

# CONSUMER ACCESS TO TRUST INFORMATION



REFERENCE G007  
ISSUE DATE September 2014 (last reviewed 21 July 2020)  
REVIEW DATE July 2022

## POLICY

The purpose of this policy is to:

1. Promote the accountability of Trustees to their Consumer beneficiaries; and
2. Provide a process for dealing with requests for access to Trust Information by Consumers.

## PROCEDURE

### 1. Definitions

- 1.1 Capitalised Expressions defined in clause 1.1 of the Trust's Deed of Trust shall bear the same meanings where used in these Guidelines.
- 1.2 "**Document**" means a document in any form, and includes (without limitation):
  - 1.2.1 Any writing on any material;
  - 1.2.2 Any information recorded or stored by means of any tape-recorder, computer or other electronic device, and any material subsequently derived from information so recorded or stored;
  - 1.2.3 Any label, marking, or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
  - 1.2.4 Any book, map, plan, graph, or drawing; and
  - 1.2.5 Any photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being produced.
- 1.3 "**Trust Information**" means information regarding the affairs of the Trust.

### 2. Status

- 2.1 The trustees of TECT are at all times obliged to comply with their obligations under the Trust's Deed of Trusts, the Trustee Act 1956, the Trusts Act 2019, the Electricity Industry Act 2010, the common law and any other applicable rule of law.
- 2.2 These Guidelines are subject to the obligations of Trustees described in governance policy G003.

### **3. Meetings of Consumers**

- 3.1 Pursuant to section 101 of the Electricity Industry Act 2010, TECT is obliged to hold an annual meeting of Consumers at which time:
  - 3.1.1 Consumers will appoint an auditor to hold office from the conclusion of that meeting until the conclusion of the next annual meeting of Consumers; and
  - 3.1.2 Consumers will be allowed a reasonable opportunity to question, discuss or comment upon the management of the Trust.
- 3.2 Trustees shall give no less than 14 days' notice of the annual meeting of Consumers in the news section of two separate editions of each newspaper that is widely read by Consumers.

### **4. Disclosure of Trust Information**

- 4.1 TECT undertakes to make Trust Information available to Consumers in accordance with its obligations under the law and pursuant to this policy.
- 4.2 Trustees are obliged to make available to Consumers upon request:
  - 4.2.1 The Trust Deed (as amended from time to time) which governs TECT;
  - 4.2.2 Financial statements of TECT, which may include a statement of assets and liabilities and a statement of income and expenditure;
  - 4.2.3 TECT's annual report;
  - 4.2.4 Minutes of annual meetings;
  - 4.2.5 This policy; and
  - 4.2.6 Any other information which TECT makes publicly available, whether through its website or any other means.
- 4.3 Consumers may request in writing for disclosure of Trust Information other than that referred to in clauses 4.1 and 4.2.
- 4.4 Information requested under clause 4.3 may be withheld by the Trust where there is good reason to do so including in the following circumstances:
  - 4.4.1 To protect the privacy of an organisation or natural person, including that of deceased natural persons; or
  - 4.4.2 Where the making available of the information would or would be likely to prejudice the commercial position of the organisation or person who supplied or is the subject of the information; or
  - 4.4.3 Where the disclosure of the information would or would be likely to prejudice the commercial position of any other organisation or person, whether or not that person supplied the information to the Trust; or
  - 4.4.4 To protect information which is otherwise subject to an obligation of confidence;
  - 4.4.5 Where the information is required to be withheld in order to enable the Trust, or any entity in which the Trust has any form of investment, to carry out, without prejudice or disadvantage, commercial activities or negotiations; or
  - 4.4.6 Where the disclosure of the information would or would be likely to prejudice the commercial position of the Trust or any entity in which the Trust has any form of investment; or

- 4.4.7 To prevent the disclosure or use of the information for improper gain or improper advantage; or
  - 4.4.8 To maintain legal professional privilege including litigation privilege; or
  - 4.4.9 To protect information relating to the exercise by the Trustees of any discretionary power, subject to any contrary principle of law; or
  - 4.4.10 Where the request for information is frivolous or vexatious; or
  - 4.4.11 Where the information requested is not Trust Information.
- 4.5 Where a request under this policy relates to information described in clause 4.4, the Trust, if it is satisfied that the interests protected by that information would be likely to be prejudiced by the disclosure of the existence or non-existence of such information, may give notice in writing to the relevant Consumer that it neither confirms nor denies the existence or non-existence of that information.
- 4.6 In considering a request for disclosure of Trust Information the Trustees shall, in addition to the matters set out at clause 4.4 above, consider the matters set out in section 53 of the Trusts Act 2019 including:
- 4.6.1 The nature and context of the request for information; and
  - 4.6.2 The nature of the interests of the beneficiary, and the other beneficiaries, of TECT, including the degree and extent of the beneficiary's interest in the trust and the likelihood of the beneficiary receiving trust property in the future; and
  - 4.6.3 The circumstances of the beneficiary and of the other beneficiaries of TECT; and
  - 4.6.4 The effect on the beneficiary, other beneficiaries and third parties of giving the information; and
  - 4.6.5 The practicality of giving information to all beneficiaries or a class of beneficiaries; and
  - 4.6.6. The practicality of imposing restrictions and other safeguards on the use of the information (for example, by way of an undertaking, or restricting who may inspect the documents); and
  - 4.6.7 The practicality of giving some or all of the information to the beneficiary in redacted form.

## 5. Procedure

- 5.1 A Consumer may only request disclosure of Trust Information in writing.
- 5.2 Before TECT is required to respond to a request, the Consumer must provide evidence to demonstrate to the Trustee's satisfaction that person's status as a beneficiary of the Trust, provided that such a requirement will not be used to unduly delay the processing of a Consumer's request.
- 5.3 Once Trustees are satisfied of the Consumer's status, they shall as soon as is practicable, and no longer than 20 working days after receipt of the request for Trust Information, decide whether the request is to be granted.
- 5.4 The request for Trust Information shall be dealt with in the following manner:
  - 5.4.1 If the Trust agrees to disclose the whole or any part of the information requested then, where the information is comprised in a document that information may be made available for inspection at the TECT office or at any other place advised by the Trust, or by providing to the Consumer a copy of the document. If the information requested is comprised in a Document and there is a good reason for withholding

other information contained in that Document, the information in that Document may be made available with such deletions or alterations as are necessary.

5.4.2 Subject to clause 4.5 above, if the request is declined in whole or in part, Trustees will provide the Consumer with reasons for the refusal.

5.5 TECT may fix reasonable charges in respect of the collection and provision of Trust Information and may require payment of those charges before any information is provided to the Consumer.

5.6 Trustees shall inform the Consumer in writing of his or her right to seek a review under these Guidelines of the refusal by the Trust to provide any Trust Information requested.

5.7 The Consumer shall advise TECT in writing of a request for a review of the Trust's decision. A Consumer's request for a review shall be without prejudice to any other rights which the Consumer may have in respect of the Trust's decision.

## 6. Reviewer

6.1 The decisions of the Trust under clause 5 above shall be subject to review pursuant to this policy by a Reviewer appointed by the Arbitrators' and Mediators' Institute of New Zealand Inc. ("AMINZ").

6.2 Upon receipt of written notice from a Consumer requesting a review of the decision of TECT, the Trust shall initiate the appointment process in clause 6.1.

6.3 TECT shall notify the Consumer of the identity and contact details of the Reviewer once appointed.

## 7. Review Process

7.1 The Reviewer shall investigate a complaint referred for review and may act as a conciliator in relation to the complaint.

7.2 The Reviewer shall conduct and conclude the investigation with due expedition and no later than 60 working days after receipt of the complaint. Within that time, the Reviewer shall give the Consumer and Trustees the opportunity to provide written submissions.

7.3 At the conclusion of the investigation, the Reviewer shall issue a written opinion concerning the complaint. In the written opinion the Reviewer may, among other things:

7.3.1 Recommend to the Trust that the whole or any part of the information requested by the Consumer be provided to the Consumer;

7.3.2 Uphold the Trust's decision not to disclose the information on the grounds advanced by TECT, or on other grounds identified by the Reviewer which are consistent with the provisions of these Guidelines;

7.3.3 Without limiting the above, the Reviewer may decide to recommend that the information not be disclosed to the Consumer if the Reviewer considers that:

i) The length of time that has elapsed between the date when the complaint arose and the date when the complaint was made is such that actions or recommendations in respect of the complaint are no longer practicable or desirable; or

ii) The subject matter of the complaint is trivial; or

iii) The complaint is frivolous or vexatious or is not made in good faith.

7.4 The Reviewer shall deliver a copy of the opinion to the Consumer, the Trust and the Chief Executive Officer of AMINZ.

- 7.5 The Trust shall not be required to carry out any recommendations made by the Reviewer pursuant to clause 7.3.1.
- 7.6 The Reviewer shall be entitled to charge the Trust the reasonable costs incurred in respect of the investigation and the opinion.
- 7.6.1 A summary of the outcome of those reviews; and
- 7.6.2 The costs incurred in respect of those reviews.

## 11. Review of Guidelines

- 11.1 These Guidelines shall be reviewed by TECT no later than two years after their adoption and every three to five years thereafter with no more than five-year intervals between each review.



**BILL HOLLAND**  
**TECT CHAIRPERSON**

DATE: 21 July 2020

### Document History

Version	Date	Author/Editor	Modifications
1	September 2014	WW	<ul style="list-style-type: none"> <li>Reformatted from original policy. Content derived from TECT Code of Practice &amp; subsequent HOBEC document (signed by Trustees 14 November 2012)</li> </ul>
2	15 December 2017	WW	<ul style="list-style-type: none"> <li>Purpose - deleted section as it is a repeat of the Policy purpose section.</li> <li>Changed 'guidelines' to 'this policy' throughout document</li> <li>Commencement date – deleted section</li> <li>Monitoring of compliance with guidelines - deleted section due to practical application. There are many requests for information across any 12-month period.</li> <li>Publicity – deleted as section. Relates to code of practice. Policy to be published on website.</li> </ul>
3	21 July 2020	WW	<ul style="list-style-type: none"> <li>Added reference to Trust Act 2019</li> <li>Added 4.6</li> </ul>