

CONSTITUTION
of the
**Northern Auckland Free
Kindergarten
Association Incorporated**

Approved at SGM June 2016

NORTHERN AUCKLAND FREE KINDERGARTEN ASSOCIATION INCORPORATED

CONSTITUTION

The following shall be the Rules of the Northern Auckland Free Kindergarten Association Incorporated as adopted by the Association on 16th June 2016.

1. NAME:

The name of the Association shall be Northern Auckland Free Kindergarten Association Incorporated (referred to as the Association).

2. DEFINITIONS

In this document:

"Association" means Northern Auckland Kindergarten Association Incorporated;

"Board" means the properly elected or appointed board of the Association and **"Board Member"** means a member of the Board;

"Chair" means at all General Meetings of the Association, the President. At all General Meetings of the Board or any sub-committee, in the absence of the President, the **"Chair"** is the person delegated by the Board to be the Chair at such meetings;

"Constituent Kindergarten" means any kindergarten administered and controlled by the Association, and **"Constituent Kindergartens"** means all such kindergartens;

"Constituent Early Childhood Service" means any early childhood service administered and controlled by the Association, and **"Constituent Early Childhood Services"** means all such early childhood services;

"Establishment Committee" means a group of interested parents who wish to work with the Association to form a new Constituent Kindergarten;

"Family Membership" means the membership of the parent(s) or legal guardian(s) of a child enrolled at a Constituent Kindergarten as set out in clause 5(a), and **"Family Member"** has a corresponding meaning;

"General Manager" means the general manager of the Association;

"General Meetings" means all meetings of the members of the Association properly called according to the procedure in clauses 8 and 9;

"Kindergarten Committee" means an informal committee established in respect of a Constituent Kindergarten (usually with involvement of teachers and Family Members associated with that particular Constituent Kindergarten);

"Early Childhood Services Committee" means an informal committee established in respect of a Constituent early childhood service (usually with involvement of teachers and Family Members associated with that particular Constituent Early Childhood Service);

"Life Member" means a person to who Life Membership has been conferred in accordance with clause 5(c), and **"Life Membership"** has a corresponding meaning;

"President" means the president of the Association elected in accordance with clause 6(c);

"Teacher Representative" means a teacher employee of the Association who is elected to the Board in accordance with clause 6(e);

"Teaching Services Manager" means the person employed as the teaching services manager for the Association.

3. REGISTERED OFFICE:

The registered office of the Association shall be at such a place as the Board shall from time to time determine. The General Manager shall notify the Registrar of Incorporated Societies of any change of location of the registered office.

4. OBJECTS:

The objects of the Association shall be to:

- a. Establish, administer and control Constituent Kindergartens, Constituent Early Childhood Services and Establishment Committees in the Northern Auckland area.
- b. To provide and support early childhood education.
- c. Do all such lawful things as are conducive to the attainment of the objects of the Association and the furtherance of early childhood education in New Zealand.

5. MEMBERSHIP:

Membership of the Association shall consist of:

- a. Family Membership will automatically be given to the parent(s) or legal guardian(s) of a child enrolled in a Constituent Kindergarten. The parent(s) or legal guardians are entitled to opt-out of their Family Membership.

the member resigning shall be deemed to no longer be a member of the Association. Resignation shall not extinguish any liabilities which arose during the period of membership.

- g. Any member who acts in a manner deemed by the Board to be contrary or prejudicial to the interests of the Association may be suspended from membership or have their membership terminated if not less than two thirds of the members present and entitled to vote at a General Meeting, vote in favour of such action.
 - i. No vote shall be taken to suspend or terminate the membership of any member until the member concerned has had the opportunity to respond in writing within 14 days of written notification of the Board's concerns and intention to suspend.
 - ii. A member who has had their membership suspended or terminated may only be reinstated as a member with the express consent of the Board.

6. BOARD:

- a. The Board of the Association shall be responsible for the governance, management and control of the affairs of the Association.
- b. The Board shall consist of:
 - i. A maximum of seven and a minimum of five members elected at the Annual General Meeting of the Association; and
 - ii. One Teacher Representative elected by teaching staff in accordance with clause 6(e); and
 - iii. The Association's General Manager and one Teaching Services Manager employed by the Association shall be ex-officio members of the Board, but shall not have any voting rights.
 - iv. In the event of the Association having more than one Teaching Services Manager, the representative on the board shall be determined by the General Manager of the Association; and;
 - v. The Board shall have the power to co-opt up to 3 additional persons with specific skills to assist in the attainment of the objects of the Association. Any person so co-opted shall have voting rights.
- c. The Board shall hold a ballot at the first Board meeting following the Annual General Meeting, to appoint from the Board Members elected in accordance with clause 6(b)(1):
 - the President of the Association; and
 - the Vice-President of the Association,

- d. No more than two Board Members elected in accordance with clause 6(b) (1) shall have a current affiliation with any one particular Constituent Kindergarten or Establishment Committee.
- e. The Teacher Representative shall be elected by the current teaching staff of the Association for a two year term. The election of the Teacher Representative will be by ballot and shall be limited to teachers permanently employed by the Association. The Board Membership of the Teacher Representative shall lapse if their employment with the Association ceases during the term of office. It shall be the responsibility of the Association teaching staff to elect a replacement Teacher Representative in such circumstances.
- f. In the event of a Board Member who is a registered teacher being required to teach on an extraordinary day-to-day relieving basis in preference to a parent reliever being the only other alternative, they may do so for not more than two days per month.
- g. The term of office for elected Board Members shall be two years.
- h. At the Annual General Meeting each year a minimum of three Board Members shall retire from office. Those members who have served the longest continuous period shall in the first instance be required to retire each year. A retiring member shall be eligible for re-election provided they have not served more than three consecutive terms in each of the roles of President, Vice-President or Board Member.
- i. A member of the Board may be removed from office by either a resolution passed by two thirds of Board or a resolution at a General Meeting passed by a two thirds majority of those present who are entitled to vote.
- j. Any member of the Board including the Teacher Representative who wishes to resign during their term of office may do so by forwarding a letter of resignation to the General Manager. The resignation shall be effective 30 days following receipt of the letter. Upon acceptance by the Board it will be acknowledged in writing by the General Manager.
- k. Any member of the Board who is absent from three consecutive Board meetings without leave of absence shall be deemed to have resigned. Leave of absence shall be deemed to have been granted if agreed by a majority of the Board.
- l. Following a Board Member's resignation or removal such a vacancy may be filled through a postal ballot election but if the Board has more than the minimum number of members required the Board has the discretion to decide whether it is necessary to elect a replacement Board Member.
 - i. Any ballots are to be conducted on behalf of the Association by the General Manager. A minimum of seven days must be provided to members calling for nominations with a minimum of fourteen days provided for the postal ballot of members to elect a new Board Member.

- m. In the event the minimum number of Board Members are not maintained or elected the following special provisions apply to enable the Association and Board to continue to function and fulfil their respective obligations:
- i. The Board, or in the absence of a Board quorum the General Manager in consultation with any remaining Board Members must use their discretion to make temporary appointments to the Board until such time as the vacant positions can be filled at an Annual General Meeting, Special General Meeting or by ballot.
 - ii. Appointees as temporary Board Members may consist of available Life Members or chairpersons of Kindergarten Committees.
 - iii. Board Members may also remain on the Board beyond three consecutive terms until such time as the election of new replacement Board Members.
 - iv. Assistance will be requested from the officers of the New Zealand Kindergarten Association.
- n. Board Members may be paid meetings fees and expenses as detailed in the Board Manual. The payment of Board meetings fees will be itemised in the Association's financial accounts.
- o. Board meetings shall be held on a regular basis to conduct the affairs of the Association and not less than eight meetings per annum shall be held.
- p. The Board may if necessary conduct their business by teleconference, email, or other methods of technology as the Board deems appropriate.
- q. Any Board Member shall, with the approval of the Board, be entitled to contract with the Association in a professional capacity provided they disclose their interest in any contract and shall not vote in respect of any contract in which they are interested.

7. BOARD NOMINATIONS:

- a. Nomination for the Board shall be called for by the General Manager not less than thirty (30) days prior to the Annual General Meeting or Special General Meeting at which they are to be considered.
- b. Nominations are required to have a different proposer and seconder, who must be members of the Association.
- c. Nominations shall be required to be in the hands of the General Manager not less than sixteen (16) days prior to the commencement of the General Meeting at which they are to be considered.

- d. Nominated candidates for the Board must be notified to members of the Association at least fourteen (14) days prior to the Annual General Meeting by written notice to each kindergarten committee, Establishment Committee and Life Member.

8. ANNUAL GENERAL MEETING:

- a. An Annual General Meeting shall be held no later than April 30 in each year.
- b. The business of the Annual General Meeting shall include the Annual Reports, Financial Statements, election of the Board and any other business as set out in the agenda.
- c. Not less than thirty (30) days notice of the Annual General Meeting shall be given to all members by advertisements in at least one public newspaper circulating in the Association's area, and by written notice to each Kindergarten Committee, Establishment Committee and Life Member.

9. SPECIAL GENERAL MEETING:

- a. The General Manager of the Association shall, upon receipt of a written request from not less than twenty members, call a Special General Meeting of the Association for the purpose of dealing with the matter or matters specified in the written request for such a meeting.
- b. A Special General Meeting shall be held not more than twenty-one (21) days after the receipt of a written request provided at least fourteen (14) days notice of the meeting is given to members. The General Manager shall within this time fix the date of the Special General Meeting and the matter or matters to be dealt with.
- c. The Board may also call a Special General Meeting of the Association to be held at such time and for such purpose as is deemed necessary provided that at least fourteen (14) days notice of the details is provided to members.
- d. At least fourteen (14) days notice of the date, time, place and purpose of a Special General Meeting must be provided by advertisements in at least one public newspaper circulating in the Association's area, and by written notice to each Kindergarten Committee, Establishment Committee and Life Member.
- e. General Business items cannot be added to the agenda for Special General Meetings.

10. VOTING:

- a. Members shall be entitled to attend all General Meetings of the Association and to speak and vote on all matters coming before such meetings.

- b. Each member shall have one vote on every question coming before the Annual General Meeting or a Special General Meeting. Each Family Membership is entitled to one vote per child enrolled at a Constituent Kindergarten.
- c. Voting shall be determined by voice, a show of hands or by ballot. A ballot shall be taken at the discretion of the Chair or at the request of three or more members.
- d. A ballot shall be used for the election for Board Members.
- e. A ballot shall be taken at such a time during the meeting and in such a manner as is determined by the Chair at the time the ballot is called for. Prior to a ballot being taken at least two scrutineers shall be appointed by the members present.
- f. In circumstances where the voting is such that one further vote would achieve the voting majority the Chair shall have and may exercise a casting vote. If the casting vote is not exercised in this situation a new vote shall be taken on the matter in question.

11. QUORUM:

- a. The quorum for all General Meetings shall be twenty members. If a quorum is not reached the meeting must be rescheduled and notified as per the General Meeting notice requirements.
- b. The quorum for all Board meetings shall be five members, not including the General Manager or Teaching Services Manager. If a quorum is not reached the Board shall reconvene at the next available time for Board Members.

12. ADJOURNMENTS:

- a. The Chair of any General Meeting or meeting of the Board may with the consent of the meeting adjourn the meeting from time to time and from place to place.
- b. No business shall be transacted at any reconvened meeting other than the business left unfinished at the meeting from which the adjournment took place.

13. MINUTES

- a. The Association shall keep minutes of all Board, General and Special Meetings business of the Association. These shall include:
 - i. A record of all appointments of officers.

- ii. The names of Board Members and ex-Officio members present at Board meetings and at meetings of Board sub-committees.
 - iii. The names of all Association members present at each Annual General Meeting and any Special General Meeting.
 - iv. All resolutions and proceedings, including Board sub-committees meetings.
 - v. All financial statements and accounts presented by the General Manager and whether they are passed by the Board.
 - vi. A copy of these minutes shall be sent to each Board Member within 28 days.
 - vii. A copy of the minutes shall be forwarded to each Constituent Kindergarten and to members on request or as determined by the Board.
- b. The Board shall keep the Association's records and accounts at its registered office, or at another place of safe keeping as it may determine.
 - c. The Board shall decide whether, and under what conditions, the records and accounts of the Association may be opened to inspection by members.

14. BOARD POWERS AND RESPONSIBILITIES:

- a. The management and control of all assets and business of the Association shall be vested in the Board, which may exercise all such powers and do all such acts and things as it thinks fit for the benefit or welfare of the Association.
- b. In furtherance, and not in limitation of, clause 14(a) the Board has the power to:
 - i. Take all steps and proceedings and do all acts and things it may consider advisable for carrying into effects the objects of the Association as set out in clause 4;
 - ii. In accordance with current law, to employ, dismiss, remove or suspend employees or agents of the Association, fix their period of employment and fix their remuneration;
 - iii. Borrow or raise money using the assets of the Association as security, including the giving of security by mortgage, charge or lien upon the whole or any part of the Association's real or personal property;
 - iv. Apply for grants or money from state or private institutions or companies;

- v. Enter into contracts to provide goods or services for remuneration, using the assets, staff or expertise of the Association;
- vi. Set fees or request donations;
- vii. Apply the funds of the Association to its objects as defined in clause 4;
- viii. Invest the funds of the Association in prudent manner, and to operate such bank accounts as the Board may determine;
- ix. Instruct and pay professional advisers;
- x. Adopt and monitor the policies, procedures and by-laws for the purpose of regulating the affairs of the Association. Copies of all policies, procedures and by-laws shall be brought to the notice of members by written notice to to each Kindergarten Committee, Establishment Committee and Life Member, and shall remain in force until repealed by the Board;
- xi. Close a Constituent Kindergarten or a Constituent Early Childhood Service ;
- xii. Establish a new Constituent Kindergarten or a Constituent Early Childhood Service;
- xiii. In its absolute discretion appoint Board Members, or such other persons as it deems necessary or desirable, to form a sub-committee of the Board for such purpose as the Board in its discretion shall determine;
- xiv. Any sub-committee of the Board shall have powers only as the Board shall from time to time determine and the Board may, at any time, revoke, alter or extend such powers;
- xv. Institute, conduct, defend, compound or abandon any legal proceedings by or against the Association or its officers or otherwise concerning the affairs of the Association, and to refer any claims by or against the Association to alternative dispute resolution or arbitration;
- xvi. Enter into and execute deeds of indemnity, in such form and to such effect as may be approved by the Board in its discretion;
- xvii. Effect insurance for the Board Members and employees of the Association in respect of:
 - 1. Liability, not being criminal liability, for any act or omission of a Board Member or employee acting in his or her capacity as a Board Member or employee;
 - 2. Costs incurred by such Board Member or employee in defending or settling any claim or proceeding in relation to any such liability;

3. Costs incurred by a Board Member or employee in defending any criminal proceeds taken in relation to their capacity as a Board Member or employee on which they are acquitted or which is discontinued.
- c. No member of the Board shall be personally liable for any act or omission of that member or the Association, if that act or omission was made in good faith in performance or intended performance of his or her duties as a member of the Board.
 - d. The Board shall appoint a General Manager, and may delegate any of its powers to the General Manager or any other employee or advisor of the Association, who shall be entitled to appropriate compensation for services, as the Board shall determine. The appointment shall be subject to such terms and conditions as the Board may prescribe.
 - e. The Board shall use reasonable methods to monitor the performance of the General Manager or delegate.
 - f. The Board is responsible for the exercise of power by the General Manager or delegate as if the power had been exercised by the Board, unless the General Manager or delegate has not acted in good faith.
 - g. The Board shall ensure that the Association makes all returns required by the Incorporated Societies Act 1908 and the Charities Act 2005.

15. FINANCES:

- a. The Board shall ensure that proper records are kept of all monies received and expended by the Association. Proper records shall also be kept of the assets and liabilities of the Association, including all mortgages, charges and securities of any description affecting any or all of the property of the Association.
- b. All funds of the Association shall be held in the name of the Association and shall only be lodged in bank accounts or investments authorised by a General Meeting or the Board.
- c. The authorised signatories of the Association shall be two or more Board Members, the General Manager and the Finance Manager employed by the Association. Any two of the authorised signatories may authorise electronic transactions, sign cheques promissory notes and other documents which have a charge against the funds of the Association.
- d. The Financial Statements of the Association shall be audited prior to the Annual General meeting by a member of the NZICA.
- e. The financial year of the Association shall commence on the 1st day of January and end on 31 December of each year.

- f. The Association must not enter into any transaction or series of linked transactions which would result in or have the effect of the Association acquiring or disposing of assets or incurring obligations the value of which is more than one-third of the book value of the total tangible assets of the Association before the transaction occurs, unless the transaction:
 - i. has first been approved by two thirds of the members present at a General Meeting and entitled to vote; or
 - ii. is contingent upon approval being granted by two thirds of the members present at a General Meeting and entitled to vote.

16. PECUNIARY GAIN:

- a. The funds of the Association shall be applied exclusively for the attainment of the objects of the Association.
- b. No portion of the Associations funds shall be paid or advanced to members in any way except by way of bona fide remuneration to employees or agents or for services rendered or as reimbursement of authorised expenses incurred on behalf of the Association.

17. COMMON SEAL:

- a. The Association shall have a Common Seal which shall be kept in the custody of the General Manager of the Association. It shall not be affixed to any deed, document or other instrument except at a meeting of the Board or following a resolution thereof.

18. ALTERATION OF RULES:

- a. Provided that not less than fourteen (14) days notice of the details of the proposed alteration(s) are given in writing to all members, this Constitution may be altered, added to or rescinded at a General Meeting if two thirds of the members present at a General Meeting and entitled to vote, vote in favour.
- b. For the purpose of complying with the requirements of the Inland Revenue Department in maintaining the charitable status of the Association, no addition, alteration or rescission to the Constitution may be made which will in any way affect the charitable status of the Association. Provided, however, that should the Association decide to relinquish its charitable status this clause may be altered, added to or rescinded in accordance with the provisions above in which case the General Manager shall immediately advise the Inland Revenue Department of such alteration or amendment.

- c. Proposed alterations to the rules must be in the hands of the General Manager not less than fourteen (21) days prior to the General Meeting at which it is intended that the proposed alterations are to be considered.

19. WINDING UP:

- a. The Association may be wound up by the membership at an Annual General Meeting or Special General Meeting if it is no longer able or desirable to meet the objectives of the Association as set out in the Constitution.
- b. Notice of the intention to wind up the Association must be provided to all members at least thirty days (30) before an Annual General Meeting or Special General Meeting.
- c. If on the winding up or dissolution of the Association there remains property or funds whatsoever, after satisfaction of all debts and liabilities, the remaining property or funds shall be distributed as determined by the members of the Association at or before the time of winding up or in default of such disposition by the High Court of New Zealand. Provided, however, that such property or funds shall only be distributed to one or more early childhood organisations of a charitable nature having similar objects to the Association and operating within New Zealand at the time of winding up.