital expenditure of up to \$2,000,000 (plus GST, if any) per item or related series of items where the capital expenditure will not result in NZIST exceeding its capital expenditure budget in the annual budget.	CE	If there is doubt about whether expenditure is capital or operating expenditure, the Chairperson must be consulted. Any capital expenditure (or agreeing to incur capital expenditure) which will, or is likely to, result in NZIST exceeding its capital expenditure budget in the annual budget requires prior approval from the Council.	Tier 2 individuals, in accordance with paragraph 6.2 of this Delegations Policy.	Authority given but subject to reduced threshold of \$200,000 (plus GST, if any).

D. DISPOSAL OF ASSETS

	AUTHORITY TO	DELEGATED TO	REQUIREMENTS	MAY BE SUB-DELEGATED TO	REQUIREMENTS
1.	Dispose of non-property (land and building) assets with a value of up to \$200,000 (plus GST, if any) per item or related series of items.	CE	Inform the Chairperson prior to entry.	N/A	N/A

E. HUMAN RESOURCES

Employment Conditions and Remuneration

	AUTHORITY TO	DELEGATED TO	IN CONSULTATION WITH	MAY BE SUB-DELEGATED TO	REQUIREMENTS
1.	Appoint direct reports to the CE with remuneration packages or payment up to \$500,000 per annum (Tier 2 staff).	CE	Chairperson	N/A	N/A
2.	Appoint staff within their direct reporting line with remuneration packages or payment up to \$250,000 per annum (Tier 3 staff).	CE	N/A	Tier 2 individuals, in accordance with paragraph 6.2 of this Delegations Policy.	Consult with CE.
3.	Appoint consultants and contractors on short-term contracts within the annual budget up to \$1,000,000 per annum.	CE	N/A	Tier 2 individuals, in accordance with paragraph 6.2 of this Delegations Policy.	Authority given but subject to reduced threshold of \$200,000 (plus GST, if any).

	AUTHORITY TO	DELEGATED TO	IN CONSULTATION WITH	MAY BE SUB-DELEGATED TO	REQUIREMENTS
4.	Allocation of salaries within the bands approved by the Council.	CE	N/A	N/A	N/A
5.	Approve other benefits in addition to salary (e.g. Superannuation, removal expenses, etc.).	CE	N/A	N/A	N/A

Leave

	AUTHORITY TO	DELEGATED TO	IN CONSULTATION WITH	MAY BE SUB-DELEGATED TO	REQUIREMENTS
1.	Approve paid discretionary leave over 5 days.	CE	N/A	Tier 2 individuals, in accordance with paragraph 6.2 of this Delegations Policy.	Inform CE
2.	Approve cashing up of annual leave (in compliance with legislation).	CE	N/A	Tier 2 individuals, in accordance with paragraph 6.2 of this Delegations Policy.	Inform CE

Travel

	AUTHORITY TO	DELEGATED TO	REQUIREMENTS	MAY BE SUB-DELEGATED TO	REQUIREMENTS
1.	Approve staff overseas travel.	CE	All overseas travel must be approved by the CE prior to any reservations being made. CE travel outside New Zealand is to be approved by the Chairperson.	Tier 2 individuals, in accordance with paragraph 6.2 of this Delegations Policy.	Tier 2 individual travel outside New Zealand (including to Australia) is to be approved by the CE.
2.	Approve personal travel done with business travel.	CE	Chairperson prior approval required.	N/A	

Other

	AUTHORITY TO	DELEGATED TO	REQUIREMENTS	MAY BE SUB-DELEGATED TO	REQUIREMENTS
1.	Suspend staff without pay.	CE	N/A	N/A	

Note: All actions taken in relation to discipline of staff should be in accordance with the current Disciplinary Policy.

F. LITIGATION

	AUTHORITY TO	DELEGATED TO	REQUIREMENTS	MAY BE SUB-DELEGATED TO	REQUIREMENTS
1.	Authority to enter without prejudice negotiations in relation to any proposed litigation or arbitration.	CE	CE must first notify the Council before entering such negotiations. CE to regularly inform the Council. CE has no authority to settle any such matter without Council approval.	N/A	N/A

Appendix 2: Form of written notice to delegation to Chief Executive

Pursuant to section 73(1)(b) of the Crown Entities Act 2004

TO: [Chris Collins, Interim Chief Executive][Stephen Town, Chief Executive,] New Zealand Institute of Skills and Technology (**NZIST**)

- (1) The Council of NZIST (**Council**) may delegate any of its functions or powers, either generally or specifically, to certain persons, including the chief executive, by resolution and written notice to that person, pursuant to section 73(1)(b) of the Crown Entities Act 2004.
- (2) The Council passed a resolution on *[insert date]* to delegate its functions and powers relating to the management of NZIST to the role of the Chief Executive, subject to the limitations set out in a Delegations Policy for NZIST (a copy of which is attached).
- (3) This document constitutes the Council's written notice of the delegations set out in the Delegations Policy (but subject to the limitations set out in that Policy) to the person employed as the Chief Executive of NZIST for the purposes of section 73(1)(b) of the Crown Entities Act 2004.
- (4) Please sign and return a copy of this written notice to confirm you have read and understood the contents of the attached Delegations Policy and agree to comply with it.

DATED: 2020 **SIGNED**

Chairperson – New Zealand Institute of Skills and Technology

ACKNOWLEDGED, ACCEPTED AND AGREED

[Chris Collins – Interim Chief Executive, New Zealand Institute of Skills and Technology] [Stephen Town – Chief Executive, New Zealand Institute of Skills and Technology]

Appendix 3: Form of written notice of sub-delegation from Chief Executive to employee of NZIST

Pursuant to section 74 of the Crown Entities Act 2004

TO: _____ *[insert role title]*, New Zealand Institute of Skills and Technology (NZIST)

- (1) Pursuant to section 73(1)(b) of the Crown Entities Act 2004, the Council of the New Zealand Institute of Skills and Technology (**Council**) may delegate any of its functions or powers to any employee or office holder of NZIST by resolution and written notice to the person.
- (2) The Council passed a resolution on *[insert date]* to delegate its functions and powers relating to the management of NZIST to the role of the Chief Executive, subject to the limitations set out in a Delegations Policy for NZIST (a copy of which is attached).
- (3) On *[insert date]* the Council also gave its written consent to the ability of the Chief Executive to sub-delegate certain of their delegated functions and powers to:
 - (a) any one or more of NZIST's Tier 2 fixed-term or permanent employee(s); and/or
 - (b) having taken legal advice as to the appropriateness of the delegation in the circumstances including with reference to the fact that NZIST is a Crown entity, to any one or more temporary or contracted Tier 2 (or equivalent) staff member, including secondees who have an assignment of 6 months or more, in each case, pursuant to and subject to the limitations set out in the Delegations Policy.
- (4) This notice is provided for completeness that the Chief Executive sub-delegates *[insert any specifics of which delegations are being given to the specific individual from Appendix 1 of the Delegations Policy]* (but subject to the limitations set out in that Policy) to you as a relevant individual in accordance with section 74(1) of the Crown Entities Act 2004.
- (5) Please sign and return a copy of this written notice to confirm you have read and understood the contents of the attached Delegations Policy and this notice and agree to comply with each.

DATED: 2020 SIGNED

[Chris Collins – Interim Chief Executive]

[Stephen Town – Chief Executive], New Zealand Institute of Skills and Technology

ACKNOWLEDGED, ACCEPTED AND AGREED

[insert name of sub-delegate] – [insert role title], New Zealand Institute of Skills and Technology