



## Privacy Procedure

**Date Effective:** September 2014

**Review Date:** Term Three (3) 2016

---

**Responsible to:** General Manager

**Responsible to:**

**Policy:** Personnel

**Applies to:** All Employees

**Purpose** To acknowledge the information privacy principle contained in the Privacy Act 1993.

To ensure Oamaru Kindergarten Association meets its obligations with respect to the collection, storage, use and disclosure of personal information about employees and children (and families) attending kindergarten.

**References:**

- OKA Child protection Procedure
- CYP&F Act 1989
- The Privacy Act 1993
- OKA Enrolment Form.
- This procedure is to be read in conjunction with the Ministry of Education (Early Childhood Services) Regulations 2008, Regulation 47, Criteria GMA10 and GMA11.

### Procedure

The Oamaru Kindergarten Association recognises the importance of meeting its obligations under the Privacy Act 1993 and to this end has appointed the General Manager as the Privacy Officer, who is responsible for the management of privacy issues.

Every person who attends, works at or makes professional contact with Oamaru Kindergarten Association is entitled to full privacy with regard to personal details, as specified in The Privacy Act 1993.

The requirements of the Privacy Act apply to the Board, Management and Staff of the Association and to members and office bearers of local Kindergarten Committees.

**Employees:**

- The Association will only collect personal information about individuals for lawful purposes relating to the organisation and will only use lawful means to collect that information.

- Where the Association collects personal information from an Employee, the Employee concerned will be advised of the reason for the need to collect the information, the names or designations of the people who will see the information, and details of the person collecting the information. The Employee has the right to refuse to provide the information and should be advised of the likely consequences of such a refusal.
- The Employee are welcome to approach the Privacy Officer with any issues associated with their own personal information. All employees have the right to ask the Privacy Officer for access to information about him/her. The request must be in writing, giving at least 24 hours notice. The Privacy Officer (or their delegate) must be present when any original information is being reviewed by an employee to protect the integrity of the information. The Privacy Officer has, in specific situations (as outlined in Part 4 “Good reasons for refusing access to personal information” of the Privacy Act) the right to refuse disclosure of certain information
- Where the Association needs to collect personal information from an individual employee every endeavour will be made to collect that information directly from the person concerned or from a person they have authorised.
- If the Association suspects that an individual is involved in an activity that is detrimental to the organisation (e.g. theft or fraud), information may be collected without the Employee’s knowledge or permission. The Association reserves the right to collect such information without the Employee’s involvement if the Employee’s involvement would be likely to prejudice the reason for collecting the information.
- 6. The Association reserves the right to collect information about an individual from another source if this information is already publicly available.
- 7. There may be a time where the Association is required to report issues of a general nature that requires the collection and publication of personal information. In such situations every endeavour will be made to ensure that the individual concerned is not personally identified.
- 8. In the event of an emergency situation (i.e. a workplace accident), if it is not reasonably practicable to collect essential information directly from the Employee, the Association may collect personal information from other sources. Where this situation occurs the Association will ensure the Employee has access to copies of all information collected.
- The Association will make every effort to ensure that no person can gain access or alter Employees information or give it to another person.
- The Employee has the right to view and correct any errors in the collected information. The Association will allow employees to apply for an opportunity to correct any personal information that is inaccurate. Where the Association declines such an application the Employee shall be entitled to have a note attached to the personal information that a request was made to have the information corrected, but was declined.
- The Association will only use personal information for the purpose for which it was collected. If any other use is identified the Association will obtain the Employee’s permission for it new use.
- The Employee has the right to view and correct any errors in the collected information. The Association will allow employees to apply for an opportunity to correct any

personal information that is inaccurate. Where the Association declines such an application the Employee shall be entitled to have a note attached to the personal information that a request was made to have the information corrected, but was declined.

### **Children's Records**

Kindergartens hold an enormous wealth of information regarding children in their care. Information is collected in many forms (i.e. oral, written, and visual) and this information gathering is a continuous and on-going process. No matter what form the information comes in, or how it is collected, kindergartens need to have a clear understanding of how to protect the information under the principles outlined in the Privacy Act 1993.

- Any information about an individual child is personal information under the Privacy Act and all principles of the Act apply to it, regardless of the age of the child.
- Children have the right to privacy and the right to access information about themselves, subject to section 29(d) of the Act which provides that information may be with-held from a child under the age of 16 if the disclosure in the information would be contrary to the child's interests.
- Information gathered on the Enrolment and Attendance records are required to be kept for 7 years. These documents are to be stored in a way that ensures that they are safe, e.g. water and fire safe and with adequate security.
- Kindergarten's procedures should ensure that information collected is only used for the purpose that it was obtained for.
- Information must be stored with proper safeguards against loss or wrongful disclosure. Only people whose jobs directly relate to the information have access to it. Measures should be implemented to stop unauthorised people getting into computer files (e.g. passwords) or manual filing systems (e.g. marked confidential, or installing locks) containing personal information.
- It is important that information on a child enrolled in a kindergarten is shared only with others who need it to effectively carry out their duties related to that child. It should also be confirmed that consent was granted on the enrolment form for the sharing of this information.
- If the parent/guardian does not consent to the disclosure of any or all of the information, this should be clearly marked (e.g. written in capitals and highlighted) on that child's records to safeguard against accidental disclosure.
- If consent has been obtained the information should be delivered in such a way that unnecessary personal information belonging to that child or others is not accidentally disclosed as well, e.g. blocking out unnecessary information or the children's names.
- Kindergartens may receive a request for information concerning a child attending their centre. Children's personal information can be given only to the child, the child's legal guardians and to the people granted consent on the enrolment form.
- Personal information may be disclosed to schools to ensure the best interests of the child

are maintained- refer The Privacy Act 199 part 54(b).

- Schools may be provided with statistical information, which does not identify the individuals

If there is any concern or you are unsure about releasing information seek clarification from the Privacy Officer.

### **Disclosure of Information**

The Association may release personal information if the Association has reasonable grounds to believe:

- It is one of the purposes for which information was collected in the first place.
- The information is in a publicly available publication.
- The disclosure is to the individual.
- Disclosure is authorised by the individual.
- The disclosure is necessary for the maintenance of the law including the prevention, detection, investigation, prosecution and punishment of offences. This can include providing information to the Police and to a court appointed “lawyer for child”.

Requests for Information by Police and other government agencies

- Any requests for information must be made through the General Manager.
- If the Police have a search warrant in which a Court has ordered release of information, then the Association should comply with the terms of the search warrant.
- If another government agency seeks information under its legislation (e.g. mandatory disclosure of information to care and protection coordinators under Children, Young Persons and Their Families Act), the request must be in writing including the law on which it relies for mandatory release of the information and the Association must be satisfied that it is dealing with that agency.
- If the request is without a search warrant, and the Association is satisfied the request is from the Police or other government agency – and the information is necessary for the maintenance of the law including the prevention, detection, investigation, prosecution and punishment of offences – then the Association may release the relevant information.
- If the Association is not certain about such release of information, then the request may be refused and the Police or other government agency can obtain a search warrant if the release is necessary.

Please refer to the Child Protection Policy in regards to holding and storing information regarding the suspected or disclosed abuse of a child.

When reviewing add in something about ELI – refer to MOE website for wording.