

# **Napier Free Kindergarten Association Incorporated**

## **Constitution**

**Effective 18 June 2025**

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# Constitution Rules

## Introductory Rules

### Name

The name of the society is Napier Free Kindergarten Association Incorporated, sometimes referred to as “Te Pūtahi Kura Pūhou O Ahuriri” or “Napier Kindergartens.” (in these **Rules** referred to as the **‘Society’**).

### Definitions

In these **Rules**, unless the context requires otherwise, the following words and phrases have the following meanings:

**‘Act’** means the Incorporated Societies Act 2022 or any Act which replaces it (including amendments to it from time to time), and any regulations made under the Act or under any Act which replaces it.

**‘Annual General Meeting’** means a meeting of the **Members** of the **Society** held once per year which, among other things, will receive and consider reports on the **Society’s** activities and finances.

**‘Board’** means the **Society’s** governing body.

**‘Board Member’** means a member of the **Board**, including the **Chair**.

**‘Chair’** means the **Board Member** responsible for, among other things, overseeing the governance and operations of the **Society** and chairing **General Meetings**.

**‘Clear Days’** means complete days, excluding the first and last-named days (for instance, excluding the date a Notice of meeting is posted or sent to Members and the date of the meeting).

**‘Deputy Chair’** means the **Board Member** elected or appointed to deputise in the absence of the **Chair**.

**‘General Meeting’** means either an **Annual General Meeting** or a **Special General Meeting** of the **Society**.

**‘Matter’** means:

- the **Society’s** performance of its activities or exercise of its powers; or
- an arrangement, agreement, or contract (a transaction) made or entered into, or proposed to be entered into, by the **Society**.

**‘Member’** means:

- a parent, legal guardian or caregiver of a child attending a local kindergarten, or officially on the waiting list of a local kindergarten, who any person aged eighteen (18) years or older who has an interest in the **Society** properly admitted to the **Society** who has not ceased to be a member of the **Society**

- a Life Member properly admitted to the **Society** who has not ceased to be a member of the **Society**.
- an Ordinary Member properly admitted to the **Society** who has not ceased to be a member of the **Society**.

**'Notice'** to **Members** includes any notice given by post, courier, or email; and the failure for any reason of any **Member** to receive such Notice or information shall not invalidate any meeting or its proceedings or any election.

**'Register of Interests'** means the register of interests of **Board Members** kept under these **Rules**.

**'Register of Members'** means the register of **Members** kept under these **Rules**.

**'Rules'** means the **Rules** in this document.

**'Secretary'** means the person assigned by the **Board** who is responsible for, among other things, keeping the **Register of Members**, the **Register of Interests**, and recording the minutes of **General Meetings** and **Board Meetings**.

**'Special General Meeting'** means a meeting of the **Members**, other than an **Annual General Meeting**, called for a specific purpose or purposes.

## 1. Purpose

The primary purpose of the **Society** is to inspire Ngā Tamariki to grow as confident and competent learners through the delivery of fit-for-purpose, teacher-led, quality early childhood education for decades to come.

This is achieved by, but not restricted to the delivery of:

- Teaching and Learning Excellence
- Governance Excellence
- Leadership Excellence
- Business Excellence
- Advocacy Excellence.

In fulfilling its purpose, the **Society** Board will:

- apply all requirements of this Constitution to the governance of its entity.

## 2. Values / Culture

The values and culture of the **Society** is underpinned by the Articles of Te Tiriti o Waitangi. We promote servant-leadership focused on the growth and wellbeing of people and the communities they belong to.

Our work is guided by the values of:

- **Success** - for every learner
- **Support** - for every child, their whanau and our community
- **Accessibility** – for all families without bias
- **Nurturing** – local leadership across our community.

The **Rules** of this Constitution shall be interpreted having regard to this tikanga and culture.

## 3. Act and Regulations

Nothing in this Constitution authorises the **Society** to do anything which contravenes or is inconsistent with the Statute, any regulations made under the Statute, or any other legislation.

## 4. Powers

Until the **Society** reregisters in accordance with the **Act**, in addition to the powers in the Incorporated Societies Act 1908, the **Society**:

- has the power to borrow money.
- may use its funds to pay the costs and expenses to advance or carry out its purposes, and to employ or contract with such people as may be appropriate; and
- may invest in any investment in which a trustee may lawfully invest on its own behalf or on behalf of the **Members** that it governs.

## 5. Members

### 5.1 Minimum Number of Members

The **Society** shall maintain the minimum number of **Ordinary Members** required by the **Act**.

## 5.2 Types of Members

The classes of membership and the method by which **Members** are admitted to different classes of membership are as follows:

- a **Voting Member** is a parent, legal guardian or caregiver of a child attending a local kindergarten, or officially on the waiting list of a local kindergarten, any person aged eighteen (18) years or older who has an interest in the **Society** admitted to membership under these **Rules** and who or which has not ceased to be a **Member** – a **Voting Member** has full voting rights
- **Life Member** is a person honored for highly valued services to the **Society** nominated and seconded by two different **Members** and conferred by the **Board** – a **Life Member** does not have any voting rights.
- an **Ordinary Member** is an individual other than that defined as a **Voting Member**, or an Early Childhood Education Service provider admitted to membership under these **Rules** and who or which has not ceased to be a **Member** – an **Ordinary Member** does not have any voting rights.

## 6. Becoming a Member

### 6.1 Consent

Every applicant for membership must consent in writing to becoming a **Member**.

### 6.2 Process

An applicant for membership must complete and sign any application form, supply any information, or attend an interview, as required by the **Board**.

The **Board** may accept or decline an application for membership. The **Board** must advise the applicant of its decision (but it is not required to provide reasons for that decision).

## 7. Obligations and Rights

Every **Member** shall provide the **Society** with that **Member's** name and contact details (including postal address, telephone number(s), and any email address) and promptly advise the **Society** of any changes to those details.

Membership does not confer on any **Member** any right or title (legal or equitable) in the property of the **Society**.

## 8. Other Obligations and Rights

All **Members** (including **Board Members**) shall promote the interests and purposes of the **Society** and shall do nothing to bring the **Society** into disrepute.

A **Member** is only entitled to exercise the rights of membership (including attending and voting at **General Meetings**, accessing or using the **Society's** premises, facilities, equipment and other property as appropriate) if all subscriptions and any other fees have been paid to the **Society** by due date, but no **Voting Member**, **Life Member** or **Ordinary Member** is liable for an obligation of the **Society** by reason only of being a **Member**.

The **Board** may decide what access or use **Members** may have of or to any premises, facilities, equipment, or other property owned, occupied, or otherwise used by the **Society**, including any conditions of and fees for such access or use.

## 9. Voting Rights

- **Voting Members** have one vote per person and can exercise full voting rights.
- **Society Board** has one vote and can exercise full voting rights.
- In the event of a tied vote the **Board Chair** or the **Deputy Chair**, depending on who is chairing the meeting, must cast the deciding vote.
- **Life Members** do not have any voting rights.
- **Ordinary Members** do not have any voting rights.

## 10. Subscriptions and Fees – Member Levy

The annual Member Levy/fee and any other fees for membership for the upcoming financial year shall be set by the **Board**.

Any **Member** failing to pay the Member Levy (including any periodic payment), or any capitation fees, within three (3) calendar months of the date the same was due for payment, shall be considered as unfinancial and shall (without being released from the obligation of payment) have no membership rights and shall not be entitled to participate in any **Society** activity or to access or use the **Society's** premises, facilities, equipment and other property until all the arrears are paid.

If such arrears are not paid within six (6) months of the due date for payment of the Member Levy, any other fees or levy the **Board** may terminate the **Member's** membership (without being required to give prior notice to that **Member**).

## 11. Ceasing to be a Member

A **Member** ceases to be a **Member**:

- by resigning their membership giving one (1) months' notice in writing to the **Secretary** and being required to pay the full Member Levy for the period of notice; or
- by resigning their membership due to the impending disbandment of their local Kindergarten Association or entity, giving one (1) months' notice in writing to the **Secretary** and being required to pay the full Member Levy for the period of notice; or
- on termination of a **Member's** membership following a dispute resolution process under these **Rules**; or
- by being inactive/responsive to requests for membership renewal.

A **Life Member** ceases to be a **Member**:

- by resigning their membership giving one (1) months' notice in writing to the **Secretary**; or
- with effect from death; or

- by formal decision taken by the **Board**, without consultation with the **Life Member**, due to the **Life Member** having behaved in a way that does not promote the interests and purposes of the **Society** and/or acted in a way that brings the **Society** into disrepute and/or causes reputational damage to individuals serving on the **Board**, employed by the **Society** or are **Members** of the **Society**.

An **Ordinary Member** ceases to be a **Member**:

- by resigning their membership giving one (1) months' notice in writing to the **Secretary** and being required to pay the full Member Levy for the period of notice; or
- by resigning their membership due to the impending disbandment of their local Kindergarten Association or entity, giving one (1) months' notice in writing to the **Secretary** and being required to pay the full Member Levy for the period of notice; or
- on termination of a **Member's** membership following a dispute resolution process under these **Rules**.

## 12. Obligations on Resignation

A **Member** who resigns or whose membership is terminated under these **Rules**:

- remains liable to pay all Member Levies and other fees to the **Society** as detailed above.
- shall be pursued by the **Society** for all unpaid Member Levies, including any periodic payment, or any capitation fees – the **Society** reserves the right to follow formal and/or legal process and pass on the cost plus any outstanding interest to the **Member**.
- shall cease to hold themselves out as a **Member** of the **Society**
- shall return to the **Society** all material provided to **Members** by the **Society** including any membership certificates, badges, handbooks, manuals, technology equipment or any other collateral.
- shall cease to be entitled to any of the rights of a **Society Member**
- shall keep confidential all sensitive information obtained during the course of their membership with the **Society**.

## 13. Becoming a Member Again

Any former **Member** may apply for re-admission in the manner prescribed for new applicants and may be re-admitted only by resolution of the **Board**.

The **Board** may accept or decline an application for membership. The **Board** must advise the applicant of its decision (but it is not required to provide reasons for that decision).

## 14. General Meetings

### 14.1 Annual General Meetings

An **Annual General Meeting** shall be held once a year on a date and at a location determined by the **Board** and consistent with any requirements in the **Act**. The interval between **Annual General Meetings** shall be no later



than six months after the **Society's** balance date and no later than fifteen months after the previous **Annual General Meeting**. The **Rules** relating to the procedure to be followed at **General Meetings** shall apply.

#### 14.2 **Annual General Meeting Business**

The business of an **Annual General Meeting (AGM)** shall be to:

- welcome all **Members** and participants
- complete a roll call and confirm the **Voting Members** voting strength
- confirm apologies received, and receive apologies from the floor
- give notice of disclosures, or types of disclosures, made under section 63 of the Act (disclosure of interests) during that period (including a brief summary of matters, or types of matters, to which those disclosures relate)
- confirm the minutes of the previous year's **AGM**
- adopt the **Board Chair's** Annual Report
- adopt the General Manager/Chief Executive Officer's Annual Report
- adopt the Annual Report
- adopt the Financial Report
- make presentations to **Members**
- manage elections to vacant **Board** positions
- consider Board Motion(s)
- consider Member Motion(s)
- consider any general business.

#### 14.3 **Special General Meetings**

**Special General Meetings** may be called at any time by the **Board** by resolution.

The **Board** must call a **Special General Meeting** if the **Secretary** receives a written request signed by at least sixty (60) per cent of **Ordinary Members**. Any resolution or written request must state the business that the **Special General Meeting** is to deal with.

The **Rules** relating to the procedure to be followed at **General Meetings** shall apply to a **Special General Meeting**, and a **Special General Meeting** shall only consider and deal with the business specified in the **Board's** resolution or the written request by **Members** for the meeting.

#### 15. **Procedure**

The **Board** shall give all **Members** at least sixty (60) **Clear Days' Notice** of any **General Meeting** and of the business to be conducted at that **General Meeting**.

The **General Meeting** and its business will not be invalidated simply because one or more **Members** do not receive the **Notice**.

All **Members** may attend and speak at **General Meetings**, but only **Voting Members** may vote. Proxy voting will be permitted. A proxy voting form will

be required to be completed and sent to the General Manager two working days before the AGM date. Proxy voters can vote on all matters on behalf of the **Voting Member** and do count towards the quorum.

No **General Meeting** may be held unless at least 50% of all eligible **Voting Members** are in attendance (note proxy voters for kindergartens count within this number). This will constitute a quorum.

If, within fifteen (15) minutes after the time appointed for a meeting, a quorum is not present, the meeting shall be dissolved, and a new date and time shall be set to manage the business. Any decisions made when a quorum is not present are not valid.

**General Meetings** may be held at one or more venues using any real-time audio, audio and visual, or electronic communication that gives each **Member** a reasonable opportunity to participate.

All **General Meetings** shall be chaired by the **Chair**. If the **Chair** is absent, the **Deputy Chair** shall chair that meeting.

Any person chairing a **General Meeting** has a deliberative and, in the event of a tied vote, a casting vote.

Each **Voting Member** shall be entitled to one vote on any matter being voted on. Voting members are not able to cast electronic votes- voting will only be permitted by those present who have voting rights.

Voting for the election of a vacant Board Member position shall be on paper, unless otherwise decided by the **Chair**.

All other voting shall be by show of hand, unless otherwise decided by the **Chair**.

The number of votes required to reach any decision shall be a majority of **Voting Members** eligible to vote and in attendance at the meeting, unless otherwise determined by the **Board** or these **Rules**.

Any person chairing a **General Meeting** may:

- with the consent of at least ten eligible **Members** adjourn the **General Meeting** but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- direct that any person not entitled to be present at the meeting, obstructing the business of the meeting, behaving in a disorderly manner, being abusive, or failing to abide by the directions of the **Chair** be removed from the meeting, and
- in the absence of a quorum or in the case of emergency, adjourn the meeting or declare it closed.

The **Board** may put forward motions for the **Society** to vote on (**Board Motion**), which shall be notified to **Voting Members** with the notice of the **General Meeting**.

Any **Member** may request that a motion be voted on (**Member Motion**) at a **General Meeting**, by giving notice to the **Secretary** at least forty (40) **Clear Days** before that meeting. The **Member** may also provide information in support of the motion (**'Member's Information'**).

#### 16. Minutes

Minutes must be kept by the **Secretary** of all **General Meetings**.

#### 17. Resolution in Lieu of a General Meeting

A resolution in writing (including by way of email or other electronic means) signed or assented to by not less than sixteen **Voting Members** shall be as valid and effectual as if it had been passed at a **General Meeting** of the full **Society**.

Any such resolution may consist of several documents (including email messages assenting to the resolution, scanned copies of signed resolutions and other similar means of communication or other electronic means) each signed or assented to by one or more **Voting Members**.

#### 18. Board Governance

The **Society** shall be governed by:

- the New Zealand Kindergartens Network Board, or
- a local Association Board.

##### New Zealand Kindergartens Network Board

To be governed by the Network Board, the **Society** must follow its current Constitutional requirements and seek its **Members** endorsement.

To cease being governed by the Network Board, and establish a local board, the **Society** must:

- follow its Constitutional requirements and seek its **Members** endorsement
- give a minimum of twelve (12) months' notice to the Network Board of its intent.

All requirements of the Te Putahi Kura Puhou o Aotearoa Manatōpū New Zealand Kindergartens Incorporated Constitution will apply to the governance of the Society.

##### Local Association Board Composition

The **Board** will consist of a minimum of three (3) and a maximum of eight (8) **Board Members**.

The composition of the board may include up to:

- four **Ordinary Members**; and
- four **Board**-appointed members.

The **Board** positions will include a designated:

- **Chair**
- **Deputy Chair**
- **Secretary** – designated by the Board **Chair** and can be the **Society** General Manager/Chief Executive Officer. The **Secretary** shall also act as the Contact Person for the purposes of the **Act**.

The **Board** has the right to appoint **Board** advisors, in addition to the elected and appointed members, for a fixed term to work with the **Board** on specific undertakings.

## **19. Qualifications**

Prior to election or appointment, every **Board Member** must consent in writing to be a **Board Member** and certify in writing that they are not disqualified from being appointed or holding office as a **Board Member** by these **Rules** or section 47(3) of the **Act**.

## **20. Election or Appointment**

The election of **Board Members** shall be conducted as follows:

- **Board Members** from **Ordinary Member** representatives shall be elected during **Annual General Meetings**. However, if a vacancy in the position of any **Board Member** occurs between **Annual General Meetings**, that vacancy shall be filled by resolution of the **Board** (and any such appointee must, before appointment, supply a signed consent to appointment and a certificate that the nominee is not disqualified from being appointed or holding office as a **Board Member** by these **Rules** or the **Act**).
- **Board Appointed Members** shall be filled by resolution of the **Board** (and any such appointee must, before appointment, supply a signed consent to appointment and a certificate that the nominee is not disqualified from being appointed or holding office as a **Board Member** by these **Rules** or the **Act**).
- A candidate's written nomination, accompanied by the written consent of the nominee (who must be a financial **Member**) with a certificate that the nominee is not disqualified from being appointed or holding office as a **Board Member** by these **Rules** or the **Act**, shall be received by the **Secretary** at least forty (40) **Clear Days** before the date of the **Annual General Meeting**.
- Votes shall be cast in such a manner as the person chairing the meeting determines. In the event of any vote being tied, the tie shall be resolved

by the incoming **Board** (excluding those in respect of whom the votes are tied).

- Two **Members** (who are not nominees) or non-**Members** appointed by the **Chair** shall act as scrutineers for the counting of the votes and destruction of any voting papers.
- The failure for any reason of any financial **Member** to receive such **Notice** shall not invalidate the election.

## 21. **Term**

The term of office for elected **Board Members** shall be three (3) years, expiring at the end of the **Annual General Meeting** in the year corresponding with the last year of each **Board Member's** term of office.

The term of office for **Board** appointed **Board Members** shall be three (3) years, expiring on the three-year anniversary of appointment.

No **Board Member** shall serve for more than two (2) consecutive terms.

No **Chair** shall serve for more than two (2) consecutive terms as **Chair**.

## 22. **Removal**

Where a complaint is made about the actions or inaction of a **Board Member** (and not in the **Board Member's** capacity as a **Member** of the **Society**) the following steps shall be taken:

- the **Board Member** who is the subject of the complaint must be advised of all details of the complaint.
- the **Board Member** who is the subject of the complaint must be given adequate time to prepare a response.
- the complainant and the **Board Member** who is the subject of the complaint must be given an adequate opportunity to be heard, either in writing or at an oral hearing by the **Board** (excluding the **Board Member** who is the subject of the complaint) if it considers that an oral hearing is required
- any oral hearing shall be held by the **Board** (excluding the **Board Member** who is the subject of the complaint), and/or any oral or written statement or submissions shall be considered by the **Board** (excluding the **Board Member** who is the subject of the complaint).

If the complaint is upheld the **Board Member** may be removed from the **Board** by a resolution of the **Board**, passed by a simple majority of those present and voting.

## 23. **Cessation of Board Membership**

A **Board Member** shall cease to be a **Board Member** if that person:

- ceases to be a **Member**.
- is removed from office in accordance with clause 22.

- retires or resigns as a **Board Member** by giving prior written notice of their resignation to the **Board**.
- becomes disqualified from being a **Board Member** under section 47(3) of the **Act**.
- dies; or
- commits an act of bankruptcy.

Each **Board Member** shall within fifteen (15) **Clear Days** of submitting a resignation or ceasing to hold office, deliver to the **Secretary** all books, papers and other property of the **Society** held by such former **Board Member**.

## 24. **Management of the Society**

The operation and affairs of the **Society** must be managed by, or under the direct supervision of, the **Board**. The **Board** has all the powers necessary for managing, and for directing and supervising the management of, the operations and affairs of the **Society**.

## 25. **Officers' Duties**

At all times, each **Board Member**:

- shall act in good faith and in what he or she believes to be the best interests of the **Society**,
- must exercise all powers for a proper purpose,
- must not act, or agree to the **Society** acting, in a manner that contravenes the Statute or this Constitution,
- when exercising powers or performing duties as a **Board Member**, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances taking into account, but without limitation, the nature of the **Society**, the nature of the decision, and the position of the **Board Member** and the nature of the responsibilities undertaken by him or her,
- must not agree to the activities of the **Society** being carried on in a manner likely to create a substantial risk of serious loss to the **Society** or to the **Society's** creditors, and
- must not agree to the **Society** incurring an obligation unless he or she believes at that time on reasonable grounds that the **Society** will be able to perform the obligation when it is required to do so.

## 26. **Sub-Committees**

The **Board** may appoint sub-committees consisting of such persons (whether or not **Members** of the **Society**) and for such purposes as it thinks fit. Unless otherwise resolved by the **Board**:

- the quorum of every sub-committee is half the members of the sub-committee,
- no sub-committee shall have power to co-opt additional members,
- a sub-committee must not commit the **Society** to any financial expenditure without express authority, and
- a sub-committee must not further delegate any of its powers.

## **27. General Issues**

The **Board** and any sub-committee may act by resolution approved during a telephone conference call or through a written ballot conducted by email, electronic voting system, or post, and any such resolution shall be recorded in the minutes of the next **Board** meeting.

Other than as prescribed by the **Act** or these **Rules**, the **Board** or any sub-committee may regulate its proceedings as it thinks fit.

Subject to the **Act**, these **Rules** and the resolutions of **General Meetings**, the decisions of the **Board** on the interpretation of these **Rules** and all matters dealt with by it in accordance with these **Rules** and on matters not provided for in these Rules shall be final and binding on all **Members**.

## **28. Indemnity and Insurance**

The Society may, with the authority of the **Board**, indemnify or obtain insurance for its **Board Members** for:

- liability (other than criminal liability) for a failure to comply with:
  - a) a duty under section 54 to 61 of the **Act**; or
  - b) any other duty imposed on a **Board Member** in their capacity as a **Board Member** of the **Society**; and/or
- costs incurred by an officer for a claim or proceeding related to a liability under this clause.

## **29. Conflicts of Interest**

Where fifty (50) per cent or more of **Board Members** are prevented from voting on a matter because they are interested in that matter, a **Special General Meeting** must be called to consider and determine the matter, unless all non-interested members agree otherwise, and where fifty (50) per cent or more of the members of a sub-committee are prevented from voting on a matter because they are interested in that matter, the **Board** shall consider and determine the matter.

## **30. Board Meetings**

### **30.1 Frequency**

The **Board** shall meet at least five (5) times per twelve (12) months at such times and places and in such manner (including by audio, audio and visual, or electronic communication) as it may determine and otherwise where and as convened by the **Chair** or **Secretary**.

### **30.2 Procedure**

The quorum for **Board** meetings is at least half the number of **Board** Members.

Voting shall be by show of hands, unless otherwise decided by the **Chair**.

The number of votes required to reach any decision shall be a majority of **Board Members** attending the meeting, unless otherwise determined by these **Rules**.

## **31. Records**

### **31.1 Register of Members**

The **Secretary** shall keep an up-to-date **Register of Members**, recording for each **Member** their name, contact details, the date they became a **Member**, and any other information required by these **Rules** or prescribed by Regulations under **the Act**.

### **31.2 Contents of Register of Members**

The information contained in the **Register of Members** shall include each **Member's**:

- name
- postal address
- phone number (landline and/or mobile)
- email address
- the date the **Member** became a **Member**
- whether the **Member** is financial or unfinancial.

Every **Member** shall promptly advise the **Secretary** of any change of their contact details.

### **31.3 Register of Interests**

The **Secretary** shall always maintain an up-to-date register of the interests disclosed by **Board Members**.

## **32. Finances**

### **32.1 Control and Management**

The funds and property of the **Society** shall be:

- controlled, invested, and disposed of by the **Board**, through delegation to the **Society's** General Manager/Chief Executive Officer, subject to these **Rules**, and
- devoted solely to the promotion of the purposes of the **Society**.

### **32.2 Balance Date**

The **Society's** financial year shall commence on 1 January of each year and end on 31 December (the latter date being the **Society's** balance date).

## **33. Dispute Resolution**

### **33.1 Raising Disputes**

Any grievance by a **Member**, and any complaint by anyone, is to be lodged by the complainant with the **Secretary** in writing and must provide such details as are necessary to identify the details of the grievance or complaint.



All **Members** (including the **Board**) are obliged to cooperate to resolve disputes efficiently, fairly, and with minimum disruption to the **Society's** activities.

Where a complaint is made about the actions or inaction of a **Board Member** (and not in the **Board Member's** capacity as a **Member** of the **Society**) the procedure set out in clause 22 shall be followed.

### 33.2 Investigating Disputes

These disputes procedures are designed to enable and facilitate the fair, prompt and efficient resolution of grievances and complaints.

The complainant raising a grievance or complaint, and the **Board**, must consider and discuss whether a grievance or complaint may best be resolved through informal discussions, mediation or arbitration. Where mediation or arbitration is agreed on, the parties will sign a suitable mediation or arbitration agreement.

Rather than investigate and deal with any grievance or complaint, the **Board** may:

- appoint a sub-committee to deal with the same, or
- refer the same to an external arbitrator, arbitral tribunal, or external advisor (or referee), so long as minimum standards of natural justice and the following requirements under this **Rule** are satisfied.

The **Board** or any such sub-committee or person considering any grievance or complaint is referred to hereafter as the "decision-maker".

The decision-maker:

- shall consider whether to investigate and deal with grievance or complaint, and
- may decline to do so for instance, if the decision-maker is satisfied that the complainant has insufficient interest in the matter or otherwise lacks standing to raise it; the matter is trivial or does not appear to disclose material misconduct; the matter raised appears to be without foundation or there is no apparent evidence to support it; some damage to **Members'** interests may arise; or the conduct, incident, event or issue has already been investigated and dealt with by the **Society**.

Where the decision-maker decides to investigate and deal with grievance, the following steps shall be taken:

- the complainant and the **Member**, or the **Society**, which is the subject of grievance, must be advised of all details of grievance.
- the **Member**, or the **Society**, which is the subject of grievance, must be given adequate time to prepare a response.
- the complainant and the **Member**, or the **Society**, which is the subject of grievance, must be given an adequate opportunity to be heard, either in

writing or at an oral hearing if the decision-maker considers that an oral hearing is required.

- Any oral hearing shall be held by the decision-maker, and/or any written statement or submissions shall be considered by the decision-maker.

A **Member** may not make a decision on, or participate as, a decision-maker in regard to a grievance or complaint, if two or more **Board Members**, or the decision-maker, consider that there are reasonable grounds to infer that the person may not approach the grievance or complaint impartially, or without a predetermined view.

Such a decision must take into account the context of the **Society** and the particular case and may include consideration of facts known by the other **Members** about the decision-maker, so long as the decision is reasonably based on evidence that proves or disproves an inference that the decision-maker might not act impartially.

### 33.3 Resolving Disputes

The decision-maker may:

- dismiss a grievance or complaint, or
- uphold a grievance and make such directions as the decision-maker thinks appropriate (with which the **Society** and **Members** shall comply),
- uphold a complaint and:
- reprimand or admonish the **Member**, and/or
- suspend the **Member** from membership for a specified period, or terminate the **Member's** membership, and/or
- order the complainant (if a **Member**) or the **Member** complained against, to meet any of the **Society's** reasonable costs in dealing with a complaint.

## 34. Winding Up

### 34.1 Process

The **Society** may be wound up, or liquidated, or removed from the Register of Incorporated Societies in accordance with the provisions of the **Act**.

The **Secretary** shall give **Notice** to all **Members** of the proposed **Motion** to wind up the **Society** or remove it from the Register of Incorporated Societies and of the **General Meeting** at which any such proposal is to be considered, of the reasons for the proposal, and of any recommendations from the **Board** in respect to such notice of **Motion**.

Any resolution to wind up the **Society** or remove it from the Register of Incorporated Societies must be passed by a sixty (60) percent majority of all **Members** present and voting.

### 34.2 Surplus Assets

If the **Society** is wound up, or liquidated, or removed from the Register of Incorporated Societies, its surplus assets after payment of all debts, costs and liabilities shall be vested in Te Putahi Kura Puhou o Aotearoa Manatōpū New

Zealand Kindergartens Incorporated and its **General Members** being the local Kindergartens.

However, on winding up by resolution under this **Rule**, the **Society** may approve a different distribution to advance a charitable purpose or purposes.

### **35. Alterations to the Rules**

#### **35.1 Amending These Rules**

The **Society** may amend or replace these **Rules** at a **General Meeting** by a resolution passed by a sixty (60) percent majority of those **Members** present and voting.

Any proposed **Motion** by **Members** to amend or replace these **Rules** shall be signed by at least sixty (60) percent of eligible **Members** and given in writing to the **Secretary** at least 40 **Clear Days** before the **General Meeting** at which the **Motion** is to be considered and accompanied by a written explanation of the reasons for the proposal.

Any proposed **Motion** by the **Board** to amend or replace these **Rules** shall be signed by at least sixty (60) percent of **Board Members** and given in writing to the **Secretary** at least 40 **Clear Days** before the **General Meeting** at which the **Motion** is to be considered and accompanied by a written explanation of the reasons for the proposal.

At least thirty (30) **Clear Days** before the **General Meeting** at which any amendment is to be considered the **Secretary** shall give all **Members** notice of the proposed **Motion**, the reasons for the proposal, and any recommendations the **Board** has.

When an amendment is approved by a **General Meeting** it shall be made in writing, notified to the Registrar of Incorporated Societies in the form and manner specified in **the Act** for registration and shall take effect from the date of registration.

#### **35.2 Minor or Technical Amendments**

The **Board** may amend the terms of these **Rules** by a unanimous resolution of the **Board** if the amendment:

- a) has no more than a minor effect; or
- b) corrects errors or makes similar technical alterations, provided that the **Board** provides written notice of the amendment to every **Member** of the **Society**, with the notice stating:
  - a) the text of the amendment; and
  - b) the right of the **Member** to object to the amendment.

If no **Member** objects within twenty (20) Working Days after the date on which the notice is sent, the **Board** may make the amendment.

If a **Member** objects to the amendments made under this clause 35.2 within 20 **Working Days**, the **Society** may not make the amendments under this section.

## **36. Other**

### **36.1 Common Seal**

Until the **Society** reregisters in accordance with the **Act**, the **Society** shall have a common seal kept in the custody of the **Secretary**.

The common seal may be affixed to any document:

- by resolution of the **Board**, and must be countersigned by two **Board Members** or by one **Board Member** and the **Society** General Manager/Chief Executive Officer, or
- by such other means as the **Board** may resolve from time to time.

Once the **Society** has reregistered in accordance with the **Act**, the **Society** may enter into contracts by two (2) **Board Members** signing under the name of the **Society** and any other method approved in the **Act**.

### **36.2 Bylaws**

The **Board** from time to time may make and amend bylaws, and policies for the conduct and control of **Society** activities and codes of conduct applicable to **Members**, but no such bylaws, policies or codes of conduct applicable to **Members** shall be inconsistent with the **Act**, regulations made under the **Act**, or these **Rules**.