

Policy and Procedure Guide

Subject:	Legal Access
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Date Effective: August 2011

Review Date: Before 31 December 2012

Responsible to: General Manager

Applies to: All staff, parents and guardians

Purposes:

1. All Association staff are required by law to ensure that the welfare of children is protected while in the kindergarten. Teachers are also required to observe Court orders that are made in respect of the care of children.
2. To clarify the rights of parents and other persons who have either guardianship or contact rights in relation to a child, and the responsibilities of kindergarten teachers in respect of the care and access arrangements with respect to children at a kindergarten.

Definitions:

- “Person having contact rights with a child”: a parent or other person who although not having custody of a child, continues to have contact rights and is entitled to exercise those rights.
- “Court”: means any of the Family Court, High Court or a District Court of New Zealand.
- “Guardian”: means a person, including a parent, of a child who has legal guardianship of a child.
- “Parenting Order”: a court order which decides the terms on which, and the and times during which, people named in the order provide day to day care for, or may have contact with, a child.
- “Child under guardianship of a Court”: where a child is a under guardianship of the Court both parents are deemed to be non-custodial parents and the terms of the order of the Court will determine contact rights

References:

- Care of Children Act 2004
- Family Court, High Court, or a District Court of New Zealand
- Ministry of Education guidelines

POLICY

1. Subject to any Parenting Order to the contrary (for example by limiting the scope of contact or decisions concerning a child by a person), guardians of a child regardless of custodial rights, are entitled to:
 - receive a copy of any written report made about the child’s development
 - discuss the development of the child with the Head Teacher
 - contribute to major decisions affecting the child
 - be part of parent consultation groups
 - see any records that are made available to parents

2. Kindergarten teachers shall take reasonable steps to assist guardians to avail themselves of these rights.
3. It is the responsibility of guardians and persons having contact rights with a child to inform kindergarten teachers of care and access arrangements and provide reasonable proof of those rights (for example where kindergarten staff consider it appropriate a copy of a Parenting Order should be provided and kept on file at the kindergarten).
4. Teachers, if they have reasonable doubts as to the identity, good faith or legal rights of any person wishing to make contact with a child at kindergarten, shall consult the guardian or a person who is known to have legal contact with the child.
5. A person not known to have legal contact with the child shall as a prerequisite to any contact with the child produce a copy of a Parenting Order by a Court granting that person contact with the child and they shall also provide proof of identity to the reasonable satisfaction of the kindergarten teacher.
6. Where there is any doubt, unrestricted contact with child shall not be permitted. In these situations the Head Teacher shall remain with the child at the kindergarten and the teacher may refer the issue regarding contact with the child by the person concerned to the Police or such other Government Agency as the teacher deems necessary

PROCEDURES

Registration and Admission:

1. On registration and/or admission of the child the Head Teacher should ascertain and record on the enrolment records the names and addresses of all guardians. Custodial, care and contact arrangements shall also be recorded together with a copy of a Parenting Order proving those arrangements
2. Teachers shall be clearly informed by a child's guardian of the rights of a parent of the child who is not a guardian of a child.
3. All teachers at the kindergarten are to be informed by a child's guardian of the legal care and contact arrangements pertaining to a child.
4. A photocopy of a current Parenting Order shall be supplied to teachers by a child's guardian.
5. Where care or contact arrangements change for a child it is the responsibility of a child's guardian to notify the teachers immediately.

General:

1. Where a person approaches teachers at the kindergarten and seeks contact with a child, the Head Teacher shall check the record of care and contact arrangements and seek (where possible) direction from a child's guardian.
2. Where there is a concern that a person is at the kindergarten, with the intention of attempting to uplift a child but that person has no legal right to do so, **the child's guardian and the police shall be telephoned immediately and their assistance sought.** The teachers will then also inform the Association as soon as practicable.

3. Teachers are not to become involved in, or attempt to mediate, disputes between persons who are the guardians of or who have contact rights with a child. Teachers shall make this policy known to guardians and persons having contact rights with a child if a dispute arises.
4. The child's guardian may give permission for the child to be picked up by anyone other than the guardian but teachers may require that the guardian's permission be given by the guardian in writing and kept on file at the kindergarten.
5. If difficulties arise that are not covered by these procedures, teachers should immediately contact a Senior Teacher or Association management for advice.