

## Grievance

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### Purpose and Scope

New Zealand Kindergartens (NZK) believe that each person who interacts with our team has the right to be treated fairly and with respect. We recognise that people do not always agree completely, and problems can arise at work that may cause staff members to feel uneasy. We acknowledge that when left unaddressed, they have the potential to develop into major problems that can have significant negative impacts on morale, performance, productivity, and staff members' health.

We are committed to ensuring there is a safe avenue for staff members to raise their concerns. The purpose of this procedure is to help you understand what a grievance is, how to raise a grievance, and what steps will be undertaken if you are involved in a grievance process or investigation.

This procedure applies to the Board, General Managers/Chief Executives (GMs/CEs) staff members (whether permanent, fixed, casual or relieving), contractors, whānau, volunteers, students, and other businesses or community organisations that we work with across the NZK network. The procedure applies at our workplace, at work events (such as offsite training) and outside our workplace (when it is related to our work).

### Legislation

NZK's Grievance Procedure is underpinned by the *Employment Relations Act 2000* and *Human Rights Act 1993*. This procedure should be read in conjunction with the *Kindergarten Teachers' Collective Agreement 2022* (Part 7).

### Key Definitions

A **Personal Grievance** is a type of complaint that a staff member may bring against a current or former employer. A staff member can raise a complaint if they were:

- unjustifiably dismissed,
- unjustifiably 'disadvantaged' in their employment,
- discriminated against on one of the prohibited grounds,
- sexually or racially harassed,
- bullied, or
- subjected to duress due to a membership or non-membership of a union or an employees' organisation.

**Victimisation** occurs when any person treats, or threatens to treat, another person less favourably than other persons in the same or substantially similar circumstances because they intend to make, or have made, use of their rights, encouraged another person to do the same, or given information in support of a complaint.

**Good faith** requires that employers, unions, and staff members must act in a way that is truthful and will not mislead each other. Good faith includes the following three elements:

- parties must not act in a misleading or deceptive way,
- parties must be responsive and communicative,

#### Examples of acting in Good Faith

Act honestly, openly, and without hidden motives

Raise issues in a fair and timely manner

Work constructively and positively together

Give each other relevant information as soon as possible

Be fully honest with each other

Keep an open mind, listen to each other & be prepared to change opinion about a particular situation

Treat each other with respect

- before making a decision, which may result in employees losing their job, the employer must give the affected employees sufficient information to be able to understand the proposal and give them a proper opportunity to comment.

### Rights and Obligations

NZK has an obligation to take any personal grievances within the workplace seriously and investigate them using the principles of a fair process that is not impacted by any bias or conflict of interest, to keep the workplace safe for everyone. All individuals covered by this procedure have an obligation to raise any grievance in a timely manner in line with the procedure below, and ensure they act in good faith at all times when participating in a grievance process.

### Grievance Procedure

Below is the process that should be undertaken when you would like to raise a personal grievance within the workplace:

- ✓ **Raise your concern directly with the person** as this is the easiest way of resolving an issue as the person may be unaware that their behaviour is causing you concern. Bringing it to their attention gives them the opportunity to rectify it.
- ✓ **Speak to your Head Teacher**, or the GM/CE if you feel uncomfortable or have already tried to speak with the person directly and it has not resolved the issue. They may talk to the person on your behalf or act as a mediator to attempt to resolve the situation.
- ✓ **Write a formal complaint** if the above options have not resolved the situation. This complaint should include specific examples of the instances or issues including dates, time, locations, and any witnesses. The complaint should be signed and submitted to your GM/CE, or (if the complaint is about the GM/CE) the Chief Executive of NZK.
- ✓ **An investigation will take place**, facilitated by an impartial person. An investigation process may include an interview with you, the person whom the complaint is about and any witnesses.
- ✓ **An outcome will be provided** to you which will include findings and recommendations. If the grievance is substantiated, appropriate action will be taken depending on the nature of the complaint and the findings of the investigation.
- ✓ **Request a mediation** if the grievance has not been satisfactorily resolved or you're not comfortable for NZK to investigate the issue due to the type of behaviour or person you're complaining about. Mediation is where an independent person helps an employee and an employer resolve a problem in a semi-formal, confidential environment.

#### Principles of a Fair Process

- Fully investigate the concerns
- Properly raise concerns with employees
- Give employees an opportunity to respond
- Genuinely consider the employees explanations
- Make the decision maker as impartial as possible
- Tell the employee they may have a support person present
- Give an opportunity for the employee to seek independent advice
- Treat employees without bias
- Consider all options before making a decision

- ✓ **Make a claim with the Employment Relations Authority (ERA)** if you are unsatisfied with the way the grievance was handled or the outcome of the investigation or mediation. All steps in the above process should be exhausted before making a claim with the ERA, and our preference is that all grievances are resolved internally.

### Dos and Don'ts

After a personal grievance has been raised, work will continue as normal unless the situation is deemed to be serious enough for this to be inappropriate. In these situations, parties involved in the grievance may be stood down or be able to take personal leave.

Do...

- ✓ Keep all grievances and investigations confidential unless you are discussing it with related parties.
- ✓ Address any grievance you have before it escalates.
- ✓ Cooperate fully with NZK to ensure the efficient and fair resolution of the grievance.
- ✓ Act in good faith ensuring you are honest, professional, and show respect to all individuals involved.

Don't...

- x Make false or misleading claims – these can be hurtful and damaging to both the individual and the organisation.
- x Participate in victimisation by treating a person who is involved in a complaint differently than you otherwise would.
- x Gossip with other staff members - it is important that all parties involved are shown respect and a level of confidentiality is maintained.

### Word of Warning

This procedure does not form part of an employee's contract of employment. However, it is important that you understand that a breach of this procedure may result in disciplinary action including but not limited to, termination of your employment. If you want to make a complaint or raise a concern regarding a breach of this procedure, please speak with your Head Teacher, or GM/CE.

### Procedure Reviews

This procedure may be amended from time to time at the discretion of NZK. Please ensure you regularly review all company procedures, so the content is front of mind in all you do.

### Related Procedures, Agreements & Frameworks

Code of Conduct Procedure  
Discrimination and Equal Opportunity Procedure  
Medical Incapacity Procedure  
Performance Management Procedure  
Privacy Procedure  
Sexual Harassment Procedure  
Workplace Bullying Procedure

[The Statement of National Education and Learning Priorities \(NELP\)](#)



## Kindergarten Teachers Collective Agreement (KTCA)