



MINISTRY OF CONSUMER AFFAIRS
MANATŪ KAIHOKOHOKO

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All Ministers
All Chief Executives

Guidelines for Consumer Representation

1. Cabinet recently approved two Guidelines for Consumer Representation for implementation in all government departments and agencies - a Guideline for Officials and a Guideline for Chairpersons. The Guidelines are to be applied in the appointment and induction of laypersons and consumer representatives to boards, advisory bodies, departmental working parties, and committees. They also provide advice for ongoing assistance.

Note

This draft circular should be read in conjunction with other Cabinet circulars on appointments and the State Services Commission's Board Appointment and Induction Guidelines.

Purpose of the Guidelines

2. The purpose of these Guidelines is to
 - assist officials to locate a diverse and appropriate range of consumer representatives and laypersons
 - encourage criteria-based decisions regarding the involvement of consumer representatives on boards, advisory bodies, departmental working parties, and committees
 - provide Ministers, officials, and all those involved in the nomination, selection, and appointment process with better information to support decision-making
 - increase the effectiveness and job satisfaction of consumer representatives and
 - encourage the development of a participatory working environment in boards, advisory bodies, departmental working parties, and committees.

Application of the Guidelines

3. These Guidelines apply to the appointment of laypersons and consumer representatives to
 - statutory bodies where the legislation requires the appointment of a “layperson” or a “consumer representative” or requires consultation with the Minister or Ministry of Consumer Affairs, or wherever Ministers wish to appoint consumer representatives
 - other bodies where the mix of members includes lay or consumer representation eg Insurance and Savings Ombudsman Commission, Banking Ombudsman Commission and
 - departmental working parties and committees where the consumer perspective is appropriate or required.

These Guidelines do not apply to crown companies constituted under the Companies Act 1993 or District Health Boards constituted under the New Zealand Public Health and Disability Act 2000.

The Guidelines

4. The Guideline for Officials sets out the requirements and expectations of officials and provides step by step guides, examples, and checklists to prompt officials.
5. The Guideline for Chairpersons of boards, advisory bodies, departmental working parties, and committees encourages chairpersons to adopt a participatory approach in meetings as an identified key to improving the effectiveness of consumer representatives. It also advises chairpersons of other action they may take to provide a positive working environment for consumer representatives.

Implementation

6. Ministers are asked to ensure that all staff involved in appointments to, and providing service for, bodies covered by the Guidelines are familiar with the requirements and recommendations in the Guidelines. In particular, attention is drawn to the direction in the Guidelines to
 - (1) identify the consumer constituency prior to the initiation of any appointment process and
 - (2) provide that descriptor to all those involved in the appointment process.
7. For advice on the interpretation and application of these Guidelines, please contact the Consumer Information Service at the Ministry of Consumer Affairs, Phone (04) 474 2750, fax (04) 473 9400, e-mail mcainfo@mca.govt.nz.

Hon Judith Tizard
Minister of Consumer Affairs

GUIDELINES FOR CONSUMER REPRESENTATION

GUIDELINE FOR OFFICIALS

Purpose and value of consumer representation

1. The purpose of consumer representation is to improve decision-making. Consumer representatives add value to decision-making because they bring identifiable and quantifiable knowledge, perspectives, and judgement to the table.
2. Effective consumer representatives appointed to a body (between them) bring an intimate knowledge of the communities which make up the consumer constituency of that particular body. They bring insight into culture and the reality of those consumers' daily lives, and how that affects the way consumers think and act particularly when they are in difficulty or disadvantaged.
3. Their knowledge and experience enables them to assess problems from the consumer perspective and identify effective responses. They can also predict the effect of policies proposed and provide constructive feedback on both the policy and its implementation. Consequently, decisions made by bodies are more likely to offer solutions which work and policies which can be implemented and do achieve the results desired.

Application of the Guidelines

4. These Guidelines apply to the appointment of laypersons and consumer representatives to
 - statutory bodies where the legislation requires the appointment of a "layperson" or a "consumer representative" or requires consultation with the Minister or Ministry of Consumer Affairs, or wherever Ministers wish to appoint consumer representatives
 - other bodies where the mix of members includes lay or consumer representation eg Insurance and Savings Ombudsman Commission, Banking Ombudsman Commission and
 - departmental working parties and committees where the consumer perspective is appropriate or required.

NOTE

These Guidelines do not apply to crown companies constituted under the Companies Act 1993 or District Health Boards constituted under the New Zealand Public Health and Disability Act 2000.

Action to be taken by officials

5. *In terms of appointment processes for consumer representatives*
 - i Officials **must** provide a description of the consumer constituency of the relevant board, advisory body, departmental working party, or committee to all those involved in the nomination, selection, and appointment process for consumer representatives or laypersons.
 - ii Officials are expected to provide for each vacancy
 - a person specification and
 - full information on the vacancyto those making nominations and to applicants.

6. *In addition, when it is appropriate to their role, officials should*
 - i consult MCA particularly when they are considering the structure and membership of new boards and advisory bodies, or are reviewing or restructuring boards and advisory bodies. See *Process to identify the role and value of consumer representatives on a case by case basis on page 5 of this circular*.

 - ii develop mechanisms for confidentiality agreements which take into account the need for consumer representatives to network and consult so that they are effective members of boards, advisory bodies, departmental working parties, and committees. See *Checklist for Officials on page 10 of this circular*.

 - iii take into account the actual costs for consumer representatives when they are developing budgets and making administrative decisions (time/day of meetings, location of meetings) for boards, advisory bodies, departmental working parties, and committees. See *Checklist for officials on page 10 of this circular*.

 - iv encourage boards and advisory bodies, where appropriate, to provide financial assistance to enable their consumer representatives to attend mentoring/training/networking meetings. MCA particularly recommends cross-sectoral meetings. See *Checklist for Officials on page 10 of this circular*.

 - v ensure that every chairperson receives a copy of the Guideline for Chairpersons (attached), and is encouraged to apply its recommendations particularly in terms of using a participative approach.

PROCESS TO IDENTIFY THE VALUE AND ROLE OF CONSUMER REPRESENTATION ON A CASE BY CASE BASIS

NOTE

Officials should consult MCA when proposing a new board or advisory body, or when reviewing/restructuring a board or advisory body.

Step 1 Assess the situation

If two or more of the following criteria are met then consumer representation may be appropriate and should be considered.

- Consumers are directly or indirectly receiving services from the industry.
- Consumers are buying products which are produced by the industry.
- The matter under consideration involves consumers or has implications for consumers.
- The board's functions, or committee's terms of reference, or legislation include matters which impact on consumers.

Step 2 Identify the value of consumer representation in this case

To identify the value of consumer representation in this case, you need to

- describe the consumer constituency and
- develop the person specification.

Describe the consumer constituency

Describe the group(s) of people who buy the products, use the service, or are affected by the decisions which are / will be made by the body. This is the consumer constituency. The description of the consumer constituency also describes the knowledge and experience you will seek when recruiting a consumer representative.

Example

Description of the consumer constituency for an advisory body on diabetes

The consumer constituency includes people with Type A and Type B diabetes. These two types of diabetes have different causes and can have different impacts.

Type A diabetes has a genetic cause. Type A diabetics come from across the spectrum of the population and their numbers are relatively stable. Dependence on insulin makes low income earning a significant factor.

A common cause of *Type B diabetes* is diet. This is the group of diabetics which is growing. A significant proportion of Type B diabetics are either Maori or Pacific Island, many of whom are in low income earning groups. The cost of prescriptions and of appropriate food can be a problem.

Other significant factors

- Social expectations mean that the effects are different for males and females and

- Age is significant in that there are age groups which have specific difficulties eg reproduction can be difficult for both genders, youth can present difficulties because of hormonal and other factors, and those over 55 years need particular care to avoid circulatory difficulties and their consequences – usually loss of eyesight and mobility.

Develop the person specification

Page 7 of this circular describes the qualities you can, in general, expect consumer representatives to bring. You can now specify the *Knowledge and experience requirements*.

Example

Person specification for consumer representation on advisory body on diabetes

Consumer representatives are likely to be diabetic themselves and to have strong networks and a track record of working in the community alongside other people with diabetes and their families. They will know the realities of the lives of people with diabetes and they will have the respect of those they work with.

We are looking for a balance of people who can represent Maori, Pakeha, and Pacific women and men with Type A and Type B diabetes. Interest from those on low incomes, those in the 55 + age group, and youth are particularly welcomed.

Other attributes required

- A track record of working constructively in groups
- A good understanding of confidentiality
- An ability to appreciate the common good
- Strong communication skills
- Known to exercise good judgement
- Excellent at developing and maintaining appropriate relationships
- Respectful of cultural difference

Step 3 Confirm your decision and/or provide advice

Identify the value that consumer representation will bring to decision-making.

Weigh the involvement of consumer representatives alongside the involvement of the government sector and the private sector (industry and professionals)

- in terms of role and
- in terms of the value they will bring to advice or decision-making and
- make a decision or recommendation.

QUALITIES OF A CONSUMER REPRESENTATIVE

Use this description when

- determining the role of a particular consumer representative
- writing person specifications and
- appointing or making recommendations to Ministers.

IMPORTANT NOTES

*i The statements below build **one** broad indicative statement in which the individual statements modify each other.*

Example

The statement “Strong communication skills and will be assertive and persistent if it’s necessary” is modified by other statements such as “Exercise good judgement”, and “Excellent at developing and maintaining appropriate relationships”.

ii “the community” in each case means the consumer constituency of the particular board, advisory body, departmental working party, or committee.

Knowledge and experience requirements

- A track record of achievements for the community (they have taken an initiative(s) and seen it through to the end). The quality of the track record matters more than the length.
- Is respected for her/his integrity in the community s/he has worked in and will represent.
- Knows the realities of ordinary people’s lives (especially those who are disadvantaged), knows the issues, knows the community thought processes, how decisions are made, and knows the community’s wisdom and its ignorance, its breadth and its contradictions.
- Knows what’s practical / possible, and sensible / rational and realistic / probable in the community.

Networking requirements

- Has broad community networks s/he consults regularly and is accessible to the community. Not someone who works alone.
- Demonstrates a comprehensive understanding of confidentiality.

Essential attributes

- Able to appreciate the common good.
- Stable, and acts consistently.
- Understands group processes and can work constructively within them.
- Addresses issues from the perspective of the consumer.
- Has strong communication skills and will be assertive and persistent if necessary.
- Strategises effectively from a minority stance and finds solutions and common ground with others.
- Exercises good judgement.
- Excellent at developing and maintaining appropriate relationships
- Respects cultural differences

PROCESS FOR NOMINATIONS OF CONSUMER REPRESENTATIVES AND LAYPERSONS

Describe the consumer constituency

1. You must provide a description of the consumer constituency to all those involved in the nomination and appointment process. See the example on page 5 of this circular.

NOTE

Advertising vacancies in newspapers

It is not necessary to publish the full description of the consumer constituency in newspaper advertisements. Instead, it should be sent out with application papers.

2. The consumer constituency is the group(s) of people who use the service or are affected by the decisions which are / will be made by the body. There is no set formula but ethnicity, gender, age, geographical location, and relative economic advantage / disadvantage are usually relevant factors.

Notes

1. ***Ethnicity***

Be aware that catch-all terms eg Pacific peoples, Asian, African, can mask the presence of a number of distinct racial or ethnic groups.

2. ***Age***

It may be sufficient to identify the proportions of young people, over 60, other.

3. ***Getting assistance***

Contact the industry, local district or city councils, other government departments, other agencies working in the same field, relevant voluntary agencies. You may also consult the MCA.

Develop a person specification

3. Page 7 of this circular describes the qualities you can, in general, expect consumer representatives to bring. You can now use the description of the consumer constituency to specify the knowledge and experience requirements.
4. The most effective consumer representatives will either work alongside or be part of the identified constituency, and be part of their networks.
5. Consult your Minister on the draft person specification, when appropriate.

Call for nominations

6. The Ministry of Consumer Affairs and voluntary sector organisations are usually the best sources of nominations for consumer representatives.

Personal contact with these organisations will bring the best results.
Please contact MCA for further advice.

7. Provide full information on the vacancy including
 - The consumer constituency to be represented
 - The person specification and why new nominations are being called
 - Exactly what the process is for nominations and appointments, and who makes the final decision
 - What information you need about the nominees
 - What forms (if any) need to be filled in
 - The functions of the board, or purpose of the committee, what their job collectively is
 - Who else is on the board or committee
 - What is the term, what expenses are met, the number and timing of meetings

Note

Participation requirements for young people will differ from those for adults. Please contact the Ministry of Youth Affairs for advice – (04) 471 2158.

- Date when nominations close, your DDI, and e-mail address.

Present nominations for decision

8. You must provide the description of the consumer constituency with the nominations for consideration. It may be useful to also provide the person specification.

Advice of appointment

9. Advise those who provided nominations of the appointment made.

CHECKLIST FOR OFFICIALS

HELPING CONSUMER REPRESENTATIVES TO BE EFFECTIVE

Officials should, where appropriate, assist consumer representatives to be effective. Use this checklist of identified problems and solutions to help you.

Cost

Consumers are often unable to accept nomination as representatives because they cannot afford leave without pay, or the cost of travel, or other costs of being a representative. The government interest here is in enabling the *best* consumer representative to accept appointment.

Cabinet Office Circular CO(01)8 (*Fees Framework for Members of Statutory and Other Bodies Appointed by the Crown*) is the instructing circular. It sets limits and allows sufficient flexibility to enable reasoned and reasonable decisions.

Officials should develop budgets and make administrative decisions (time/day of meetings, location of meetings) which take the actual costs for consumer representatives into account, provide suitable options, and are within the parameters available in Circular CO(01)8.

Examples

1. To attend week-day meetings, consumer representatives may need to take leave without pay. In this case options are to pay fees or schedule meetings at another time.
2. Reasonable travel costs need to be met and flexibility may cost no more. A late flight and a night's accommodation may cost the same as two business flights but the difference may be a between a 17 hour day and a reasonable day. Another alternative may be a teleconference.
3. Consumer representatives are less likely to have office back-up or professional support. Perhaps support could be provided.
4. E-mail costs (hardware, connection, printing and so on). A change in timing can mean ordinary mail and telephone/toll budgets work as well.

Isolation

Confidentiality agreements

There are good and sound reasons why members of boards, advisory bodies, departmental working parties, and committees are now routinely asked to sign confidentiality agreements. This in itself is not a problem. The problem for consumer representatives comes when confidentiality clauses entirely prevent consultation outside the body and thereby compromise their ability to deliver.

Officials should develop mechanisms for confidentiality agreements which take into account the need for consumer representatives to network and consult.

Having a vast and diverse constituency

Consumer representatives need to be in contact with the people they are representing if they are to be effective. The value they bring comes as a result of their knowledge of the daily lives and opinions of their constituency.

Officials should identify ways in which the body can assist the consumer representative to stay in touch with their constituency.

Minority status

There is a significant imbalance when there are one or two consumer representatives and 5-10 industry and/or professional representatives on a body. This causes isolation for consumer representatives who find that theirs is always the different perspective which annoys or is seen as a challenge and needs to be justified, and that they must speak more often than others to balance the process.

The immediate solution identified by consumer representatives is for chairpersons to take a participative (inclusive) approach.

Officials are expected to ensure that every chairperson receives a copy of the Guideline for Chairpersons (attached) and is encouraged to apply that Guideline as appropriate.

Lack of consumer representative network

All representatives need access to mentoring and training.

Officials should, where appropriate, encourage bodies to provide financial assistance so that consumer representatives can attend mentoring, training, and networking meetings. The Ministry of Consumer Affairs particularly recommends cross-sectoral networking amongst consumer representatives.

GUIDELINES FOR CONSUMER REPRESENTATION

GUIDELINE FOR CHAIRPERSONS

Purpose of this Guideline

Chairpersons have a significant role on boards and committees and in meetings. They can, and very often do, create an environment which encourages effective input from consumer representatives. This Guideline aims to assist chairpersons in this process.

Purpose of consumer representation

It is the purpose of consumer representation to improve decision-making. Consumer representatives add value to decision-making because they bring identifiable and quantifiable knowledge, perspectives, and judgement to the table.

Effective consumer representatives appointed to a body (between them) bring an intimate knowledge of the communities which make up the consumer constituency of that particular body. They bring insight into culture and the reality of those consumers' daily lives, and how that affects the way consumers think and act particularly when they are in difficulty or disadvantaged.

Their knowledge of the consumer constituency means that they can identify problems and their consequences for consumers, and they can make judgements about

- the effect and acceptability of policies amongst their constituency and
- the most effective way to implement policies and systems.

With this additional information and perspective, decisions made by the body are more likely to offer solutions which work, and policies which can be implemented, and do achieve the improvements intended.

Example

When the Medical Council considered the terms under which they would accept overseas doctors in the context of ensuring patient safety, the doctors on the Council saw the priority as ensuring that the overseas doctors had the necessary medical knowledge and specialist skill. The laypersons agreed but also identified the ability to communicate effectively with New Zealand patients as core to patient safety. Together they made a better decision.

Consumer constituency

Officials must provide a description of the consumer constituency to all those involved in the nomination and appointment process.

The consumer constituency is the group(s) of people who use the service or are affected by the decisions which are / will be made by the body. Ethnicity,

gender, age, geographical location, relative economic advantage / disadvantage are usually relevant factors.

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Other significant factors

- Social expectations mean that the effects are different for males and females.
- Age is significant in that there are age groups which have specific difficulties. In particular, reproduction can be difficult for both genders, youth can present difficulties because of the additional effects of other growth factors, and those over 55 years need particular care to avoid circulatory difficulties and their consequences – usually loss of eyesight and mobility.

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CHECKLIST FOR CHAIRPERSONS

HELPING CONSUMER REPRESENTATIVES TO BE EFFECTIVE

In the research recently completed by the Ministry of Consumer Affairs, consumer representatives identified two core problems which persistently inhibit their ability to be effective in their work. They are

- cost and
- isolation.

Cost

Where chairpersons are involved in the setting of budgets, it is worth noting that

- Cabinet Office Circular CO(01)8 (Fees Framework for Members of Statutory and Other Bodies Appointed by the Crown) which guides payments made to government bodies allows considerable flexibility within clearly established parameters.
- Week-day meetings can often mean that consumer representatives effectively suffer a loss of income because they need to take leave without pay. Paying fees or holding meetings at other times are other options.
- It can be difficult to get the best consumer representative when the consequence is a loss of income or additional costs (eg travel) for them. Payment of expenses is necessary to ensure the best in New Zealand.
- E-mail is very convenient but it is dependent on full access to a computer. It is also a considerable expense particularly if you are sending large files which need to be printed. For consumer representatives, either these costs need to be considered for refund or ordinary mail and the telephone need to be reinstated as the dominant form of communication.
- Meetings in Wellington can mean days of more than 12 hours if you live some distance from the airport and some distance from Wellington. It may be no more expensive to bring in such a person the night before on a cheaper flight and provide one night in a hotel.
- Teleconferencing can be very efficient.

Isolation

Isolation, from both their consumer constituency and from other members of the board, advisory body, departmental working party, or committee, was identified by consumer representatives in the research, as one of the primary limits on their ability to be effective and give full value. Consumer representatives identified the causes of this isolation as confidentiality agreements, having a vast and diverse constituency, minority status, conflict, and the absence of training, mentoring, and networking.

Confidentiality agreements

Members of government bodies are now routinely asked to sign confidentiality agreements. This in itself is not a problem. There are good and sound reasons why confidentiality is required. The problem for consumer representatives comes when confidentiality clauses entirely prevent consultation outside the body, and, in particular, stop them consulting their constituency.

The value that consumer representatives bring is their knowledge of the people they represent (especially their daily lives and opinions) and their ability to predict how they will respond. If they are unable to consult their constituency then they become isolated from them and their ability to give value is progressively compromised.

The evidence is that chairpersons can very often ameliorate potential conflict between the need for confidentiality and the need for consumer representatives to consult. For example, consumer representatives reported that they found it enormously helpful when a chairperson spent a few minutes at the end of each meeting or item discussing exactly what must be confidential and what can be said publicly.

It is recommended that

- *confidentiality agreements take into account the need for consumer representatives to network and consult and*
- *chairpersons discuss at the end of each meeting, or each item, what must be confidential and what can be said publicly.*

Having a vast and diverse constituency

Consumer representatives need to be in contact with the people they are representing if they are to be effective. The value they bring comes as a result of their knowledge of the daily lives and perceptions, and thinking of their constituency, and their ability to provide direct access to and from consumers.

One or two consumer representatives with a vast and diverse consumer constituency can find that it is very difficult to provide effective advice.

It is recommended that chairpersons identify the ways in which the body can assist the consumer representative to stay in touch with their constituency.

Minority status

The majority of boards, advisory bodies, departmental working parties, and committees which include consumer representation include one or two consumer representatives with 5-10 industry and/or professional

representatives. This significant imbalance of numbers causes isolation for consumer representatives.

They find that

- theirs is always the different perspective, the one which has to be justified, and which is seen as a challenge by other members and
- as an individual member, they need to speak more frequently than any other because if they don't speak, the consumer perspective is not heard.

This can annoy other members and officials, especially when the consumer view is challenging. The consequence can be a loss of respect for the consumer representative's opinion and person.

It is recommended that chairpersons

- *Practise participative leadership by including everyone in the decision making process and valuing everyone's input equally*
- *make sure everyone has access to the same information*
- *deliberately build cohesion and trust within the group*
- *are open-minded and foster respect within the group.*

Conflict

Consumer representatives made particular mention of the difficulty for them when professionals bring conflicts between them into meetings. And that the difficulty is compounded when the chairperson does not deliberately and quickly deal with that conflict.

Consumer representatives report that such conflict isolates them and causes them a lot of discomfort. Often the presence of conflict can mean a power game is continuously being played at the table. So, ideas may be discounted or there may be a refusal to agree for reasons which are not logical.

It is recommended that chairpersons deal effectively with conflict, difficult situations, and difficult people.

Lack of consumer representative network

Consumer representatives generally cited four reasons why they needed a consumer representative network

- They are often in the minority and often have no other consumer representative with whom to compare experiences.
- They need a sounding board in terms of ideas and strategies from the consumer perspective and

- They need access to advice and knowledge from the consumer perspective.
- They need access to mentoring both as things happen and in the training / refresher context.

Note

The Ministry of Consumer Affairs now convenes bi-annual meetings of a Consumer Representatives' Network. The Network includes consumer representatives working across the government sector.

It is recommended that Chairpersons

- *encourage consumer representatives to network (both within their specialist area and across the government sector) and*
- *where possible, provide financial assistance for them to attend mentoring, training, and networking meetings for consumer representatives.*