

DELEGATED AUTHORITY

Overview

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Function(s)	Corporate Administration, Management and Governance
Directorates	ADHB Generic
Department(s) affected	All ADHB services
Patients affected (if applicable)	n/a
Staff members affected	All ADHB staff members
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Section:	Delegated Authority	Issuer:	Chief Executive Officer
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Overview, Continued

Purpose

States the key principles underpinning Delegated Authorities.

Details the authorities delegated to the Board Sub-Committees and the Chief Executive of the ADHB.

Lists the statutory powers delegated to the ADHB staff directly or indirectly.

Details the Framework within which Delegation of Authority is exercised.

Scope

This Policy applies to:

- Board Members
 - Committees
 - Chief Executive
 - Employees
 - Persons or class of persons approved by the Minister
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DELEGATED AUTHORITY

Overview, Continued

NZPHD Act

ADHB is a body corporate owned by the Crown established under section 19 of the New Zealand Public Health and Disability Act 2000 (“the Act” or “the NZPHD Act”).

The Board of ADHB is required by the NZPHD Act to formulate a policy for the exercise of its delegation powers under the Act, review the policy, amend or replace it as appropriate, and make it publicly available (clause 39(1) of Schedule 3). The Minister of Health must approve formulations, amendments and replacements of any such policy (clause 39(2) of Schedule 3).

The Act requires that every exercise by the Board of a power of delegation under clause 39 of Schedule 3 comply with the Board’s delegation policy (clause 39(3) of Schedule 3).

This policy records how the Board intends to exercise its powers of delegation, and the reasons for doing so. It sets out the process the Board will undertake when delegating any of its functions, duties or powers, and covers the criteria the Board will use in that process.

This Delegated Authority policy replaces all previous Delegated Authority policies of ADHB.

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Legislative Framework for Delegations

Objectives

The objectives of a District Health Board (“DHB”) are set out in section 22 of the NZPHD Act.

Functions

The functions of a DHB are set out in section 23, the role of a DHB in section 26, and the duties of Board members in section 27.

Authorities

Clause 39 of Schedule 3 of the Act authorises the Board of each DHB to delegate any of the functions, duties, or powers of the Board or of the DHB to:

- A committee of the Board
 - A member of the Board
 - An employee of the DHB
 - A person or class of persons approved by the Minister for the purpose
-

Delegation

Every delegation of the Board of any of the functions, duties, or powers of the Board, or of the DHB, must be in writing (clause 39(4) and (5) of Schedule 3).

A delegation of a function, duty, or power is revocable at will and does not prevent the Board or the DHB from performing the function or duty, or exercising the power (clause 39(6) of Schedule 3).

A delegation may be to any named person or to any member of a specified class of persons: and, if made to a specified class of persons is, unless it provides otherwise, to each member of the class for the time being, even though the membership of the class has changed since the delegation was made (clause 39(7) of Schedule 3).

Policy Review

The Board will review this policy every three years on or near to 01 June, or at any other time as it sees fit. The Minister of Health must approve any amendments that the Board wishes to make to this policy for compliance with clause 39 of Schedule 3 of the NZPHD Act.

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Associated Documents

Associated Documents

The table below indicates other documents associated with the Delegated Authority Policy.

Type	Document Titles
Legislation	<ul style="list-style-type: none"> • New Zealand Public Health and Disability Act 2000 • Public Finance Act 1989 • Crown Entities Act 2004
Delegated Authority	<p>Delegated Authority Register</p> <ol style="list-style-type: none"> 1. – Human Resources 2. – Supplies & Services 3. – Capital 4. – Funding Initiatives 5. – Facilities Management 6. – Legal & Administration 7. – Healthcare Agreements 8. – Financial Systems 9. – Clinical Research 10. – A+ Charitable Trust
Terms of Reference	<ul style="list-style-type: none"> • Disability Support Advisory Committee • Hospital Advisory Committee • Community & Public Health Advisory Committee • Audit Committee • Quality Committee • Maori Health Advisory Committee

DELEGATED AUTHORITY

Policy – Key Principles

Key Principles

Compliance with this policy is mandatory

No person or group of persons may exercise a delegated authority on behalf of the ADHB if they stand to gain personally from the transaction or if they have some other conflict of interest

No individual may approve timesheets, leave, business related or other expenditure which relates to that individual. The one up referral principle must be applied.

Authorities delegated apply only to areas within the control of the person specified.

The exercise of a delegation must be in the best interests of ADHB and be executed in good faith.

The Internal Control principle of appropriate separation of duties must be observed. The person approving expenditure should not be the same person approving payments.

The principle of “one removed” must be applied when Human Resource decisions are made. The agreement of “one senior” to the individual making the Human Resource decision must be obtained.

Delegations may only be exercised within approved annual:

- Business plans
- Operating budgets and
- Capital expenditure budgets

No sub delegation shall diminish the responsibility of the person holding a standing delegation for the way in which the delegation is exercised.

Sub delegations must only be made to individuals/Committees with appropriate skills and training.

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DELEGATED AUTHORITY

Policy – Key Principles, Continued

Key Principles continued

No sub delegations may exceed the powers of the persons delegating the authority.

All delegations must be in writing specifying limits and any special conditions.

A delegate may not sub-delegate the authority unless the terms of the delegation expressly provide the authority to do so, or the delegate has the written consent of the Board.

The Board must be advised of any breach of delegation of authority which has or may have the effect of undermining the governance by the Board of ADHB irrespective of amount. Where there is uncertainty regarding reporting to the Board, a conservative approach must be adopted and the matter reported.

Where the CE has breached Delegation of Authority the matter must be reported to the Board. All other breaches within the Delegated Authority of the CE must be reported to the CE.

Any change to the Delegated Authority Policy must be authorised by the Minister of Health.

All authority limits in this policy are exclusive of G.S.T.

If any employee having validly made and given a delegation to another employee, ceases to hold office, that delegation continues to have effect, as if made and given by the successor to the person ceasing to hold office.

Board approval is required for any proposal that might attract significant adverse publicity or can with reasonable foresight be predicted to result in legal action against the ADHB.

Disclosure to the Board of all transactions that may attract strong external interest although the value of the transactions may fall within management delegations must be made in a timely manner.

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Delegations

Board Powers – General Authority

The board of a DHB has all powers necessary for the governance and management of the DHB (Sec 26 Part 3 of the NZPHD Act) except for the specific restrictions listed below which require the consent of the Minister of Health (unless otherwise noted). The Boards Powers may also be constrained by the provisions of its accountability documents with the Crown.

The Chair of the Board is the principal spokesperson for ADHB on all policy and political issues.

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Specific Restrictions

Specific Restrictions

Consent from the Minister of Health is required for the following:

- Policy for exercise by the Board of its powers of delegation.
- Determination or amendment of ADHB District Strategic Plan.
- Agreement of ADHB Annual Plan.
- Entry into a co-operative agreement or arrangement with any other person to assist ADHB to meet its objectives, enhance health or disability outcomes, or enhance sector efficiencies, which is not authorised by ADHB Strategic or Annual Plan.
- Negotiate, enter into or amend Service agreements which are not authorised by the ADHB Annual Plan.
- Finalising of collective agreements by the Chief Executive (consultation with Director General of Health required).
- Delegation of Board powers to other than a member of the Board, a Committee of the Board or an employee of ADHB.
- Sale, exchange, mortgage or charging of land.
- Holding shares or interests in a body corporate, partnership, joint venture, or other association of persons.
- Settle, or be or appoint a trustee of, a trust.
- Using the proceeds of sale or exchange of land for other than the purchase, improvement, or extension of publicly-owned facilities for health purposes

Consent from the Minister of Finance is required for the following:

- "Raising a loan" as defined in the Public Finance Act 1989 which includes:
 - Borrowing
 - Entering into hire purchase agreements
 - Entering into financing lease arrangements
 - Accepting debt on assignment from other persons
- Investment of money other than:
 - On deposit with a New Zealand bank
 - In any security issued by a New Zealand bank
 - In any public security"Bank" and "public security" as defined in the Public Finance Act.

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Specific Restrictions, Continued

**Action &/or
Document
Requiring Consent**

Action and/or Document Requiring Consent:

- Granting a lease or licence over land for a term (including rights of renewal) of **more than 5 years**.
 - Finalising of and amending terms and conditions of employment of the Chief Executive (consent of State Services Commission required).
 - Issuing of a notice under section 88 (the old "section 51" notice) in certain circumstances.
 - Training provided by ADHB to Board members.
 - Adoption of a different operating name
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Delegation to Board Committees

Committees

The Board may delegate to a committee of the Board any of the functions, duties or powers of the Board or of ADHB pursuant to clause 39(4) of Schedule 4 of the NZPHD Act.

The following committees of the Board have been established in accordance with Part 3, Section 34, Section 35, Section 36 and Schedule 3, Paragraph 38 of the NZPHD Act.

Statutory Committees:

- [Community & Public Health Advisory Committee](#)
- [Disability Support Advisory Committee](#)
- [Hospital Advisory Committee](#)

Other Board Committees:

- [Audit Committee](#)
- [Quality Committee](#)
- [Maori Health Advisory Committee](#)

[Addendum 2](#) provides more detail regarding these committees.

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Delegation to Persons Outside DHB & Board

Approval

If the Board desires to delegate any functions, duties, or powers to persons who are neither Board members nor employees of the ADHB, the prior approval of the Minister of Health is required.

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Delegation to Chief Executive

General Authority In accordance with section 26(3) Part 3 of the NZPHD Act the Board delegates to the Chief Executive the power necessary to make decisions on management matters relating to the ADHB except for the restrictions detailed above and within the restrictions detailed below.

The Chief Executive is the principal spokesperson for all Auckland District Health Board operational and staff issues.

The Chief Executive may sub-delegate authority either wholly or in part to staff as appropriate.

Where a person who is not an employee has been appointed to perform functions and duties in an acting capacity or within a long term project (more than one year), for example a consultant, the Chief Executive may sub delegate powers to that person necessary to perform that function.

Specific Restrictions

[Addendum 1](#) contains specific restrictions applicable to the Chief Executive.

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Conflicts of Interest

Conflicts of Interest In this policy, “conflict of interest” has the meaning given to that expression in section 6 of the NNPHD Act.

Where a person who is to perform a function or duty, or exercise a power, delegated by the Board, that person must, before performing the function or duty, or exercising the power, consider whether or not he or she has (or, as the case requires, will have) on that day any conflicts of interest with the ADHB.

If the person has (or will have) any such conflict of interest, the person must give the Board a statement completed by the person in good faith that discloses those conflicts of interest, together with any such conflicts of interest the person believes are likely to arise in future (clause 39(8) of schedule 3).

A delegate who has completed a statement under subclause 39(8) must inform the Board of any relevant change in the delegate’s circumstances affecting a matter disclosed in that statement, as soon as practicable after the change occurs (clause 39(9) of Schedule 3).

A delegate who is interested in a transaction of the ADHB, may not perform a function or duty, or exercise a power, under the delegation, if the function, duty, or power relates to the transaction (clause 40(2) of Schedule 3). However, this limitation does not apply if the Board of the Auckland DHB gives its prior written consent to the delegate performing the function or duty, or exercising the power, even though the function, duty, or power relates to the transaction (clause 40(3) of Schedule 3).

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Other Powers, Duties & Functions

Other Powers, Duties & Functions

The general provisions of certain Acts and Regulations bind DHBs.

Such provisions may take the form of a delegation, appointment, designation or authorisation. As a result certain DHB staff will exercise statutory powers. Such staff members are referred to as the “Holder of Statutory Power”.

The Board believes it is important that such delegations, appointments, designations or authorisations be recorded as part of the Delegated Authority Policy and have appointed the Chief Financial Officer to be responsible for ensuring compliance with these Acts and Regulations.

Where an employee of the Board holds such a delegation, appointment, designation or authority they have a duty to advise the Board Administrator who will maintain a Register of Delegations, Appointments, Designation or Authorisations.

[Addendum 3](#) contains specific powers, duties and functions.

Statutory Obligations Register

Due to the large number of Acts and Regulations in existence it may not been possible to establish a complete list of all such statutory delegations, appointments, designations and authorisations.

The following Acts and Regulations have been identified as being relevant to the DHB. This is not a complete list of all statutory powers delegated to Board employees.

DELEGATED AUTHORITY

Governance Framework

Framework Components

Components of the governance framework include the following:

- Notification
- Recording
- Amendments
- Removal
- Monitoring
- Reviewing
- Coverage during absences
- Disclosure

[Addendum 4](#) contains detailed explanations of each component.

Decision Support

The Chief Executive has established the Expenditure Committee.

The purpose of the Committee is to assist the Chief Executive in the management of the ADHB in the following areas of approvals:

- Capital expenditure
- Products and services expenditure
- Property transactions.

All projects in excess of \$50k must be submitted to the Expenditure Committee for consideration. In addition the Committee reviews the supplier selection process ensuring that good purchasing practice and decision-making principles have been applied appropriately.

The Chief Executive has established the Funding Management Committee.

The purpose of the Committee is to assist the Chief Executive in the management of the ADHB in the following areas of approvals:

- Service developments, contracts and projects
 - Service rationalisation and terminations
 - Disinvestment decisions
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DELEGATED AUTHORITY

Addendum 1 – Specific Limitations – Chief Executive

Description	Limit	Conditions
Supplies and Services		
To authorise expenditure or contract for Supplies and Services.	Up to \$3,000,000	Taking into account recommendations of the Expenditure Committee
Authorised requisitions of supplies and services	Up to \$5,000,000	
Engagement of Consultants		
To authorise expenditure for the services of a consultant or group of consultants to perform a defined task.	Up to \$250,000 per annum.	Defined task must not exceed three years in duration.
Rental of equipment other than hire purchase, financing leases or premises leases		
To enter into rental agreements	Up to \$500, 000 in accumulated total	
Renewal of contracts		
To authorise the renewal of a contract for the supply of goods and/or services.	Must not exceed 120% of the original approved contract amount and the increase in cost is less than \$750,000	The term to be renewed plus all prior terms under the contract not to exceed 5 years in total.
Capital		
To authorise expenditure for items included in the official annual ADHB Capex budget or the official annual ADHB major maintenance budgets.	Up to \$500,000	Taking into account recommendations of the Expenditure Committee
To authorise expenditure for items not included in the official annual ADHB Capex budget or the official annual ADHB major maintenance budgets	Up to \$250,000	
To sell or dispose of capital equipment.	Book value under \$200,000	

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Addendum 1 – Specific Limitations – Chief Executive, Continued

Description	Limit	Conditions
Project Management		
Contingencies, substitutions and utilisation of savings. Authority to incur cost up to above the line item budgeted amount as per approved Business Case	Up to \$250,000 per decision	<ul style="list-style-type: none"> • Must be approved by the Project Sponsor. • The value of the collective changes must not exceed the original contingency provided in the Business Case. • Substitutions are between line items only. The original business case costs must not be exceeded. • Savings utilisation limited to 50%
Facilities Management		
To enter into or terminate leases, licences and other rental agreements	Up to \$500, 000 in accumulated total	
To purchase and sell land and buildings.	No delegation.	

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DELEGATED AUTHORITY

Addendum 1 – Specific Limitations – Chief Executive, Continued

Description	Limit	Conditions
Legal and Administration		
Authority to initiate or defend non debt recovery litigation on behalf of the ADHB	Up to \$100,000	
Authority to sign legally binding documents on behalf of the ADHB not specified elsewhere in this policy	Up to \$1,000,000	Any new contracts or major revision of an existing contract must be sent to the General Counsel for review. All contracts required by law to be in the form of the Deed must be sent to the General Counsel.
To settle claims against the ADHB	Up to \$100,000	All settlements >\$25k to be reported to the Board each month.
Granting a guarantee and/or indemnity, or giving security, for the obligations of any other person	No Authority.	
Healthcare Agreements		
Authority to sign/complete funding agreements with external funder organisations	Up to \$10,000,000	Taking into account recommendations of the Funding Expenditure Committee
Authority to sign service agreements for patient care from a third party provider.	Up to \$5,000,000 per annum	
Authority to approve a variation to an existing contract	Up to \$1M	
Financial Systems		
Authority to write-off bad debts	Up to \$100,000 per debtor	Bad debts >\$10,000 in value which are written off must be reported to the Board in the month of write off.

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DELEGATED AUTHORITY

Addendum 2 – Board Sub-Committees

Disability Support Advisory Committee

The Committee is established by and accountable to the Board. The Committee's role is advisory only, unless specifically delegated by the Board from time to time in accordance with clause 39(4) of Schedule 3 of the Act, no decision-making powers are delegated to the Committee.

The Committee shall provide advice and make recommendations to the Board only, and is not authorised to give any directions or issue any instructions to ADHB officers or employees.

Hospital Advisory Committee

The Committee is established by and accountable to the Board. The Committee's role is advisory only, and unless specifically delegated by the Board from time to time in accordance with clause 39(4) of Schedule 3 of the Act, no decision-making powers are delegated to the Committee.

The Committee shall provide advice and make recommendations to the Board only, and is not authorised to give any directions or issue any instructions to ADHB officers or employees.

Community & Public Health Advisory Committee

The Committee is established by and accountable to the Board. The Committee's role is advisory only, and unless specifically delegated by the Board from time to time in accordance with clause 39(4) of Schedule 3 of the Act, no decision-making powers are delegated to the Committee.

The Committee shall provide advice and make recommendations to the Board only, and is not authorised to give any directions or issue any instructions to ADHB officers or employees.

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DELEGATED AUTHORITY

Addendum 2 – Board Sub-Committees, Continued

Audit Committee The Audit Committee is a committee established by the Board under clause 38 of Schedule 3 of the Act.

The Audit Committee's role is advisory only, and unless specifically delegated by the Board from time to time in accordance with clause 39(4) of Schedule 3 of the Act, no decision making powers are delegated to the Committee.

Maori Health Advisory Committee The Maori Health Advisory Committee is a committee established by the Board under clause 38 of Schedule 3 of Act.

The Maori Health Advisory Committee's role is advisory only, and unless specifically delegated by the Board from time to time in accordance with clause 39(4) of Schedule 3 of the Act, no decision making powers are delegated to the Committee.

Quality Committee The Quality Committee is a committee established by the Board under clause 38 of Schedule 3 of the Act.

The Quality Committee's role is advisory only, and unless specifically delegated by the Board from time to time in accordance with clause 39(4) of Schedule 3 of the Act, no decision making powers are delegated to the Committee.

DELEGATED AUTHORITY

Addendum 3 – Other Powers, Duties & Functions

Act or Regulation	Responsible Party	Description of Statutory Provision	Holder of Statutory Power
Archives Act 1957	DHB	DHB contracting arm is bound by the regulations but provider arm is not.	N/A
Accident Insurance Act 1998 (s353, s369)	Chief Executive	Ability to request from and disclose to ACC information as detailed in the Act.	Manager Occupational Health
Charitable Trust Act 1957 s51	DHB	Administer property, income or money that is subject to a scheme approved under part 3 or 4 of the Act.	Trustees
Children, Young Persons and Their Families Act 1989 s141 (7)	DHB	Authorisation of suitable persons or organisations to issue certificates under s145 relating to appropriate facilities and staff for the care of severely mentally or physically disabled children or young persons.	General Manager - Community & Mental Health
Civil Defence Act 1983 s43	DHB	Maintain plans for the continuation to the fullest possible extent of its essential functions during and following a state of national emergency and civil defence emergency	
Code of Health and Disability Services Consumers' Rights	DHB	Duty to Comply	N/A
Education Act 1964	DHB	If a DHB is operating a licensed childcare centre then statutory and regulatory requirements must be met	
Electoral Act 1993	DHB	For the purposes of any election for a DHB, an officer of a Local Authority may obtain information from the Chief Register of Electors for the purposes of conducting an election.	Board Administrator

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Addendum 3 – Other Powers, Duties & Functions, Continued

Act or Regulation	Responsible Party	Description of Statutory Provision	Holder of Statutory Power
Food Act 1981 s7(2)	Director General of Health	The Director-General may from time to time appoint any person, not being a member of the Public Services, as an analyst or officer for the purposes of the Act.	Employees as appropriate
Health Act 1956	DHB	Various duties to comply with provisions of the Act	N/A
Health Act (s22G)	Chief Executive	Ability to authorise record inspections and request that providers make records available for inspection.	General Manager - Funding and Service Planning
Health Act 1956 s125	Medical Officers and other authorised persons	s125 authorises Medical Officers and Public Health Nurses to enter public schools or early childhood centres at all reasonable times to examine children - with or without the consent of parents/guardians.	Employees authorised by Minister of Health
Health (Infectious and Notifiable Diseases) Regulations 1966	DHB	Duty to Comply	N/A
Health Information Privacy Code 1994	DHB	Duty to Comply	N/A
Health (Needles and Syringes) Regulations 1998	DHB	Duty to Comply	N/A
Health (Retention of Health Information) Regulations 1996	DHB	Duty to Comply	N/A
Health Act 1956 (Medical Officers of Health) s7A (1)	Director General of Health	The Director-General shall from time to time designate as Medical Officers of Health such persons as, in the opinion of the Director-General, are required.	Employees appointed by Director General of Health

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Addendum 3 – Other Powers, Duties & Functions, Continued

Act or Regulation	Responsible Party	Description of Statutory Provision	Holder of Statutory Power
Health Act 1956 s7A (4)	Director General of Health	The Director-General shall from time to time designate as Health Protection Officers such persons as, in the opinion of the Director-General, are required.	Employees as appropriate.
Mental Health (Compulsory Assessment and Treatment) Act 1992 s99B	Chief Executive	A person in charge of a hospital may delegate any of his or her powers, duties and functions, except the actual power of delegation itself to a person who is suitably qualified to exercise it.	Employees as appropriate.
Ombudsmen Act 1975	DHB	Duty to Comply	N/A
Privacy Act 1993	DHB	Duty to Comply	N/A
Public Health and Disability Act 2000	DHB	Duty to Comply	N/A
Public Finance Act 1977	DHB	Duty to Comply	N/A
Social Security Act 1964	DHB	Duty to Comply. Needs assessment for entry into long term residential care under section 69F(1) of the Social Security Act 1964 is delegated to the manager of Auckland District Health Board's NASC service with the authority to sub-delegate the authority as appropriate with this authority to be exercised in consultation with ADHB clinicians.	Manager of ADHB NASC Service or sub-delegate.
Smoke Free Environments Act 1990 s14 (1)	Director General of Health	Carry out compliance investigations under Part I of the Act. (S4)	Employees appointed by Director General of Health
Water Supplies Protection Regulations 1961	DHB	Duty to Comply	N/A

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Addendum 4 – Governance Framework

	Comment
Notification	All sub delegations of authority must be on the Auckland District Health Board form designed for this purpose. The form must be signed by the person delegating the authority and by the person accepting the authority.
Recording	All Delegation of Authority forms must be recorded in the Auckland District Health Board Delegated Authority Register. The Board Administrator must ensure that these authorities comply with the Delegated Authority Policy approved by the Minister and the Board of Auckland District Health Board.
Amendments	Any change to sub delegations of authority must be on the Auckland District Health Board form designed for this purpose. The form must be signed by both the person authorising the change as well as the person affected and must be recorded in the Auckland District Health Board Delegated Authority Register
Removal	When staff leave the Auckland District Health Board or when delegations of authority are no longer appropriate the change must be recorded in the Auckland District Health Board Delegated Authority Register.
Monitoring	<p><u>The Board Administrator must review the register of delegations with Senior Management annually to ensure:</u></p> <ul style="list-style-type: none"> • The delegations of authority are correctly recorded; and • To consult on the adequacy and appropriateness of the Delegated Authority Policy.
Reviewing	<p>The Internal Audit function will throughout the year perform detailed testing relating to compliance with the approved Delegated Authority Policy. The detailed testing will include accuracy and completeness checks of the Delegated Authority Register.</p> <p>The Internal Auditor will in conjunction with the Board Administrator conduct an annual review of the Delegated Authority Policy. This review will assess the adequacy, effectiveness and appropriateness of the existing Delegated Authority Policy. The review will culminate in a report to the Audit Committee of the Auckland District Health Board and the Chief Executive. In turn, a report will be issued to the Minister confirming that a review has taken place and making recommendations for change if any.</p>

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Addendum 4 – Governance Framework, Continued

	Comment
Coverage During Absences	<p>General Managers and others with standing delegated authorities must consider whether a temporary change to delegated authority is necessary to enable continuation of service when they are absent from work. The person who authorised the original delegation must approve any such temporary change.</p> <p>In all other cases when an employee holding delegated authorities is absent that authority reverts to the employee by whom it was delegated, unless the latter employee has specifically approved other arrangements in writing.</p>
Disclosure	<p>The Board Administrator will make the approved Delegated Authority Policy for the Auckland District Health Board publicly available.</p>
