

InternetNZ Constitution Review: Drafting Guidelines

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## About the Drafting Guidelines

The InternetNZ Constitution Review Drafting Guidelines set out the key aspects and mechanics of the proposed new InternetNZ constitution to guide the team writing the final constitution document. Further information about the Constitution review process can found on [the Constitution Review page of our website](https://internetnz.nz/governance-and-reports/governance-documents/constitution-review-2024/).

These drafting guidelines set out the intent for the updated InternetNZ constitution and provide information about the proposed changes and additions to the current constitution. It does not include the final wording or every clause that will be included in the final constitution, but aims to ensure the key points are included.

## Definitions used in this document

In this document, we have defined terms throughout as needed. In addition, key terms which are useful to know are:

* **The Act:** refers to the Incorporated Societies Act 2022, which is the “new” legislation that will apply when a new constitution is adopted. When other legislation is referred to, the full name is used (e.g. the Charities Act 2005).
* **Board:** these drafting guidelines use the term “Board (Council)” to refer to the governance group of InternetNZ, except when referencing current constitutional provisions. This reflects the proposal in Part 3 that the term “Board” is used in place of “Council” in the updated constitution. In the Incorporated Societies Act 2022, this group is referred to as the committee.

## Approach taken to these Drafting Guidelines

The key inputs that were used to guide the drafting of this document include:

* input and proposals developed by the [Co-Design Group](https://internetnz.nz/governance-and-reports/governance-documents/constitution-review-2024/)
* research and analysis by InternetNZ legal, policy, and governance staff (the writing group)
* staff and Council knowledge of how InternetNZ currently operates
* advice from external legal, Te Tiriti o Waitangi and governance experts
* the [Independent Review of Systemic Racism](https://internetnz.nz/systemic-racism-review/) report, completed by Dr Hana O’Regan on behalf of the InternetNZ Council in 2022
* the Companies Office [Constitution Builder Tool](https://isb.companiesoffice.govt.nz/constitutionbuilder/startscreen/), which has templated content for many parts of constitutions for incorporated societies and offers guidance on what needs to be included
* [additional Companies Office guidance](https://is-register.companiesoffice.govt.nz/law-changes-for-societies/your-society-will-need-a-constitution/) about requirements for constitutions under the Incorporated Societies Act 2022.

## Supporting documentation

Throughout the Drafting Guidelines are links to supporting documents that provide further detail about how proposals were drafted and updated following initial feedback. A full list of these documents is attached as [**Appendix 1**](#_ez15dv32wamm).

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# Contents

[About the Drafting Guidelines 1](#_Toc185244800)

[Definitions used in this document 1](#_Toc185244801)

[Approach taken to these Drafting Guidelines 1](#_Toc185244802)

[Supporting documentation 2](#_Toc185244803)

[Contents 3](#_Toc185244804)

[Style and approach guidelines 7](#_Toc185244805)

[Part One: Introductory provisions and about InternetNZ 7](#_Toc185244806)

[Preface 8](#_Toc185244807)

[Key points to include in the preface: 8](#_Toc185244808)

[What it means to be a Te Tiriti o Waitangi centric organisation 9](#_Toc185244809)

[Introductory sections 9](#_Toc185244810)

[Objects of the Society 10](#_Toc185244811)

[How we are defining terms in the objects 11](#_Toc185244812)

[Terms that refer to technical aspects of the Internet (Object A) 11](#_Toc185244813)

[Terms that refer to users’ experiences online (Object B) 11](#_Toc185244814)

[Other terms 11](#_Toc185244815)

[Supporting documents 12](#_Toc185244816)

[Tikanga, kawa, culture and practice 12](#_Toc185244817)

[Registered office 13](#_Toc185244818)

[Contact persons 13](#_Toc185244819)

[Part Two: Membership 14](#_Toc185244820)

[Purpose of membership 15](#_Toc185244821)

[Supporting diverse membership 15](#_Toc185244822)

[Minimum numbers of members 15](#_Toc185244823)

[Types of members 16](#_Toc185244824)

[Drafting instructions for types of membership 16](#_Toc185244825)

[Becoming a member: consent 17](#_Toc185244826)

[Becoming a member: process 17](#_Toc185244827)

[Membership obligations and rights 17](#_Toc185244828)

[Drafting instructions – rights 17](#_Toc185244829)

[Drafting instructions – obligations 18](#_Toc185244830)

[Term of membership, fees and subscriptions 18](#_Toc185244831)

[Drafting instructions 19](#_Toc185244832)

[Ceasing to be a member 19](#_Toc185244833)

[Obligations once rights have ceased 20](#_Toc185244834)

[Becoming a member again 20](#_Toc185244835)

[Part Three: The Board (Council) and Officers of the Society 20](#_Toc185244836)

[Composition of the Board (Council) 21](#_Toc185244837)

[Drafting instructions 22](#_Toc185244838)

[Functions of the Board (Council) 24](#_Toc185244839)

[Board (Council) meetings 24](#_Toc185244840)

[Drafting instructions for Board (Council) meetings 25](#_Toc185244841)

[Qualifications and duties of Officers 25](#_Toc185244842)

[Drafting instructions 26](#_Toc185244843)

[Election and appointment of Board (Council) members 26](#_Toc185244844)

[Drafting instructions – elections 27](#_Toc185244845)

[Drafting instructions – Establishment of an Appointment and Nominations Committee 28](#_Toc185244846)

[Roles and responsibilities of the Appointment and Nominations Committee 28](#_Toc185244847)

[Composition of the Nomination Committee 29](#_Toc185244848)

[Removal of Board (Council) members and ceasing to hold office 29](#_Toc185244849)

[Drafting instructions: 30](#_Toc185244850)

[Officer conflicts of interest 30](#_Toc185244851)

[Part Four: General Meetings 30](#_Toc185244852)

[General meetings procedures 31](#_Toc185244853)

[Annual General Meetings 33](#_Toc185244854)

[Annual General Meeting drafting instructions 33](#_Toc185244855)

[Special General Meetings 34](#_Toc185244856)

[Special General Meetings drafting instructions 34](#_Toc185244857)

[Part Five: Dispute resolution 34](#_Toc185244858)

[About the disputes resolution process 35](#_Toc185244859)

[Guiding principles 35](#_Toc185244860)

[What InternetNZ’s disputes resolution process will outline 35](#_Toc185244861)

[Part Six: Additional Process Provisions 37](#_Toc185244862)

[Finances 37](#_Toc185244863)

[Recordkeeping 38](#_Toc185244864)

[Records – member register 38](#_Toc185244865)

[Records – interests register 39](#_Toc185244866)

[Members’ access to information 39](#_Toc185244867)

[Liquidation and removal from the register 40](#_Toc185244868)

[Drafting guidelines 40](#_Toc185244869)

[Alterations to the constitution 41](#_Toc185244870)

[Bylaws 41](#_Toc185244871)

[Insurance and indemnity 42](#_Toc185244872)

[To remove from constitution: the common seal 42](#_Toc185244873)

[Appendix 1: Supporting documentation 43](#_Toc185244874)

Executive summary

These drafting instructions propose three broad types of changes to the constitution of InternetNZ:

* new content either required or recommended for constitutions registered under the Incorporated Societies Act 2022
* changes to modernise provisions in the current constitution, specifically around the objects, governance, membership and administrative processes, including to bring these in line with current best practice
* changes to help embed InternetNZ’s commitment to centering Te Tiriti o Waitangi.

New content includes additional introductory sections in [Part 1](#_df451q9rrrj8), such as a preface to the constitution, mandatory administrative provisions, and a section on the tikanga of the Society. Other new sections include the disputes resolution process ([Part 6](#_9h81vdec4y1c)), which takes a tikanga-based approach.

It is proposed the objects of the Society are revised to reflect the evolving nature of the Internet over the past 30 years, help embed our commitment to centering Te Tiriti, and better reflect the work of the organisation in 2024 and beyond.

Proposed changes to membership provisions are largely to add new mandatory clauses and clarity on the roles, rights and obligations of members. The three types of membership – Individual, Organisational and Fellow – stay the same with the removal of the “Individual Professional” membership, which is not currently in use. To ensure cost alone does not prevent people from becoming members, subscription fees will be required to be set in a way that minimises financial barriers.

One of the most significant sets of proposed changes are about governance of the Society. A redesigned governance structure is proposed to prioritise skills and diversity relevant to InternetNZ's current and future needs. This includes a reduction in the number of members of the governance group from a maximum of 11 to 9, an increase in appointed members to give flexibility in filling skills gaps, and the establishment of an Appointments and Nominations committee. There are also provisions for embedding Māori representation at a governance level, including the potential to have Tangata Tiriti and Tangata Whenua co-Chairs. These proposals do impact members, but were designed to retain or include member representation in governance roles and throughout the appointment process.

Other changes are explained throughout the remainder of this document.

Drafting Guidelines

# Style and approach guidelines

1. When the constitution is written, it should:
   1. **Use plain language where possible:** while the constitution is a formal legal document, it should be readable and understandable by members and potential members, as well as Councillors, staff and others who may need to engage with it.
   2. **Use of Te Reo Māori:** te reo Māori should be visible throughout the final constitution document. This could be achieved in a number of ways, including the translation of titles and the use of Māori concepts and kupu. Where words are not widely understood to English speakers, translations should be provided.
   3. **Avoid details that could be set operationally:** the constitution should set the groundwork for the operation of InternetNZ. It should include the information required by law or recommended for a constitution, and other key details that are important to have in the standing rules of the Society. Other details can be set in operational policy, including bylaws and other documents signed off by the Board (Council).
   4. **Give consideration to the current constitution**: while changes are needed, the current constitution has served the Society for three decades, and there is benefit in having continuity. This includes keeping the flow or names of sections, or specific wording, where it makes sense to do so. Where provisions are still fit-for-purpose, they should be retained.

## Part One: Introductory provisions and about InternetNZ

1. **Current state:** the current constitution of InternetNZ starts with the name of the Society followed by its objects, which are accompanied by a short preface.
2. **Overview of changes:** under the Incorporated Societies Act 2022 (the Act), some additional introductory provisions are required to be added, or recommended in Companies Office guidance. In addition, these drafting guidelines propose:
   1. a preface to the constitution that will provide some history of the Society and introduce two statements that underpin the constitution
   2. a revised set of objects to replace the ones in the current constitution
   3. a new tikanga section, which guides the culture and ways of doing things within the organisation.

## Preface

1. **About:** a preface which includes high-level information about the history of InternetNZ to situate readers and new members. This aims to give readers a high-level understanding of where the organisation has come from and give context for the [updated] constitution. This section will also include two statements that underpin the constitution.

#### Key points to include in the preface:

1. InternetNZ was founded in 1995 as the Internet Society of New Zealand by a small group of dedicated volunteers. It has been a charitable, open membership organisation since its inception.
2. The organisation’s original primary objects were to maintain and extend the availability of the Internet and its associated technologies and applications in New Zealand.
3. Since its founding, there have been many changes to the infrastructure and use of the Internet and its place in daily life. The activities InternetNZ carries out to meet its objects have evolved over the years to reflect these changes.
4. In 2018 InternetNZ | Ipurangi Aotearoa committed to being a Tiriti centric organisation. We recognise tangata whenua, and understand the unique partnership between iwi, hapū and the Crown and that Te Tiriti is the basis for our collective belonging in Aotearoa.
5. This constitution was adopted in [date] and replaces the previous one which served the organisation for three decades.
6. The following two statements underpin this constitution and should inform the way it is interpreted and implemented:
   1. InternetNZ administers the .nz domain name system for the collective benefit of Aotearoa New Zealand
   2. InternetNZ is committed to centering Te Tiriti o Waitangi in its work.
7. **Process:** the two statements were updated following initial engagement with members, including to remove aspects (around an open, fair, resilient, safe Internet) which were duplicative of the objects.

### What it means to be a Te Tiriti o Waitangi centric organisation

1. The drafting guidelines uses the terms “Te Tiriti o Waitangi centric” and “centering Te Tiriti o Waitangi”. For Ipurangi Aotearoa, to become a Te Tiriti o Waitangi centric organisation:
   1. is to honour the commitments outlined in Te Tiriti o Waitangi. This includes fostering a deeper understanding and respect of te ao Māori, Māori culture, rights, and sovereignty as a cornerstone that respects tangata whenua and is inclusive of the contributions of different communities and cultures in Aotearoa, New Zealand.
   2. involves integrating the values inherent to Te Tiriti into everyday practices, policies, and decision-making processes, ensuring that they are not just acknowledged, but actively honored. This approach aims to create equitable outcomes for all communities. By centering Te Tiriti o Waitangi in our work, Ipurangi Aotearoa is committing to contributing to a more inclusive and just society that recognises and values the unique perspective of Māori as tangata whenua.
2. A number of provisions in the drafting instructions, such as a move towards Māori co-leadership of the Board (Council) and a tikanga-based disputes resolution process are a way to embed Ipurangi Aotearoa’s commitment to centre Te Tiriti in its work. Adding a commitment to Te Tiriti to the objects will help to ensure centering Te Tiriti is built into operational decision-making now and into the future.

## Introductory sections

1. The constitution will include introductory clauses that are required under the Act, or recommended in Companies Office guidance. These are:
   1. **Name of organisation [mandatory]:** Internet New Zealand Incorporated. This is the same as Section 1 of the current constitution and is what is provided on the Society’s registration paperwork.
   2. **Charitable status [new]:** the Society is registered as a charitable entity under the Charities Act 2005.
   3. **Definitions [new]:** a section with definitions of key terms used throughout the constitution to help readers make sense of the document. The constitution writers may consider attaching this as an appendix or similar if it helps with the flow of the document.
   4. **Act and regulations [new]:** to include a clause to provide that nothing in this constitution authorises InternetNZ to do anything which contravenes or is inconsistent with the Incorporated Societies Act 2022 (the Act), any regulations made under the Act, or any other legislation.

## Objects of the Society

1. **About:** a revised set of objects was drafted for the updated constitution, which reflects the current (and potential future state) of the Internet and work of InternetNZ. These were drafted with guidance from the co-design group and were amended following feedback on the initial draft from members and other stakeholders.
2. **Approach:** changes have been made to reflect the evolving nature of the Internet over the past 30 years and to better reflect the work of the organisation in 2024 and beyond. The proposed objects also embed our commitment to centering Te Tiriti o Waitangi and recognise the potential negative impacts of the Internet on people, while being clear on what our role is. Some of the detailed technical objects have been removed, with relevant activities now covered by more high-level objects.
3. **Drafting instructions:** the Society is established and maintained exclusively for charitable purposes. Its charitable objects are to benefit the community, by:
   1. Promoting and contributing to an open, global, resilient and secure Internet for current and future generations
   2. Promoting and supporting an Internet that users experience as fair, safe and accessible, including by upholding standards related to the harms people experience on the Internet
   3. Maintaining the .nz domain name system to meet local and international standards and obligations
   4. Promoting and conducting research related to the development of the Internet
   5. Upholding our commitment to centering Te Tiriti o Waitangi in our work, including by developing and nurturing relationships with Māori and respecting tikanga
   6. Promoting and actively participating in multistakeholder Internet governance processes locally and internationally
   7. Collaborating with, and coordinating across, the wider New Zealand Internet community, the general public, Māori, New Zealand government agencies, and other organisations when giving effect to the above objects.

## How we are defining terms in the objects

### Terms that refer to technical aspects of the Internet (Object A)

1. **Open:**

* the Internet is built on stable open standards and protocols that are developed through open and consensus-driven processes
* any host or network can join the Internet simply by making the necessary physical connections and following the protocol standards
* individuals are free to create new and innovative applications that they know will work on the network in predictable ways.

1. **Global:** this refers to the Internet being, at technical level:

* interoperable across borders
* one single (decentralised) network of networks, not fragmented into siloed parts
* accessible to everyone regardless of where they are geographically located.

1. **Secure**: Internet protocols and infrastructure (including routing and DNS) are reliable and resilient to intentional attacks and accidents.
2. **Resilient:** when we talk about a “resilient” Internet, this includes that:

* the Internet can survive attacks and outages
* the Internet and its infrastructure is secure.

### Terms that refer to users’ experiences online (Object B)

1. **Fair:** this includes that decisions affecting Internet users’ experience online (for example about domain names or access to services) are made in line with legislation or other recognised rules and standards; and that there is effort to ensure equitable distribution of the benefits of the Internet.
2. **Safe:** refers to the Internet being a place where people’s fundamental human rights are protected, and users can enjoy the Internet free from harm.
3. **Accessible:** refers to people being able to get online and access content. It includes people having network availability in their area, content that meets accessibility guidelines and affordable access to the Internet (and devices used to access the Internet).

### Other terms

1. **Multistakeholder:** the multistakeholder model of Internet governance is a collaborative approach that involves the participation of multiple stakeholders, including governments, private sector, civil society, technical community, and academia, in the relevant policy-making process. This model is based on key principles of transparency, inclusivity, and collaborative decision-making, ensuring that all voices are heard and considered in the governance of the Internet. (ICANN, The Multistakeholder Model of Internet Governance Fact Sheet, 2024).
2. **.nz Domain Name System:** this includes, but is not limited to:

* registry services
* authoritative DNS
* domain name policy development.

### Supporting documents

1. A link to a document providing analysis of, and themes from, member feedback on the first draft of the revised objects can be found in [**Appendix 1**](#_ez15dv32wamm)**.**

## Tikanga, kawa, culture and practice

1. **About:** the Act permits the inclusion of tikanga Māori. A society may include a rule setting out its tikanga, kawa, culture or practice in its constitution (not a mandatory requirement). This section is an opportunity to set out the way things are done in the organisation and the culture it wants to foster. We propose there is a tikanga and kawa section in the new constitution. This is a new section not in the current constitution.
2. **Proposed approach:** to bring effect to our commitment to centering Te Tiriti o Waitangi, including a tikanga Māori approach, is important to us. The primary objective of including tikanga, kawa, culture and practice in our constitution is to strengthen our commitment to centering Te Tiriti o Waitangi. The tikanga and kawa section will aim to draw people and communities closer and to respect the role of our people, members, communities, and organisations through this constitution.
3. **Drafting instructions:** the constitution will state that in order to give effect to our commitment to Te Tiriti o Waitangi, InternetNZ respects the tikanga based rights, interests and obligations of tangata whenua in Aotearoa and will be guided by tikanga values and principles in the way in which we work. Where appropriate we will seek guidance by tikanga experts on how to do this.

## Registered office

1. **About:** having a process for registering an office is a mandatory requirement in the new Act, and it is recommended to have this process in the constitution. This section is not in the current constitution.
2. **Drafting instructions:** the Board (Council) is responsible for determining the registered office address of InternetNZ. The Registrar of Incorporated Societies will be informed of any change in office address at least 5 days before that change takes effect, and follow any requirements of the Act when doing so.
3. **Reason for this approach:** this approach is in line with the Constitution Builder template, and there was no reason to deviate from the approach suggested in the guidance.

## Contact persons

1. **About:** under the Act, societies must have at least 1 and no more than 3 named contact people that the Registrar of Incorporated Societies can get in touch with as needed.
2. **Content for drafting instructions:** the Society shall have at least 1 but no more than 3 contact person(s) whom the Registrar can contact when needed. A contact person(s) shall be appointed by the Board (Council). Each contact person’s name shall be provided to the Registrar and any change in that contact person or their contact details shall be advised to the Registrar within 20 working days of that change, or the Society becoming aware of the change. Every contact person must be at least 18 years of age and ordinarily resident in New Zealand.
3. **Reason for this approach:** this approach is broadly in line with the Constitution Builder template.

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# Part Two: Membership

1. **Current state:** Sections 3, 4 and 5 of the current constitution are about membership. Section 3 includes types of membership, the right for members to vote, communication with members, how to apply for membership and information about individual, organisational and Fellowship members. Section 4 is about termination of membership, and section 5 is about term of membership.
2. **Overview of changes:** under the new Act, some mandatory introductory provisions are required to be added (e.g. including consent to being a member). In addition, these drafting guidelines propose:
   1. introducing a purpose statement for membership and a section which groups the rights and obligations of membership
   2. that subscription fees should be set with the aim of minimising financial barriers to entry
   3. the current individual professional membership type is removed, reflecting this is not currently in use
   4. a requirement that the Board (Council) sets the processes, selection criteria and parameters for Fellows and shares this with members.
3. **Changes that have not been made:** there were two proposals tested with members that we are not proposing in the new constitution: changing the criteria for Fellows (to focus only on contribution to the Society), and introducing members hubs.
4. **Members’ hubs:** while there is not a specific provision around members’ hubs, we are proposing that the constitution would enable mechanisms for member-to-member engagement to be established operationally.
5. **Fellow criteria:** member survey responses on the proposal to change the criteria for Fellows was fairly evenly split (9 supporting and 10 not supporting). While this is a small sample size we consider it does not show an overwhelming demand for change of the criteria. Further, the current criteria means that Fellows – who are often invited to contribute to discussions around a range of Internet issues – bring a broad range of Internet expertise from both inside and outside the Society, which can be of benefit to the Society more broadly.
6. A link to a document providing analysis of, and themes from, feedback on initial membership proposals can be found in [**Appendix 1**](#_ez15dv32wamm)**.**

**A note on terminology:** we are proposing changing the term “Financial member” in the Constitution to “Eligible member”. This will refer to those who have been members for at least 3 months and have paid any applicable subscription fee as set by the Council.

## Purpose of membership

1. **Proposed approach:** the beginning of the membership section will include a purpose statement for membership. The aim is to clearly set out why people would become members of the Society. This proposal comes from the co-design group, and aims to set out up front what membership is about, as some people have not found it to be clear.
2. **Drafting instructions:** the purpose of membership is to support and enable the objects and rules of the Society.
3. **Process:** a first draft of the purpose statement was tested with members, and has been updated following feedback to be more specific and take out the descriptions of “how” members can contribute. Additional information about what members can expect is in the [Membership Rights and Obligations](#_d2av5fr94ubn) section.

## Supporting diverse membership

1. **About:** one of the key themes about membership from the co-design group was the aspiration that membership of the Society reflects the diversity of Aotearoa New Zealand. It is proposed there is a statement near the beginning of the membership section that states this goal in order to make it visible and support action to encourage a diverse membership.
2. **Drafting instructions:** add a clause in the membership section that notes InternetNZ works for the benefit of all of Aotearoa New Zealand. To this end, the Society strives for a membership that reflects the diversity of Aotearoa New Zealand.

## Minimum numbers of members

1. **About:** the new Act requires a Society to have at least 10 members. There is no minimum number of members currently noted in the constitution.
2. **Drafting Instructions:** this clause will simply state that our membership will meet the minimum requirements set by the legislation. By not specifying the specific number, it will be future proofed for any changes (i.e. should the minimum requirement change).

## Types of members

1. **About:** it is proposed the types of memberships stay broadly the same: individual, organisational, and Fellow. The individual professional membership option has been removed, reflecting that in practice, this option has not been used in recent years. The provisions around organisational members would align with the current constitution, and some additional detail added about the Fellows programme to support a diversity of Fellows and ensure the processes are transparent.

### Drafting instructions for types of membership

1. **Types of membership:** the Society will have three types of members: individual, organisational and Fellows.
2. **Individual members:** any natural person can apply for individual membership under their own name.
3. **Organisational members:** any company, incorporated society or other lawful organisation may apply to become an organisational member. Each organisational member will nominate an individual member to the Society with the same rights and obligations as any other individual member (except the requirement to pay a subscription fee). The two categories of organisational member will be:

* **Small:** defined as having fewer than 100 employees
* **Large:** defined as having 100 or more employees.

1. **Fellows:** the Board (Council) may appoint Fellows, who, in its opinion, have made an outstanding contribution to the development of the Internet in Aotearoa New Zealand or to the Society. Once appointed to Fellowship, a person remains a Fellow for life with the rights of an eligible member. No subscription fee will be levied from Fellows.
2. **Council sets the process for becoming a Fellow:** the Board (Council) must set the process, decision-making criteria, and parameters (e.g. maximum number per year) for appointing Fellows. This must be made available to all members. This provision would also formalise the current practice that the appointment of Fellows aligns with the AGM process.

## Becoming a member: consent

1. **About:** this is a new clause, as the Act requires people to consent to becoming members. At present, consent is implied through the filling out of a form, agreeing to the Terms and Conditions, and seeking payment.
2. **Drafting instructions:** this clause will state that a person must consent to becoming a member of the Society and that consent is confirmed through the application process outlined in the constitution, or from the Society before a person is appointed as a Fellow. The Board may, from time to time, ask members to reconfirm their consent.

## Becoming a member: process

1. **About:** the current process for becoming a member is outlined in section 3.2 of the constitution. Applications for membership are made to the Society in writing or in electronic form, and accompanied by the appropriate fee. The process is determined by the Council. This provision would stay similar in the new constitution, however it would recognise that the subscription fee payable for individual members could be set at $0.00 (see fees and subscriptions, below).
2. **Drafting instructions:** application for individual or organisational membership shall be made to the Board (Council) in writing or in such electronic form as the Board (Council) shall decide. Every application for membership shall be accompanied by payment of any applicable subscription. A membership becomes active upon receipt by the Society of the membership application and any applicable subscription fee.

## Membership obligations and rights

1. **About:** the current constitution does not have a standalone section for members’ rights and obligations – these are included throughout. In addition, clause 3.1.3 notes that specific benefits associated with each class of membership will be made available on the Society's website. We are proposing that, where it makes sense to do so, statements about rights and obligations are grouped together in the constitution. This section includes additional statements to make member rights and obligations clear, including that members will comply with the rules of the Society, including those set in the constitution and Code of Conduct.

### Drafting instructions – rights

1. The rights of members stated in the constitution will be:
   1. **Number of memberships:** each person can only hold one Individual membership to the Society.
   2. **Voting:** each Member carries the right of one vote in elections and at General Meetings of the Society.
   3. **Standing for elected office:** members are eligible to stand as elected Officers of the Society, in line with the process and criteria set out in the [Board (Council)](#_2qe1e1yqcw8n) and [Officers](#_mxmqzjjhjc3h) sections.
   4. **Participation:** the Society will provide opportunities for members to:
      1. engage with each other, and
      2. inform, and engage in, the development of research, policy and multistakeholder approaches.
   5. **Other rights:** the provisions in this constitution may give additional rights to members not listed above, including for participation in General Meetings.
   6. **Accrual of member rights:** the rights of membership, including standing for elected office and voting accrue after 3 months and last until the end of their membership.

### Drafting instructions – obligations

1. Member obligations stated in the constitution will be:
   1. **Member’s name and contact details:** every member shall provide their name and contact details to the Society in writing (namely, physical or email address and a telephone number) which the Society shall record. The member shall promptly advise the Society in writing of any changes to those details.
   2. **Expectations:** members shall adhere to the rules of the society, including, but not limited to a Code of Conduct and the rules set out in this Constitution.

## Term of membership, fees and subscriptions

1. **Approach:** this section will broadly stay aligned with the Term of Membership section of the current constitution (4). It will also include the process for setting fees. It will introduce a provision that the Board (Council) must set fees for individuals in a way that minimises financial barriers to membership. While the co-design group also discussed the potential to remove a subscription fee altogether, this approach gives more flexibility while still aiming to provide equitable access to membership.

### Drafting instructions

1. **Setting subscription fee:** the Board (Council) is responsible for setting the annual subscription fees for individual and organisational members. It must set the fee for individual membership with the aim to minimise financial barriers to membership, and may choose to set this fee at $0.
2. **Other provisions:** this section will also cover the subscription period and provisions related to non-payment of fee (it is intended these will broadly be in line with the current constitution). There will need to be a full assessment as the constitution content is drafted to ensure that any provisions around subscription fees and membership terms are consistent even if no fee is set.

## Ceasing to be a member

1. **About:** it is mandatory for the constitution to contain any grounds for removal of a member.
2. **Current provisions:** grounds for termination of membership are set out in section 4 of the current constitution. A member can have their membership terminated if payment of their subscription is not received (3 months after its due date), if they resign, or if the Board (Council) finds a member’s actions are in serious conflict with the rules or objects of the Society (in which case the process in Schedule 1 must be followed).
3. **Changes proposed:** it is proposed that for clarity, the death of a member is added as a reason for removing that person’s membership. In the case of an organisational member, it is proposed that liquidation, dissolution or otherwise ceasing to exist be added as a reason for removal. We are also proposing to change the criteria of “serious conflict with the objects of the society” to “serious conflict with the constitution of the society”, and add a new criteria for removal of "bringing the society into disrepute”.
4. **Drafting instructions:** a member ceases to be a member if:
   1. they resign in writing
   2. their membership is terminated following a disputes resolution process under this constitution
   3. if the Member dies (in the case of an individual), or on the liquidation or deregistration of a body corporate (for an organisational member)
   4. a member has not paid the relevant subscription 3 months after its due date
   5. in the opinion of the Board (Council, the Member’s actions are in serious conflict with the constitution of the Society or the Member has brought the Society into disrepute. This must be done by resolution agreed by at least 75% of Board members.

## Obligations once rights have ceased

1. It is recommended the constitution includes provisions about the obligations on members once membership has ceased.
2. **Drafting instructions:** once a membership has ceased, members will not receive a refund of the subscription fee paid for that year; shall cease to hold themself out as a member of the Society; and shall cease to be entitled to any of the rights of a member.

## Becoming a member again

1. It is recommended the constitution includes provisions for if a former member wants to re-apply for membership.
2. **Drafting instructions:** any former Member may apply for re-admission in the manner prescribed for new applicants. However, if a former member’s membership was terminated following a disciplinary or dispute resolution process, the applicant may be re-admitted only by a resolution passed by the Board (Council).

# Part Three: The Board (Council) and Officers of the Society

1. The governance provisions of InternetNZ – and in particular the composition of the governance group – was a key area considered by the co-design group. InternetNZ also received expert governance advice about current best practices that inform the proposed approach.
2. Five key themes, identified by the co-design group and tested with members, have helped inform the proposals in these drafting instructions:
   1. **Representation of Māori:** guaranteeing Māori representation in governance is a top priority
   2. **Diversity:** our governance should be diverse
   3. **Skills and forward planning:** having the right skill sets in the governing body and a clear plan to fill future gaps is important
   4. **Participation:** our structure must enable participation and support pathways into governance
   5. **Te Tiriti o Waitangi:** governance should support our goal to be a Te Tiriti centric organisation.

## Composition of the Board (Council)

**A note on terminology:** the drafting instructions propose that the term “Board” is used to describe the committee of the Society in the new constitution. This replaces the term “Council”. This reflects a more modern approach, and in our testing of the terminology there was significant support from council and external stakeholders and support from more than half of the 13 member responses.

1. **Current state:** the Council currently comprises a President, Vice-President, seven elected members and up to two appointed members. This means there is a maximum of 11 members on the Council. There is a skills self-assessment for Councillors and those seeking election, however no specific requirements that must be met. While the current Council is fairly diverse, this is not embedded into the system and relies on the actions of individuals.
2. **Proposed approach:** these drafting instructions propose a number of changes to the composition of the Board (Council) with the goals of upholding our commitment to centering Te Tiriti o Waitangi and ensuring good governance approaches are built into the systems of the organisation. The changes include:
   1. a reduction in the number of Councillors (Board members) from a maximum of 11 to a maximum of nine. This reflects guidance received from external governance experts who consider 11 is too many for efficient and effective governance and recommended between seven and nine Board members.
   2. an increase in the number of appointed members for the Board. There can already be two appointed members at InternetNZ. By extending this to four, it gives more room to ensure the Board can fill any skills or diversity gaps for the governance of the Society.
   3. the introduction of skills requirements for elected members. At present there are only disqualifying factors set out in section 7.6 of the current constitution.
   4. a move from a President to a Chair chosen by Board members, reflecting current conventions for boards, and that boards are well-placed to choose who will be Chair. Regional Councils are an example of another type of entity that takes this approach.
   5. the introduction of co-Chairs to lead the Board, one of whom must be Māori. There will be transitional provisions to allow for a Chair and Deputy Chair if co-leadership is not feasible in the short term. A proposal to require co-Chairs of the Board was tested with members and stakeholders, however, we consider that having transitional provisions gives some flexibility for situations where the co-leadership model is not feasible.
   6. introduction of minimum representation requirements for Māori, as part of our commitment to centering Te Tiriti o Waitangi.
   7. all Board members should have knowledge of Te Tiriti and support our goal to be a Te Tiriti centric organisation. How they achieve this will be guided by the Appointments and Nominations Committee and the Board Charter.
3. **The co-leadership approach:** the rationale for co-leadership is to help give effect to our commitment to centering Te Tiriti o Waitangi. It also recognises Māori as tangata whenua and non-Māori as being here by way of Te Tiriti. Co-leadership does introduce some intricacies and potential challenges that are not present with a leader and deputy leader model. These would need to be worked through operationally, with specific processes included in an updated governance charter. This article from the Institute of Directors further explores co-leadership as a model, including a breakdown of the benefits and challenges.

### Drafting instructions

1. **Composition:** The Board (Council) will be comprised of:
   1. five Board members elected by InternetNZ membership. These people must all be members of InternetNZ, and
   2. up to four appointed board members, who may or may not be members of InternetNZ at the time of appointment.
2. It is intended the Board has a membership of nine, but it must have at least seven members.
3. **Co-leadership:** it is intended the Board will be led by co-Chairs, one of whom must be Māori. The co-Chairs will be chosen by the Board. In the short-term, it may not be feasible for the Board to appoint tangata whenua and tangata Tiriti co-Chairs. In this case, the Board may appoint a Chair and a Deputy Chair while it works towards implementing the co-Chair model. The provisions in the rest of this constitution reflect that there may be co-Chairs or a Chair and Deputy.
4. **Representation:** the Society shall endeavour to ensure that at least 3 members of the Board as a whole must be Māori, to ensure a baseline of Māori representation. At least one appointed Board member must be Māori (and this counts towards the minimum 3 Māori members). In the case where the number of Māori board members is fewer than three due to a change in elected members, this should be addressed during the next available appointment opportunity for Board members.
5. **Skills:** appointments will be made to ensure the right skills and capability mix for good governance and to fill any skills gaps. The appointments process should also give consideration to gender balance and diversity of lived experience on the Board (but all members must meet skills requirements). Two members of the Board must have specific expertise in Te Tiriti o Waitangi, te ao Māori and/or Māori governance. All Board members should have knowledge of Te Tiriti and support our goal to be a Te Tiriti centric organisation.
6. **Elected members:** InternetNZ members can put themselves forward for election or nominate others, however the name of the nominator will not be shared as part of the voting process. Candidates will be assessed by the Appointment and Nominations Committee to check they meet legal requirements for becoming an officer and to assess their skills against the current skills gaps on the Board. The Committee will be responsible for providing voters with consistent information about each candidate to inform their voting decisions..
7. **Term length:** the term for all elected and appointed Board members will be three years from the date of the AGM. The change in term length for appointed members makes it consistent with elected members and is in line with external governance advice we received. If someone is being elected/appointed for a partial term due to a Board member vacating their seat, they will be elected/appointed for the remainder of the term. Board members can serve up to a total of three terms. The co-Chairs or Chair and Deputy Chair are appointed for a two-year period, with the Board reaffirming the Chair/co-Chairs annually.
8. **Replacing a Board member:** if an elected Board member steps down or is removed during their term, their role may remain vacant until the next election, at which time a new elected member will fill the remainder of the 3-year term. If an appointed member steps down or is removed, their role may be filled by appointment at any time. If the Board composition is not in accordance with the Act or the Constitution (e.g. there will be fewer than 7 members or there will be more appointed than elected members), then a byelection may be held to fill an elected position for the remainder of the term.
9. **Transitional provisions:** we currently have nine elected and two appointed members of Council. Some work will be required to schedule the change. It is not intended that this would be implemented at the next election; but rather to ensure that we do not lose the experience and institutional knowledge that currently exists within our governing body, we will implement this over time.
10. A link to a document providing analysis of feedback on initial governance proposals can be found in [**Appendix 1**](#_ez15dv32wamm).

## Functions of the Board (Council)

1. The constitution will set out the functions and powers of the Board (which are set out in the Act).
   1. **Functions:** a statement that the operation and affairs of the Society will be managed by the Board, or under the direction or supervision of the Board, in line with the constitution and legal requirements.
   2. **Powers of the Board:** a statement that the Board has all the powers necessary for managing – and for directing and supervising the management of – the operation and affairs of the Society.
2. **Rangatahi Advisory Group:** there will be a provision that would enable the Board (Council) to establish a Rangatahi Advisory Group to provide it with a youth perspective and advice. This would ensure that the Board (Council) hears youth voices and helps build governance capability for those interested in a future Board (Council) position. It is proposed to have an enabling provision rather than establishing the group in the constitution as there is likely work needed to build necessary relationships and to work through operational details.

## Board (Council) meetings

1. **About:** the constitution needs to include processes for Board (Council) meetings, including voting procedures. At present, much of this information is documented in bylaws.
2. **Approach taken:** the approach below does not significantly change the current practices of the Council. The frequency of meetings is not currently documented in the constitution or bylaws, but we are proposing a minimum is added as recommended in Companies Office guidance.

### Drafting instructions for Board (Council) meetings

1. **Quorum:** the quorum for Board (Council) meetings is at least half the number of the members of the Board (Council). This is in line with the current arrangements in clause 5.1.2 of the constitution.
2. **Council meeting venue:** a Board (Council) meeting may be held either in person, or by means of audio, or audio and visual, communication, or a combination of the two. All Board (Council) members participating and constituting a quorum must be able to simultaneously hear each other throughout the meeting.
3. **Resolutions:** a Board (Council) resolution is passed at any Board (Council) meeting if a majority of the votes cast (e.g. by voices, show of hands, written ballots or as determined by the chair) on it are in favour of the resolution. Every Board (Council) Member shall have one vote.
4. **Chairing the meeting:** the co-Chairs (taking alternate turns) or the Chair shall chair all council meetings, but they may choose to delegate this task to another Board member. If the co-Chairs or Chair are not present, the Board members present may choose one Board member to chair the meeting. The presiding Chair of the meeting has a casting vote in the event of a tied vote on any Council resolution.
5. **Procedure regulation:** other than as prescribed by the Act or the constitution, the Board (Council) may regulate its own procedure.
6. **Frequency:** the Board (Council) shall meet at least 4 times a year at a time and place the Board (Council) determines. An InternetNZ staff member shall give to all Board (Council) Members not less than 7 days notice of Board (Council) meetings, but in cases of urgency a shorter period of notice shall suffice.

## Qualifications and duties of Officers

1. **Current state:** provisions about Officers of the Society – namely the President and Vice President – are in section 7 of the current constitution. This section also provides information about disqualifying factors for all Council members and information about the role of Returning Officer.
2. **About:** when registered under the new Act, all members of the Society’s committee (the Council in the case of InternetNZ) are officers of the Society. All officers must consent to being elected/appointed as an officer, and certify that they are not disqualified from being an officer under the Incorporated Societies Act 2022 or the Charities Act 2005. The Incorporated Societies Act 2022 also sets out the duties of Officers.
3. **Changes needed:** the constitution will need to be updated to reflect that all Board (Council) members are officers of the Society, and they must consent to being elected/appointed and certify they are not disqualified from being an officer. It is also recommended by the Companies Office that the duties of Officers (as per the Incorporated Societies Act 2022) are included in the constitution.
4. **To note:** the 2022 Act also provides for people in roles of influence in the Society who are not committee members (for example the CE or Treasurer) to be registered as Officers. At present, it is not expected that people holding operational leadership roles at InternetNZ will need to be registered as officers (due to the way decision-making is structured; this would also help enable a separation of operational and governance roles). If it was considered necessary in future, this will not require constitutional provisions.

### Drafting instructions

1. **Qualifications of Officers:** this section will note that every Officer must be a natural person who has consented in writing to be an officer of the Society, and certifies that they are not disqualified from holding office as an Officer of the Society. The constitution will include a list of disqualifying factors under section 47(3) of the Act and section 36B of the Charities Act 2005. It will also note that Officers must be approved by the Appointments and Nominations Committee to be recommended for appointment or approved for nomination.
2. **Duties of Officers:** this section, which is recommended under Companies Office guidance, will describe the duties of officers, which are set out in sections 54-61 of the Act. It will also note the more detailed responsibilities, expectations and processes of the Board (Council) will be set out in the Governance Charter, which is an operational document agreed by the Council. The current Governance Charter can be downloaded from [here](https://internetnz.nz/assets/Archives/Governance-Charter-and-Policies-Final-Adopted-3-Dec-2021.pdf).

## Election and appointment of Board (Council) members

1. **About:** the constitution must provide for the election and appointment of its officers. In InternetNZ’s case, this is members of the Board (Council).
2. **Current provisions for elections:** under the current constitution, the election of Councillors and Officers (President and Vice-President) is an item of business at the Annual General Meeting, with the nomination process happening beforehand (clauses 10.2.3.3 and 10.2.3.4). In practice, voting happens online before the AGM, with successful candidates announced at the AGM. Candidates must be nominated by another member, and self-nominations are not permitted (clause 10.2.3.4). In practice, the Returning Officer has been able to make nominations on behalf of members who wish to stand for election but do not have a nominator.
3. **Current provisions for appointments:** the current provisions for appointing members of the Council are in section 6.8 and require the Council to make appointments to “achieve an appropriate mix of knowledge, skills and experience on the Council to better conduct the governance of the Society.” At present, there is a panel convened which makes a recommendation to the Council about appointments.
4. **Current provisions for voting:** the constitution requires that forall elections a preferential and proportional voting system will be used (section 11.4).
5. **Proposed approach:** it is proposed that the approach to elections themselves would broadly remain the same, with preferential and proportional voting ahead of the AGM and results announced at the AGM. There would be a more significant change in the way that nominations for Board positions (and to a lesser extent, appointments) would be made.
6. It is proposed that the Board (Council) establishes an Appointment and Nominations Committee which will help to support the outcomes we want to see from governance, including the right mix of skills and a diversity of lived experience. The Committee will have different responsibilities in regards to appointed members and candidates for elected positions on the Board. It will make recommendations to the Board about who should hold appointed positions. For elected positions, the Committee’s role will focus on assessing candidates against skills and other gaps and providing information to voters in a consistent manner.

### Drafting instructions – elections

1. **Voting:** the constitution will require that forall elections a preferential and proportional voting system will be used. This is in line with the current constitution.
2. **Timing for nominations and voting:** the timing for nominations for elected Board (Council) members should be aligned with the AGM process and give enough time for members to express their interest in standing for a Board position and/or make their decisions about who to vote for.
3. **Returning officer:** there will be a returning officer position established prior to each election of Board (Council) members.

### Drafting instructions – Establishment of an Appointment and Nominations Committee

1. The Constitution will state:
   1. the Board (Council) must establish and maintain an Appointment and Nominations Committee, whose role is to identify, assess and recommend candidates for appointment or election as a Board member
   2. the Board (Council) must establish a charter for the Appointment and Nominations Committee outlining the purpose, operations and functions of the Committee
   3. the Board may, by resolution, appoint members to, or remove members from, the Appointment and Nominations Committee.

### Roles and responsibilities of the Appointment and Nominations Committee

1. The committee will:
   1. identify, assess and recommend candidates for appointment or election as a Board member.
      1. **Elected Board Members:** assess members who wish to stand for election in line with skills requirements and due diligence processes, provide consistent information to voters about candidates, and ensure candidates meet legal requirements to be an officer.
      2. **Appointed Board members:** identify individuals who are qualified to become Board members and meet current skills needs, and after assessing the candidate and undertaking probity enquiries, recommend candidates to be appointed to the Board.
   2. review, assess and recommend to the Board (Council) the desirable competencies of Board members in line with the skills and diversity matrix
   3. assist the Board (Council) to assess its performance
   4. review and make recommendations in relation to any governance issues, in respect to nomination and remuneration, as requested by the Board (Council) from time to time
   5. communicate with members and the Board (Council) as to the skills and diversity matrix and priorities for the upcoming election and appointments processes.

### Composition of the Nomination Committee

1. The Appointment and Nomination Committee will comprise the following persons:
   1. an independent person or representative from an external executive recruitment agency skilled in governance appointments
   2. a Board (Council) member, as nominated by the Board
   3. one or two representatives of the membership (appointed by the Annual General Meeting)
   4. at least one woman and one Māori representative across the committee.
2. The Board will review the members of the Appointments and Nominations Committee at least annually and the committee will have at least 4 members.

## Removal of Board (Council) members and ceasing to hold office

1. **About:** it is mandatory for the constitution to contain any grounds for removal of an officer. It is also recommended to state all the situations when an officer ceases to hold office (which could include death or resignation, for example).
2. **Current provisions:** under section 6.10, any Council Member can be dismissed by resolution of a General Meeting of the Society, provided that such resolution is passed by at least a two-thirds majority of those voting. There are no specific grounds for removal stated for this provision.
3. There are also provisions in various places in the constitution for a councillor’s seat to be deemed vacated (no resolution required) if:
   1. they cease to become a financial member and fail to pay a subscription fee within 30 days (section 6.3) – reflecting that only individual members of the Society can serve as Council members
   2. they miss three consecutive meetings of the Council (unless they are on a leave of absence). The seat is deemed vacated at the end of the third meeting (section 6.7)
   3. they do not meet the councillor eligibility criteria (section 7.6).
4. **Changes proposed:** it is proposed that an Officer can be removed by resolution of either the Council or Society, but only under specific circumstances. While this lowers the bar from two thirds of voting members at a General Meeting, it adds in clear rationale for removal. It also adds a process around the removal of an Officer due to missing meetings. The situations for ceasing to hold office will all be stated in one place in the constitution (even if expanded on elsewhere).

### Drafting instructions:

1. **Removal of an Officer:** an Officer can be removed by resolution of the Council or the Society if, in the opinion of the Council or Society, the Officer has:
   1. failed to attend three consecutive meetings of the Council (while not on a leave of absence)
   2. brought the Society into disrepute.
2. **Ceasing to hold office:** a Board (Council) member ceases to hold office when they resign, are removed, die, are disqualified from being an Officer, or are an elected Officer and cease to be a financial member of the Society (and do not pay a subscription fee within 30 days).

## Officer conflicts of interest

1. **About:** the Act imposes a duty on officers to disclose any interest in a matter affecting or relating to the society and detail consequences of being interested in a matter.
2. **Current provisions:** the main provisions relating to conflicts of interest currently sit in the bylaws and charter document.
3. **Drafting instructions:** include a clear section providing that a Board member must disclose any conflicts of interest, how disclosure is to be made and what an interested member can or cannot do (e.g. in terms of voting, signing or taking part in discussions). This section will be drafted in accordance with the Act.

# Part Four: General Meetings

1. **About:** the Act requires the constitution to include procedures for calling and holding general meetings. In the current constitution, provisions for general meetings are set out in sections 9, 10 and 11.
2. **Approach:** many of the drafting instructions for general meetings align with the provisions in the current constitution, for example by keeping the same amount of notice for general meetings and the number of members for quorum. Some details of AGM business have been updated, including the removal of an option for proxy vote, which was more necessary to ensure broad member participation when meetings were held in-person only. All general meetings will now have the same process, meaning the specific electronic general meeting (e-GM) provisions have been removed. There has been additional detail added in places, including about the role of the meeting Chair. Where additional process information has been added, we have been informed by Companies Office guidance.

## General meetings procedures

**General Meetings drafting instructions**

1. **How General Meetings can take place:** General Meetings may be held at one or more venues with members present in person and/or using any real-time audio, audio and visual, or electronic communication that gives each Member a reasonable opportunity to participate. This aligns with the current constitution (section 10.1).
2. **Notice of General Meeting:** the Board (Council) will give all members at least 30 days written notice of any General Meeting and the business to be conducted at the meeting. This notice period is the same as the current constitution (clause 10.2.5).
3. **Providing Notice of General Meeting to Members:** notice will be addressed to the Member at the contact addresses notified to the Society and recorded in the register of members. The General Meeting and its business will not be invalidated simply because one or more Members do not receive the Notice. This provision includes more detail than in the current constitution.
4. **Members at meetings:** only eligible members may attend, vote and speak at General Meetings. As outlined in the membership section, membership rights start after a person has been a member for 3 months.
5. **Quorum:** no General Meeting may be held unless at least 20 eligible members attend throughout the meeting and this will constitute a quorum. Any decisions made when a quorum is not present are not valid. The current quorum is whichever is fewer of 20 Financial members or one third of the membership (section 10.5).
6. **No quorum for a General Meeting convened on request of Members:** if there is no quorum within half an hour of the meeting starting, the meeting will be dissolved.
7. **No quorum for all other General Meetings:** if there is no quorum within half an hour of the meeting starting, it shall stand adjourned to a day, time and place determined by the Chair or co-Chairs of the Society. Notice of the adjourned meeting shall be given to all members. If quorum is not met at the adjourned meeting, those members present in person or online shall be deemed to constitute a sufficient quorum.
8. **Voting:** an eligible member in attendance at a General Meeting is entitled to exercise one vote on any motion. Voting shall be by voices, show of hands, electronic voting, or a combination of the above.
9. **Casting vote:** in the event of an equality of votes for or against a motion or amendment at a General Meeting, the person chairing the meeting shall exercise a casting vote. This is in line with the current constitution (section 11.1).
10. **Written resolutions:** written resolutions may not be passed in lieu of a General Meeting. The current constitution does not discuss this issue*.*
11. **Chair:** all General Meetings shall be chaired by the one of the co-Chairs or the Chair of the Society. If the Chair is absent, the Deputy Chair shall be chair. If the Co-Chairs or Chair and Deputy Chair are absent then a person elected by a majority vote of those present shall chair the meeting. This is in line with the current constitution with amendments to allow for co-Chairs (clauses 10.6.1 and 10.6.2).
12. **Chairing the meeting:** any person chairing a General Meeting may:
    1. adjourn the General Meeting to a future time with the consent of a Simple Majority of present Members. No business shall be transacted at any adjourned General Meeting other than the business left unfinished at the meeting from which the adjournment took place.
    2. direct any person not entitled to be present at the General Meeting, or obstructing the business of the General Meeting, or behaving in a disorderly manner, or being abusive, or failing to abide by the directions of the person Chairing the meeting, be removed from the General Meeting.
    3. in the absence of a quorum or in the case of emergency, adjourn the General Meeting or declare it closed.
13. **Board (Council) motions:** the Board (Council) may propose motions for the Society to vote on (Board Motions), which shall be notified to Members with the notice of the General Meeting.
14. **Members motion:** any Member may request that a motion be voted on at a General Meeting (Members’ Motions), by giving notice to the Board (Council). The amount of notice will be in line with other General Meeting timing provisions. The member may also provide information in support of the motion. Notice of the motion shall be provided with the written notice to members of the General Meeting, if notice of the motion is provided to the Board (Council) beforehand.
15. **Minutes:** the Society must keep minutes from each General Meeting.

## Annual General Meetings

### Annual General Meeting drafting instructions

1. **When they will take place:** the Annual General Meeting of the Society shall be held within the six months following the end of the financial year of the Society each year, on a date to be decided by the Board (Council). This has been expanded from the 4 months in the current constitution to give more flexibility (clause 10.2.1).
2. **Annual General Meeting business:** The business to be conducted at the Annual General Meeting will be:
   1. to confirm the minutes of the last Annual General Meeting and any Special General Meeting(s) held since the last Annual General Meeting.
   2. to receive from Council:
      1. the annual report on the operation and affairs of the Society during the most recently completed accounting period
      2. the annual financial statements for that period
      3. the auditor’s report on the annual financial statements (where a qualified auditor has been appointed), and
      4. notice of any disclosures of conflicts of interest made by Officers during that period (including a summary of the matters, or types of matters, to which those disclosures relate). This is mandatory under the Act.
   3. to announce the results of elections for Officers
   4. to elect an auditor. The auditor must be a qualified auditor as defined in section 35 of the Financial Reporting Act 2013
   5. to consider any motions that members were advised of when they received the notice of the Meeting
   6. To consider any general business, including any business any member properly brings before the Meeting.

## Special General Meetings

### Special General Meetings drafting instructions

1. **Calling a Special General Meeting:** a Special General Meeting may be called at any time:
   1. by agreement of the co-Chairs or by the Chair;
   2. by resolution of the Board (Council); or
   3. by agreement of the co-Chairs or by the Chair of the Board (Council), on request of 20 or more eligible members. The request must state the motions which will be moved at the meeting. This section will provide the number of days notice required, which will be consistent with other General Meeting timing provisions in the constitution.
2. **Notice and motions for Special General Meeting:** the motions to be moved at the Special General Meeting must be notified to every member of the Society ahead of time, and the notice period will be in line with other General Meeting timing provisions in this constitution.
3. **Special General Meeting procedure:** a Special General Meeting shall be conducted in line with the process in this constitution for General Meetings. A Special General Meeting shall only consider and deal with the business specified in the Council’s resolution or in a members’ request.

# Part Five: Dispute resolution

1. **About:** when InternetNZ reregisters under the Act, the constitution will need to have a disputes resolution process. This can either be a process developed specifically for the organisation (which must be consistent with the principles of natural justice) or adopt the Safe Harbour provisions outlined in the Act. InternetNZ is proposing its own disputes resolution process, informed by the Act, tikanga and best practice guidance.
2. **Current state:** there is not a disputes resolution process outlined in the current constitution. Schedule 1 does outline the process that must be followed for the termination of a member of the Society under section 4.2 of the constitution.

## About the disputes resolution process

1. The disputes resolution process is used to support resolving a disagreement, conflict or issue arising that involves the Society, Officers of the Society and/or its members.
2. The arising issues are defined in section 38(b) the Act. These include:
   1. a member or an Officer has engaged in misconduct
   2. a member or an Officer has breached, or is likely to breach, a duty under the Society's Constitution or bylaws or the Act
   3. the Society has breached, or is likely to breach, a duty under the Society's Constitution or bylaws or the Act
   4. a member's rights or interests as a member have been damaged or members’ rights or interests generally have been damaged.

## Guiding principles

1. When issues are raised at InternetNZ, we follow an approach guided by tikanga principles to understand and resolve disputes. There are four underlying tikanga to support us with disputes resolution, they are:
   1. **Utua kia ea:**where a dispute arises a process must be undertaken to achieve a state of restoration and balance.
   2. **Mahia kia tika:**we will act in a manner that is fair, equitable, honest, impartial, timely and transparent.
   3. **Manaaki tangata:** we will engage in a compassionate and respectful way that allows all voices to be heard and upholds the mana of those involved.
   4. **Ngākau pono:** we will seek to get to the heart of the matter and act in a manner that aligns with natural justice and accords with tikanga.

## What InternetNZ’s disputes resolution process will outline

1. The disputes resolution section will be drafted in line with the legislative requirements. The key aspects of the approach InternetNZ will take to resolve disputes are outlined below.
2. **A complaint must be made in writing** to any Officer or authorised person and include sufficient supporting information to ensure the person the complaint is against can be fairly advised of the allegation and prepare a response. A complainant can expect:
   1. That the complaint is heard. In the first instance, the complaint will be acknowledged in writing within 3 working days of receiving the complaint.
   2. That the complaint is investigated. All complaints will be investigated to determine if there is a dispute to be raised.
   3. To receive open and transparent communications. The Society will actively communicate with the complainant ensuring that all relevant information is provided and can be made available to them when required.
3. What you can expect if you are the subject of a complaint:
   1. **That you have a right of response.** All voices are heard through a disputes process. You will be given the opportunity to respond to a complaint, and we will ensure you have ample time. This will be 28 days from notification of the complaint to the subject.
4. What InternetNZ will do:
   1. **Get the right person on the job.** We will ensure that the most suitably qualified person undertakes the work to determine the dispute. This might involve a number of people including Officers or members of the Society, an InternetNZ Staff member, independent contractor, or subject matter expert. None of these people should have any conflicts of interest and they will be enabled to make a determination independently.
   2. **Uphold our tikanga and natural justice.** We will do what is in our power to uphold tikanga as per this process and this constitution, as well as   
      undertaking a natural justice process.
   3. **Take action in the case of serious matters.** The member subject to the complaint shall have no action taken against them until the completion of the process, except in an extreme case when the Board (Council) may suspend a membership until the process is completed.
5. Other things to expect:
   1. **Everything is set out in a timeline:** 
      1. 3 working days to acknowledge a complaint from when it was received and inform any related parties including the subject of the complaint
      2. 15 working days to determine if there is a dispute (from when the complaint was received)
      3. 20 working days for a right of response from the subject of the complaint from the date in which the concerned party is informed.
   2. **Upon determination of a dispute:** where a dispute has been found to have foundation, the Society will engage a resolution process which shall be:
      1. independent
      2. impartial
      3. fair
      4. a tikanga-led approach, progressed through a reputable disputes' resolution provider, or other formality agreed by all parties
      5. not in contravention of any laws or the constitution
      6. binding, with the outcome implemented by the Society.
   3. **Tikanga approach encouraged**
      1. the Society encourages tikanga-based disputes resolutions processes where appropriate;
      2. if a party requests that tikanga forms part of the dispute resolution process, all parties will work together to agree on a tikanga-based approach; and
      3. if agreement cannot be reached on the process, a reputable disputes resolution provider (with experience in tikanga) may be called in to assist in respect of both process and substance.

# Part Six: Additional Process Provisions

## Finances

1. **About:** the new Act requires that the constitution details how the Society will control and manage its finances.
2. **Current provisions:** the current constitution contains a section (12) detailing finance related provisions, such as the financial year for the Society, restrictions on the power to borrow money and audit requirements. It also includes a subclause related to the annual subscription. Further, there is no pecuniary gain provision at clause 15.
3. **Drafting instructions:** include a detailed finance clause which will detail:
   1. how funds are controlled and managed
   2. that the Society may borrow money only in accordance with a resolution of the members in General Meeting (as per the current constitution)
   3. the balance date
   4. financial statement requirements
   5. that no financial gain is allowed. The clause will also include details of exceptions to this (e.g. payment to employees or contractors, payment of goods or services and any reasonable out of pocket expenses).
4. All other operational matters (e.g. how funds are banked or administrative processes in relation to accounts paid or payable) will sit in the bylaws. Details regarding subscription options will sit in the members section.

## Recordkeeping

### Records – member register

1. **About:** under the new Act, Societies must keep a register of members, and this should be provided for in the constitution. There are no provisions about a register of members in the current constitution. InternetNZ already keeps a register of members.
2. **Drafting instructions:** the Society shall keep an up-to-date register of members. The information to be collected in the register will include: name, date the member joined, and contact details. The Society may request further information to understand its membership, which will be optional for members to provide. Members should notify the Society if their contact details change. The Society will also maintain a register of past members: the name and date of end of membership will be recorded for all members who have ceased membership in the past 7 years.

### Records – interests register

1. **About:** under the new Act there are certain records the Society must keep, including an interests register. All officers must disclose interests in any matter that is being considered by the Board. The Board must keep and maintain a register of these disclosures in an interest register.
2. **Current provisions:** there is no explicit reference to an interest register in the current constitution. However under the bylaws there is a requirement that all members of Council are required to notify the Society of any conflicts of interest which will then be included in the register. The Society currently maintains an interest register.
3. **Drafting instructions:** to include a clause in the constitution which requires the Board (Council) to maintain an up-to-date register of the interests disclosed to the Board (Council) at all times.

### Members’ access to information

1. **About:** this section will include information about members' access to information and responding to requests for information. This is different to the Society making financial statements and minutes available to its members, which is a separate legislative requirement. This provision does not limit that provision.
2. **Changes from current constitution:** the current constitution does not include provisions for Members’ access to information, however, the new legislation requires the Society to respond to requests for information.
3. **Drafting Instructions:** the Society will comply with legislative requirements (sections 80, 81 and 82) by providing information on the request of members. The Society may charge a fee for this information (which shall not exceed the cost of responding to the request), and must communicate with the requestor the process under which it is taking to provide or not provide the information. The requestor may at any time withdraw their request. The Society may also refuse to provide the information. Some instances in which they may refuse, are as follows, but are not limited to:
   1. withholding the information is necessary to protect the privacy of natural persons, including that of deceased natural persons
   2. the disclosure of the information would, or would be likely to, prejudice the commercial position of the society or of any of its members
   3. the disclosure of the information would, or would be likely to, prejudice the commercial position of any other person, whether or not that person supplied the information to the society
   4. the information is not relevant to the operation or affairs of the Society
   5. the request for the information is frivolous or vexatious.

## Liquidation and removal from the register

1. **About:** this section will include information about processes of liquidation for the organisation, removal of the Society from the Incorporated Societies Register and dispersal of assets should the organisation be wound down. Provisions about liquidation and dispersal of assets are currently in section 16 of the Constitution (“Winding Up”).
2. **Changes from current constitution:** the current constitution does not include provisions about removal from the register, so this will be added (it is a recommended provision for constitutions). The liquidation provisions will be updated to refer to the 2022 Act. To reflect the seriousness of the decision, the constitution will require two thirds of members at a General Meeting to agree to liquidation. The current provision that requires two General Meetings to pass and confirm a resolution to wind up the Society (section 16.2) will be amended to say that at least two General Meetings are required to put the Society into liquidation and remove it from the Register.

### Drafting guidelines

1. **Liquidation:** the Society may be liquidated in line with the provisions in Part 5 of the Act. The Board (Council) will give 30 days written notice to all Members of the proposed resolution to put the Society into liquidation. A vote of members at a General Meeting will need to pass by two thirds of members present.
2. **Removal from the register:** the Society may be removed from the Register of Incorporated Societies in accordance with the provisions of Part 5 of the Act. The Council shall give 30 Days written Notice to all Members of the proposed resolution to put the Society into liquidation. Any resolution to put the Society into liquidation must be passed by a two-thirds majority of all Members present and voting.
3. **Surplus assets:** if any property remains after the settlement of the Society’s debts and liabilities, that property must be given or transferred to another organisation for a similar charitable purpose or purposes as defined in section 5(1) of the Charities Act 2005. This is in line with the current constitution (section 16.4).

## Alterations to the constitution

1. **About:** the “Rules” section of the current constitution (14) sets out the procedures by which amendments can be made to the constitution. Any member can make a proposal to make amendments which are voted on at a General Meeting (two thirds of cast votes must be in favour to pass). In practice there is an opportunity in the run-up to each AGM for members to propose amendments.
2. **Proposed changes:** the constitution will include a provision for minor technical amendments to be made without a general meeting, in accordance with section 31 of the Act (which provides for an opportunity for members to object to changes). It will specify that either the Board (Council) or any member can make a proposal for a change.
3. **Drafting instructions:**
   1. Minor technical amendments can be made in accordance with section 31 of the Act.
   2. The Board (Council) or any member may make a proposed amendment to the Constitution to be voted on at the next General Meeting.
   3. Any proposal must be approved by two-thirds majority vote of eligible members present at the meeting.
   4. Any change to the Constitution must be made in writing.
   5. The registrar must be advised of the change in line with the requirements of the Act.
4. The Constitution will also include process details for how a change is proposed, voted on and accepted or declined.

## Bylaws

1. **About:** the Act empowers the Society to make bylaws, which enables the Board (Council) to deal with certain issues that do not need to be in a society’s constitution (e.g. how Board business may be conducted and code of conduct applicable to Members).
2. **Current provision:** the current constitution (at section 6.1) provides that the Council shall conduct affairs in accordance with the constitution and resolutions using a set of bylaws determined by Council from time to time. The current set of bylaws can be found [here](https://internetnz.nz/governance-and-reports/governance-documents/council-bylaws/). To note, the bylaws will also be updated to remove sections covered by the constitution and include any additional clauses to provide guidance regarding the conduct of Board (Council) business.
3. **Changes proposed:** it is proposed that a clear clause be included to allow the Board to make and amend bylaws, and policies for the conduct and control of Society activities and codes of conduct applicable to members. The clause will also include that such bylaws, policies, or codes of conduct shall not be inconsistent with the Constitution, the Act, or any other regulations of legislation.

## Insurance and indemnity

1. **About:** if the Society wishes to indemnify or insure its officers for breach of officers' duties, the constitution must expressly authorise this.
2. **Current provisions:** the current constitution provides for indemnity under clause 6.12 and limits Council members’ liability to the assets of the Society.
3. **Changes proposed**: it is proposed that a clearer indemnity clause be provided that explains the Society indemnifies its employees, the Board and each of the Board members, except in the case of wilful default or fraudulent acts or omissions. In addition, a clause will be added to allow the Board to give effect to insurance that covers employees or a Board (Council) member, which the Society has in place.

## To remove from constitution: the common seal

1. **About:** Section 13 of the current constitution refers to the Common Seal of the Society, which is an official stamp historically used to formally execute certain legal documents (e.g. where it was expressly required by law or the constitution). Under the 2022 Act, a Society does not need to have a common seal. It is proposed that the new constitution does not include provisions for a Common Seal – there would still be requirements around sign-off for key decisions which shall be outlined in the bylaws and will be in accordance with section 123 of the Act.
2. **Current provisions:** the Common Seal of the Society shall be in the custody of the President. The Common Seal shall be affixed to any instrument only pursuant to a resolution of the Council and witnessed by two Council Members one of whom shall be the President or Vice-President.

# Appendix 1: Supporting documentation

The following supporting documents are linked throughout the drafting guidelines:

* [Constitutional Review: what you said about the Membership options](https://internetnz.nz/assets/Constitution-Review/Member-Options-Feedback-Word-4.99MB.docx)
* [Governance proposals: member feedback analysis and proposed approach](https://internetnz.nz/assets/Constitution-Review/Governance-Options-Feedback-Word-4.47MB.docx)
* [Constitutional Review: what you said about the draft objects](https://internetnz.nz/assets/Constitution-Review/Objects-Feedback-Word-934KB.docx)