

## A preliminary guide to decision-making in NZIST and its subsidiaries

### Context

As the 'delegation' or decision-making framework in NZIST produced by the establishment board earlier this year notes:

*The balance of decision making between the NZIST Council and the ITP companies will be a matter of considerable interest within the sector ... It goes to the heart of local autonomy and the way in which the national network of provision is first brought together* ([NZIST Subsidiary Boards Decision and Delegation Framework](#), 2020, p.1)

The aim of this paper is to provide some initial guidance to branch officials, committees, and organisers as to who is responsible for decisions of various kinds as we strive for the best outcomes for members, ākongā, industries, iwi, and communities, as well as the overall network of NZIST.

### NZIST Governance

NZIST at present consists of a National Council, an acting Chief Executive, and thirty or so operational staff. The National Council is not yet complete – it will include one representative each from staff, students, and Māori elected from advisory committees representing these groups. These structures have yet to be designed and populated. See the NZIST [Governance](#) page for more information.

NZIST has created six second-tier management positions:

- Deputy Chief Executive, Transformation and Design
- Deputy Chief Executive, Māori Partnerships
- Chief Learner Journey and Experience Officer
- Chief Employer Journey and Experience Officer
- Chief Delivery and Academic Officer
- Chief Operating Officer

Recruitment is currently beginning for these positions ([Work With Us](#)). When filled, they will in turn hire third-tier staff. The establishment of NZIST is expected to grow to about 80 FTE.

The National Council delegates its day-to-day authority to manage to the Chief Executive, and through the CE to second-tier positions – and so on down the management hierarchy.

### NZIST Charter

All decisions, whether made by a subsidiary or by NZIST nationally, must give effect to the [NZIST Charter](#). The Charter will always be the first reference point for us in the TEU – in particular the provisions for empowering staff and students.

The Charter requires NZIST to 'empower' its 'regional representatives to make decisions about delivery and operations that are informed by local relationships and ... that meet the needs of their communities.' NZIST must also meet the needs of regions by 'ensuring there is collaboration across its national network.' Much of this is likely going to be operationalised through Regional Skills Leadership Groups (RSLGs).

NZIST must also develop meaningful relationships with communities at a local level, including hāpu and iwi, and Pacific communities. NZIST must use the insights it gains through partnerships to 'support the

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unique social and economic goals of local communities and reflect Māori-Crown partnerships' at every level (governance, management, and operations) to give effect to Te Tiriti o Waitangi.

### **NZIST Functions**

NZIST (and its subsidiaries) must also fulfill the functions of NZIST as set out in [section 222B of the Education Act](#). These are fairly straightforward, but repeat the emphasis on meeting the needs of regions, while also utilising the national network of provision.

There will be a letter of expectation from the Minister to the National Council – and, subsequently, letters of expectation from National Council to subsidiary boards – that may also contain some useful directions.

### **NZIST Academic Board**

There is also, in the delegations framework, mention of model academic policies and student statutes that may be notified by NZIST to subsidiaries at any time. As of early May, [NZIST has announced 12 appointments to its Academic Board](#). There will also need to be a sub-structure through subsidiaries to the NZIST board and we in the TEU must be active in the design of the overall Academic Board structure and function. Once established, the Academic Board will be responsible for:

1. advising the National Council in relation to work-based learning, courses of study or training, awards, and other academic matters; and
2. exercising the powers delegated to it by the Council, in accordance with an Academic Board delegations policy to be prepared by the Council (Agenda of commencement meeting of NZIST Council, p.2)

### **Delegation framework: national- vs subsidiary-level**

Senior managers themselves are advised to consider the following factors in determining whether control over an area of decision making should be 'held tight' at national level or more loosely controlled – i.e. delegated to subsidiaries (ibid., p. 4):

- How risky is the decision, financially, reputationally, etc? It is noted that it will be difficult to isolate risks within a subsidiary so there will be a greater tendency to control a matter at the national level the more risky it is.
- Responsibility and accountability are also said to be factors, and of course the greater the financial impact or 'materiality' of the decision the greater the desirability of national control.
- Responsiveness – particularly to local opportunities – is an argument for local decision making.
- Driving change and advancing RoVE are important factors – explicitly, subsidiaries should not be allowed 'to confuse or undermine the [overall] change process.'
- Ultimately, the directors of the national institution can all be deemed to be directors of a subsidiary, if more control is needed.

Decisions may be made by either the national institution or the subsidiary – but there are degrees between these two extremes: in some cases a subsidiary may decide but must inform the parent institution of the decision; in other cases the subsidiary may decide within certain bounds but not outside those; and, in other cases the subsidiary may only recommend to the parent institution.

Here are some examples of how a branch might think about invoking the decision making framework.

### **Change proposals aimed at cutting courses and jobs**

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Such a proposal must meet the requirements of the Charter. For example:

- i. Is it responsive to local communities and does it contribute to improved participation from outlying communities?
- ii. Does it promote inclusivity and equity – and recognise Māori and Māori learners?
- iii. Does it improve the transition of learners into employment?
- iv. Have local relationships and stakeholders been consulted?
- v. Does it promote – and reflect – collaboration across the national network?
- vi. Have the staff, student, and Māori committees at local level been involved?

Having considered all the requirements of the Charter, a campaign to halt ill-advised cuts to courses and jobs will also need to consider who can best deliver its objective. As noted earlier, there are a number of factors to consider, but often an appeal to the national level will be a good move. In some cases, the threat of such an appeal may be enough to make a subsidiary consult better or revise a plan in order to avoid a loss of control. Likewise, if the issue is escalated, a broader range of forces may be brought to bear on it. Either way, the questions now are:

1. Is the proposal one that is a 'change to the scope of regional provision (add or remove programmes)' (Ibid p. 10)?
  - a. It seems that since the adding or removing of programmes is not mentioned anywhere else in the framework, any change to programmes in a subsidiary is 'a change of scope of regional delivery of programmes' (Sandra's version, para 20). That requires NZIST Council approval.
2. The same applies to any expansion of provision – 'developing a new qualification or making a substantial investment to refresh or upgrade an existing qualification, programme, and related course material.'
  - a. NZIST is the decision maker for these changes too; subsidiaries can only 'propose' or 'recommend' such changes.

#### **Capital projects and other 'material transactions'**

Controversial capital projects – including related activities such as entering leases, licences, partnerships, and joint ventures – are now subject to much more stringent oversight, provided in the first instance by the NZIST Council, and ultimately by the Minister. Thresholds apply to any capital expenditure, and other 'material transactions' like those listed above (the final version of these Operational and Financial Parameters Directions, or OFPDs, is not yet available). Outside those limits, the subsidiary may only make a recommendation to the National Council. Nevertheless, given the Minister's past experience, I expect a case could be made for asking National Council to review any substantial material transaction, even those within the subsidiary's limits.

NZIST will also establish guidelines for asset management and utilisation, and must approve local plans made in accordance with those guidelines, including any plans for the sale or disposal of any significant assets (ibid p.9).

Note that while subsidiaries have 'ring-fenced' funds which may only be spent within their regions, the limits described above remain in force with regard to the spending of these funds. The determination of ring-fenced funds is itself a highly complex process. For further detail on this (and many other details about the constitution of NZIST and its subsidiaries) see [this link](#).

**Collective Agreement negotiations**

Subsidiaries may make remuneration decisions – which will include negotiating and agreeing employment agreements – but only within guidelines set by the National Council. The Council will set 'guidelines and establish negotiating limits for staff remuneration and employment agreements' (ibid p.9). Clearly this is a process in which we will have a great interest and a number of questions arise from it, in particular regarding the authority of the employer party in bargaining. Needless to say, subsidiaries are not empowered to enter any Multi-Employer Collective Agreement – but the National Council does explicitly have this decision-making power.