

GUIDELINE No KSGN1 : UNREASONABLE FEES (Issued pursuant to section 127 of the KiwiSaver Act 2006)

The Government objective for KiwiSaver is to establish a low cost work-based savings scheme. In general terms the KiwiSaver Act 2006 (“the Act”) expounds the principle that the fees should not be unreasonable and should reflect the services provided. The fee definition is included in the Act. The definition of fees includes all costs to be deducted either directly or indirectly from the member’s KiwiSaver account.

The Act envisages the possibility of guidelines from this office. This guideline advises how I will view fees to be charged directly to the fund, firstly in the event of a complaint being received about unreasonable fees and secondly following receipt of the trustee annual report and the annual (audited) financial statements.

This Guideline is to be read in conjunction with Schedule 1 Rule 2 of the Act and regulations 10 to 12 inclusive of the KiwiSaver Regulations 2006. I note that regulation 11(a) permits me to consider a relevant fee or fees.

When considering fees I must review the total picture including all possible fees. There will be many variations in the way providers deduct fees. Most fees will be clearly defined as a dollar amount or as a percentage of funds under management. Some fees may be defined as being charged directly to the fund.

For registration purposes, I have been considering total fees for the period prior to the next annual report. To date total fees for KiwiSaver Schemes have commonly been expressed in general terms as a (dollar) member charge and a management charge based on a percentage of funds under management. The management charge is usually broken down into an investment charge, an administration charge and a trustee fee.

Sometimes other specific charges have been identified in the fees statement as being charged to the fund as they are incurred. It is important that such charges affect each member equitably. It is equally important for members to understand the significance of these charges. And it is therefore not unreasonable to consider an expectation of the level of such charges in any one year. In light of the degree of differing industry practice in this area and the amount of flexibility contained in some trust deeds and investment statements I have decided that I should give guidance on how I will assess the fees which have not been specifically defined in numerical terms in a fees statement.

In general terms I would expect the total of such non-numerically defined charges and expenses in a fees statement to be no more than 0.2% of funds under management in the first year of operation of a KiwiSaver Scheme. This total would apply to each individual fund. For clarity, I would expect that the actual total charges and expenses should not exceed 0.2% in the first year, not simply that the total would be 0.2%. In future years I would expect this total to be a smaller percentage of funds under management as funds increase and the fund achieves greater economies of scale.

If the maximum management fee is less than 1% of funds under management for all funds and the Trust Deed permits administrative charges and expenses to be charged against the fund, then I would consider acceptance of a higher figure than 0.2% in the first year, subject to proof that such administration charges and expenses are not included in the management fee and that the non-numeric fee reflects the way the particular fund will recover its administrative costs.

Whilst the above has concentrated on the non-numeric fees, my review will consider the total fees of which this is the non-numerically defined part. To avoid any doubt, I would confirm that this guideline cannot be used to compromise the fiduciary obligations of Trustees.

I will be happy to discuss with providers exceptions to the above but would expect the discussion to be based around an analysis that demonstrates that the totality of the fees are not unreasonable and reflect the services provided.



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Disclaimer

The purpose of this guidance note is to provide general guidance on how the Government Actuary will view fees to be charged directly to a KiwiSaver Scheme. This guidance note has no legal status or legal effect whatsoever and users of this guidance note are encouraged to obtain their own professional advice on the KiwiSaver Act 2006 and the KiwiSaver Regulations 2006. The Government Actuary disclaims any and all liability or responsibility for any loss or damages arising out of any use of, or reliance on, this guidance note.