

AIST Governance Code Public Sector Fund Guidance

Q1 – What does compliance with the Code require?

The Code requires all AIST member funds to demonstrate how they have fulfilled each of the 21 Code requirements or provide a reasonable explanation of why it was not possible to comply, or why it would not be in the interests of members of the fund if they were to comply (if not, why not reporting).

If compliance is not possible, or it is not in the best interests of the beneficiaries, it is expected that the fund clearly explains why this is the case.

Q2 – How does the Governance Code cater for public sector funds?

The AIST Governance Code recognises that public sector funds can have operational and governance structures that are not the same as those in industry and corporate funds.

These structures are typically a consequence of State or Territory legislation to which public sector funds are subject. These differences can restrict the fund’s ability to comply with the Code.

As is the case with the ASX corporate governance principles, compliance with AIST’s Code is on an ‘if not, why not’ basis. This reporting framework allows for all funds, including public sector funds, to fully report against the Governance Code.

If a public sector fund is unable to comply with a code requirement for any reason (for example due to legislative constraints) they should clearly report this against the relevant requirements in the Code. This would include details of the barrier preventing fund compliance.

Where the explanation is adequate there are no repercussions for funds that cannot comply with one or more Code requirements.

Q3 – What are some of the Code requirements that may present an issue?

This part includes some examples of where public sector funds may need to provide an explanation of why it was not possible to comply with Code requirements.

If one of these examples applies, the fund must clearly explain how it affects their ability to comply with the requirement:

Requirement	Example
<p>1.1 A profit-to-member superannuation Board must conduct all appropriate enquiries to ensure that nominees have the appropriate skills and experience before appointing a person as a trustee director. For the appointment of representative directors in particular, this includes engagement with sponsoring organisations.</p>	<p>State or Territory legislation may provide that directors are appointed by a Government Minister or Department and not the board.</p> <p>However the fund may wish to detail their involvement in the appointment process with the Government where appropriate. This may include outlining the skills, experience, qualifications and characteristics that a desirable candidate would have.</p>

<p>1.2 A profit-to-member superannuation fund must have a written agreement with each trustee director and senior executive setting out the terms of their appointment.</p>	<p>A director's term of appointment may be contained in State or Territory legislation, not a separate written agreement. However funds are encouraged to outline the duties to directors, policies and procedures that they are expected to comply with.</p> <p>Senior Management of the fund may be employed by a government agency, such as Treasury. As such the written agreement would be between Treasury and the employee, not the trustee and employee.</p>
<p>1.4 Profit-to-member superannuation funds must have a written diversity policy, appropriate to the circumstances of the fund, which sets out clear and measurable objectives and provides for annual reporting to the Board and members. This policy must establish objectives concerning gender balance as a minimum, with other forms of diversity considered by the fund as appropriate. Objectives must relate to processes, which may, but do not necessarily, include targets for participation at Board and management levels, to ensure that the fund taps the broadest talent pool and is responsive to the needs of all its members.</p>	<p>State or Territory legislation may provide that directors are appointed by a Government Minister or Department and not the board.</p>
<p>1.6 The Board of a profit-to-member superannuation fund must have a documented process for evaluating the performance of the senior management. The fund should disclose whether such a performance evaluation was undertaken during the reporting period.</p>	<p>The evaluation of senior management may be the responsibility of a government department such as Treasury, rather than the trustee. Disclosure of whether an evaluation took place may therefore be a matter for Treasury, not the trustee. There may be scope for the trustee to request Treasury to allow this disclosure.</p>
<p>2.1 The Board of a profit-to-member superannuation fund must have a committee responsible for Board renewal that has at least three members. The committee must have a charter that is disclosed and it should meet at least annually. For each reporting period the fund must disclose the members of the Board renewal committee and attendance records for any meetings during that period.</p>	<p>State or Territory legislation may provide that directors are appointed by a Government Minister or Department and not the board.</p> <p>If the role of the board in this process is limited, it may not be appropriate to provide a committee with renewal responsibilities.</p>
<p>2.5 The Chair of a profit-to-member superannuation fund Board must be appointed by the Board, and must satisfy all the requirements of skill and experience identified in the fund's skills matrix for the role of Chair</p>	<p>State or Territory legislation may provide that the Chair is appointed by a Government Minister or Department and not the board.</p>