Ringa Atawhai Mātauranga

Legislation And Compliance

Legislation Compliance

Compliance with Legislation and statutory and legal requirements is an integral part of the management and operation of a PTE and the provision of high-quality education. PTE Advisory Boards, Management and Staff must be aware of and understand their legal obligations and responsibilities. This information provides an outline and explanation of the key legislation and legal requirements which PTEs must comply with, plus an explanation of the Principles of Natural Justice, Fair Process and Good Faith.

PART A: Key Legislation

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1

(1) Privacy Act (1993)

Background

The Privacy Act aims to protect the privacy of individuals. It is designed to ensure that there are adequate safeguards in the way organisations (including PTEs) collect, use, store and disclose information about individuals, including tauira, employees and job applicants. The Privacy Act sets out 12 information privacy principles that must be followed.

PTE management must ensure that they are familiar with the principles of the Privacy Act and that there are policies and procedures in place to ensure personal information is collected, stored, used and disclosed in accordance with those principles. Examples of private information handled by PTEs include tauira enrolment information such as medical conditions and other personal information, tauira assessment results and reports and personal information about job applicants and employees.

The Act also requires every PTE to appoint a Privacy Officer who, amongst other things, is responsible for ensuring the organisation complies with the provisions of the Act.

PTEs have a responsibility to:

- only collect necessary information
- take all reasonable steps to protect private information against unauthorised access, disclosure or misuse. Just what are reasonable steps depends on the nature of the information, how sensitive the information is and the ease and cost of protection

The Privacy Act is subject to all other legislation – this means that staff and the PTEs obligations under the Education Act and all other legislation must take priority, and must be met first, before consideration is given to the Privacy Act.

The Privacy Act does not apply to publicly available information such as Public Records or information in a 'publicly available' publication, or if disclosure of the private information is authorised by the individual concerned.

Information collected from job applicants and employees must be accurate, necessary and relevant and collected by fair, lawful means. The information must be stored securely, only used for the purpose it was collected, kept up-to-date and accessible to the individual concerned for checking and possible correction and updating.

Other Relevant Legislation / Regulations / Code of Practice

Human Rights Act (1993)

Relevant Management Policies / Procedures

Privacy Policy
Privacy Information and Procedures
Personnel Management Policy
Personnel Management Handbook

(2) New Zealand Bill of Rights Act (1990)

2

Background

The New Zealand Bill of Rights Act provides for the safeguarding of the rights of individuals, including:

- the right to the observance of the Principles of Natural Justice
- the right to be secure against unreasonable search or seizure, whether of the person, property, correspondence or otherwise
- the right to freedom of thought, conscience, religion and belief, including the right to adopt and to hold opinions without interference
- the right to freedom of expression, including the freedom to seek, receive and impart information and opinions of any kind in any form
- the right not to be subjected to torture or to cruel, degrading or disproportionately severe treatment or punishment
- the right to be free from discrimination

The main relevance of this Act to PTE management is to how PTEs treat, manage and deal with both staff and tauira. This legislation is particularly relevant to the freedom of expression and rights of tauira including:

- dress and appearance issues
- tauira behaviour
- school rules / bylaws and their enforcement
- discipline policy and discipline procedures
- tauira searches

It applies the right of natural justice to tauira and staff discipline situations. For example, the rights of tauira and employees to a fair process, to be heard and to be given the opportunity to put their side of the story. Punishment or treatment of tauira which is cruel or degrading is not permitted. Tauira also have the right of freedom of expression and have the right to give their opinion about any aspect of the PTE's administration, courses or activities.

PTE management and Governance Boards must be careful when dealing with tauira behaviour and tauira management issues, and with employees, not to contravene the New Zealand Bill of Rights.

Other Relevant Legislation / Regulations / Code of Practice

Human Rights Act (1993)

Relevant Management Policies and Procedures

Tauira Management and Support Handbook
Statement of the Principle of Natural Justice
Personnel Management Handbook

(3) Human Rights Act (1993)

3

Background

The purpose of the Human Rights Act (1993) is to help ensure that people are treated fairly and appropriately. It prohibits certain discriminatory practices on a number of grounds in relation to the treatment of employees and tauira.

Discrimination on the grounds of religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, gender, employment status, family status, sexual orientation and marital status are prohibited and specifically in education.

The Governance Board is liable for the actions of its employees in respect of the requirements of the Human Rights Act, unless the Board can show it took all reasonably practicable steps to prevent an employee from committing the unlawful act. It is important for a Board and CEO to ensure that there are policies and procedures in place which are consistent with the Act and to promote compliance.

PTE Boards have obligations to ensure a safe learning / work environment where tauira / staff are not subjected to any type of racial or sexual harassment, offensive behaviour or discrimination. Under the Human Rights Act, Boards can be liable for harassment and discrimination committed by their employees.

The Employment relations Act (2000) provides for personal grievances under that Act. Under section 103, a personal grievance can be taken by an employee against an employer for racial or sexual harassment or discrimination by the employer or a representative of the employer.

Under the Human Rights Act (section 69) and the Employment Relations Act (2000) a Board may also be liable for allowing the occurrence of racial or sexual harassment, or discrimination of an employee by a tauira.

Discrimination can be direct or indirect. Direct discrimination occurs when a person is treated unfairly or less favourably than another person in the same or similar circumstances. Indirect discrimination occurs when an action or policy that appears to treat everyone in the same way, actually has a discriminatory effect on a person or group.

The Act uses an expanded definition of 'employment'. It applies to all employees, voluntary workers, people seeking work, and contract workers. This means the Act applies to a number of people who are not covered by other employment legislation, such as the Employment Relations Act (2000), which only applies to employees.

The Act covers job advertisements, job applications, employment opportunities, the terms and conditions of employment and how employees leave their employment including dismissal and resignations.

Other Relevant Legislation / Regulations / Code of Practice

NZ Bill of Rights Act (1990)
Equal Pay Act (1972)
Protected Disclosures Act (2000)

Relevant Management Policies and Procedures

Recruitment Selection Policy
Recruitment Selection Information and Procedures
Personnel Management Policy
Policy for Complaints Against Staff
Information and Procedures for Complaints Against Staff
Personnel Management Handbook
Tauira Management and Support Handbook

(4) Protected Disclosures Act (2000)

4

Background

The purpose of the Act is to promote the public interest by:

- facilitating the disclosure and investigation of matters of serious wrongdoing in or by an organisation
- protecting employees who, in accordance with the Act, make disclosures of information about wrongdoing

A protected disclosure is a declaration made by an employee where they believe serious wrongdoing has occurred, there is reasonable grounds for the information to be true and they wish to disclose the information so it can be investigated.

Serious wrongdoing could include:

- unlawful, corrupt or irregular use of funds or resources
- an act or omission which risks public health and safety, constitutes an offence, is improperly discriminatory or grossly negligent or constitutes a risk to the maintenance of the law

Any current or former employee or contractor supplying services to the PTE can make a formal disclosure. Employees making a disclosure are protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure. This protection is not available to employees making allegations they know to be false or where they have acted in 'bad faith'.

Disclosures are to be made on the appropriate form, usually to the CEO or Governance Board, who investigate or arrange an investigation, and a report prepared. Disclosure may also be made to appropriate authorities (depending on the circumstances) such as the Police or Ombudsman.

The Governance Board must ensure the procedures are in place to receive and fairly and appropriately deal with / investigate the information about any serious wrongdoing in or by the organisation. Information about the existence of the internal procedures and adequate information on how to use the procedures must be widely publicised to staff within the PTE and must be republished at regular intervals.

Other Relevant Legislation / Regulations / Code of Practice

Privacy Act (1993)
Human Rights Act (1993)
Employment Relations Act (2000)

Relevant Management Policies and Procedures

Privacy Policy
Protected Disclosure Policy
Personnel Management Policy

Privacy Information and Procedures
Protected Disclosures Information and Procedures

(5) The Health and Safety at Work Act 2015

5

Background

The Health and Safety at Work Act (HSWA) 2015 sets out the key objectives, scope, and coverage of workplace safety regulations in New Zealand. It also outlines the responsibilities of employers and employees under this legislation.

Key Objectives
HSWA 2015 sets out to build a strong health and safety system in New Zealand workplaces. Its main aim is to ensure that everyone involved leads, participates, and takes accountability for health and safety.

This Act puts the spotlight on protecting workers at the highest reasonable level. By doing so, it aims to cut down serious work-related injuries and deaths.

The law changes how businesses think about risks. Now they must actively find and manage them before any harm can occur. It covers broad aspects of workplace safety including due diligence, employer duties, and employee rights.

This makes sure that all parties know what they need to do to keep their working environment safe from physical hazards or work-related stress.

Scope and Coverage
The Health and Safety at Work Act 2015 (HSWA) covers nearly all types of work in New Zealand. This includes various working environments like vehicles, ships, and even offices. The law takes into account different business models and ways of working.

It makes sure franchisors and franchisees also follow health and safety rules. Even workers and contractors doing jobs in many locations get protection under this act.

There are a few exceptions to this coverage though. Members of the Armed Forces don’t fall under HSWA when they’re doing operational activities. The same goes for civilians supporting these forces overseas in combat zones, as well as military planes or navy ships on duty.

Other than these exclusions, the act looks after nearly everyone at work across the country.

Responsibilities Under HSWA 2015

Under the HSWA 2015, employers must prioritise health and safety, providing a safe work environment. Employees are required to adhere to workplace safety procedures and report hazards promptly.

Employer Obligations
Employers must take their primary duty of care seriously to keep workers and others safe on the job. This means they have to create a work environment without risks to health and safety.

They do this by making sure that all equipment is safe, materials are handled and stored properly, and facilities needed for welfare are good enough. They also need to watch over the workplace's conditions regularly.

Following other laws like the Resource Management Act 1991 is something employers can't ignore either (section 35). If they don't comply, there might be fines or even private prosecutions.

Employers play a big role in preventing work-related injuries by setting up systems that manage risks well. They also have to offer information and training on how to stay safe at work.

Providing personal protective gear is another key thing they must do whenever it's necessary.

Employee Rights and Duties
Workers must always take care for their own and others' safety. This means following all health and safety rules the workplace sets. If they see anything dangerous, they must report it.

They should use personal protective equipment correctly to stay safe at work.

They also have the right to stop working if they believe a job is too dangerous. Under section 45, workers must follow reasonable instructions to keep everyone safe. It's important that everyone knows these duties and rights to make sure workplaces are as safe as possible.

Risk Management Focus
HSWA 2015 alters focus to initiate active risk management in workplaces. PCBUs are obliged to identify and address risks before they lead to harm. They must ensure, to their best capacity, that the workspace is secured.

This encompasses pondering over the likelihood of potential dangers and their possible severity. PCBUs should also strategise ways to eliminate these risks.

Risk management largely includes equipping workers with the appropriate training and resources. PCBUs are to establish systems and mechanisms that maintain safe work conditions. These measures aid in averting injuries and health conditions caused by work-related activities.

This is about fostering a culture where safety is prioritised, endorsing everyone's understanding of executing their jobs without causing harm or illness.

Implementing HSWA 2015 in the Workplace

To comply with the Health and Safety at Work Act (HSWA) 2015 in the workplace, businesses can create custom safety management systems. This includes conducting comprehensive risk assessments and supplying suitable personal protective equipment (PPE) for employees' safety.

Practical Steps for Compliance
Employers must train their teams well. They need to provide clear info and watch over how work happens. This means setting up ways to handle and store things safely. It's also key to keep an eye on the health of workers and the places they work in.

These steps make sure everyone has good facilities to do their jobs.

Section 64-65 talk about how people decide on groups at work focused on safety. Section 66 shows us how to set up committees that look after health and safety. Following these parts of the law helps businesses meet standards for keeping workplaces safe from harm, like trips or falls, loud noises, or harmful substances that can make people sick.
Governance Boards must ensure that all dealings with employees are in good faith and comply with the relevant employment agreement and the various requirements of the Employment Relations Act (2000).

Other Relevant Legislation / Regulations / Codes of Practice

Resource Management Act (2023)
MOE Health and Safety Code of Practice for Schools
Smoke-free Environment Act (2020)
Education Act (2022)

Relevant Management Policies / Procedures

Personnel Management Policy
Equal Employment Opportunity Policy
Privacy Policy, Privacy Information and Procedures
Health and Safety Management Handbook
Health and Safety Policy
Health and Safety Procedures
Personnel Management Policy

(6) Smoke-free Environment Act (2022)

6

Background

The Smokefree Environments and Regulated Products Act 2022 (originally the Smoke-free Environments Act 1990) is an Act of Parliament in New Zealand. The Act placed smoking restrictions on indoor spaces, banned smoking on public transport and established the Health Sponsorship Council.

The Smokefree Environments and Regulated Products Act (known as SERPA) is the key piece of smokefree and vaping legislation in New Zealand. It has several aims:

- to ensure that tobacco and vape products are not marketed or sold to young people;
- to prevent normalising smoking and vaping behaviours – while supporting smokers to switch to regulated products;
- to reduce exposure to and the health effects of second-hand smoke;
- to limit the number of outlets where tobacco, cigarettes and vapes are available to purchase; and
- to set a safety limit for the amount of nicotine in tobacco and vape products.

Upcoming changes to smokefree laws

The Government is working on changes to the Smokefree Environments and Regulated Products Act 1990 (the Act) to make vaping products less appealing and less available to people under the age of 18 years.

The main changes being made are:

new specialist vape stores will need to be at least 100 metres from Early Childcare Education Centres (ECEs);

- increasing penalties for breaking the law;
- banning the display of vaping products and heated tobacco products in retail outlets; and
- banning disposable vapes.
- The location changes and increased penalties will come into force immediately. However, a ban on disposable vapes and retail visibility will come into force six months after the Bill becomes law. This will allow time for the industry to prepare for changes.

Workplaces including canteens and ‘smoko’ rooms;
Schools and early childhood centres including buildings and surrounding grounds; and
Internal areas of some public places including bars, restaurants, cafes, sports clubs and casinos.
Licensed premises, workplaces and schools all have a responsibility to ensure they meet the requirements of the Act.

Controlling the advertising and promotion of tobacco and vape products
No Smoking symbol with the words Smokefree underneath. Retailers who sell tobacco or vape products have a responsibility to ensure they meet the requirements of the Act. This means:

- It is illegal to sell these products to anyone under the age of 18;
- It is illegal to sell single cigarettes to anyone regardless of age – cigarettes must be sold in packs of 20 or 25 sticks;
- It is illegal to display tobacco products in retail outlets;

Other Relevant Documents

1. Standardised Packaging for Tobacco Products in New Zealand:
2. Evidence of Policy Impact from the International Tobacco Control Policy Evaluation Project (University of Otago 2020).
3. Guidelines for Implementing the Prohibition on the Display of Tobacco Products:
4. Information for sellers of tobacco products and Smoke-free Enforcement Officers (Ministry of Health 2012).
5. Better Retail Controls on Tobacco: Smoke-free Environments Amendment Bill (Ministry of Health 2010).
6. Inquiry into the tobacco industry in Aotearoa and the consequences of tobacco use for Māori: Report of the Māori Affairs Committee (NZ Parliament 2010).
7. Smoke-free Environments (Controls and Enforcement) Amendment Act 2011.
8. Smoke-free Environments Act 1990.

(7) Immigration Act (2009)

7

Background

The 'Immigration Act 2009' (the Act) is the fundamental source of New Zealand immigration law.

The Act:

- sets out who needs a visa to travel to or stay in New Zealand
- provides for the certification of immigration instructions, and the rules and criteria for the grant of visas
- places responsibilities on people when they first arrive in New Zealand
- provides a legal basis for New Zealand to meet its international responsibilities under the Refugee Convention, the Convention Against Torture, and the International Covenant on Civil and Political Rights
- sets out the requirements that visitors, migrants, students, employers and educators must meet and the information they must give to Immigration New Zealand
- provides the grounds for deportation and creates criminal offences relating to immigration
- establishes the Immigration and Protection Tribunal, an independent tribunal which hears residence appeals, refugee and protection appeals and appeals against deportation.

The 'Immigration Amendment Act 2015' amended the 'Immigration Act 2009'.

These amendments:

- protect migrant workers from exploitation
- strengthen the immigration compliance regime
- reflect changes in technology
- clarify provisions in the 'Immigration Act 2009'.

Other Relevant Legislation / Regulations / Code of Practice

1. Ministry of Justice – Immigration and Protection Tribunal
2. Immigration instructions
3. Immigration Amendment Act 2015

Relevant Management Policy and Procedures

International Students' Information Booklet.

(8) Crimes Act (1961)

8

Background

PTEs have a "duty of care" to students in their charge and for whom they are responsible. It is the legal duty of a teacher / tutor to 'take reasonable precautions to avoid foreseeable dangers to students in their care'.

The standard of care required will depend on the capacity and ability of the student and the nature of the activity. Risks and hazards must be identified and managed, safety procedures / precautions enforced, equipment and facilities must be safe and well maintained, accepted best practice adopted and common sense used at all times.

Where a duty of care is owed by a PTE to a student and the PTE fails to take all reasonable steps to provide that care and its actions or omissions directly results in the injury or death of a student, then the Board, CEO or an individual teacher can be held liable to prosecution for negligence or criminal nuisance under the Crimes Act (1961). In a situation where a **failure to fulfil a legal duty of care due to gross negligence by a PTE employee results in death, then it is possible for a charge of manslaughter to be laid against the employee rather than just criminal negligence.**

PTEs have a responsibility to take reasonable care of all students under their supervision, avoid exposing students to foreseeable risks and hazards, and to protect those students from harm. PTEs must fully acknowledge their duty of care to students and must be proactive in meeting their duty of care obligation.

Other Relevant Legislation / Regulations / Code of Practice

Health and Safety at Work Act (2015)
Human Rights Act (1993)
Education Act (2022)
Building Act (2004)

Relevant Management Policy and Procedures

Tauira Management and Support Handbook
Health and Safety Management Handbook
Governance and Management Handbook

(9) Criminal Records (Clean Slate) Act (2004)

9

Background

The Criminal Records (Clean Slate) Act applies to employment and any other situation where an individual is asked about his / her criminal record. The Act is designed to allow individuals with serious convictions to put the past behind them. It is an offence for any person, without lawful authority, to require or request that an individual disclose their criminal record, when they are not entitled to. An individual can still voluntarily disclose their criminal record. The Act enables eligible individuals to conceal convictions.

An individual is eligible under the clean slate scheme if:

- they have completed a rehabilitation period since the sentence was imposed; and
- no custodial sentence was ever imposed on him / her; and
- the individual has not been convicted of a specified offence; and
- all relevant fines and reparation, costs or compensation imposed / ordered by the court have been paid; and
- no order has ever been made disqualifying him or her from holding or obtaining a drivers licence.

The PTE Board and CEO must be careful to comply with the requirements of the Criminal Records Clean Slate Scheme when interviewing and appointing new staff and dealing with existing employees.

Other Relevant Legislation / Regulations / Codes of Practice

NZ Bill of Rights (1990)
Employment Relations Act (2000)

Relevant Management Policy and Procedures

Recruitment and Selection Policy
Recruitment and Selection information and Procedures
Equal Employment Opportunity Policy
Personnel Management Handbook

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(10) Holidays Act (2003) and Parental Leave Employment Protection Act (1987) and Equal Pay Act (1972)

- **The Holidays Act (2003)**

  The Holidays Act provides an employee with a minimum entitlement to leave and holiday pay. The Act also requires employers to inform employees of their entitlements. All full-time employees are entitled to a minimum of four weeks paid annual leave on the completion of 12 months continual service. The Act also provides the formula to calculate the rate of holiday pay. Some employment agreements may provide for one or more "additional "weeks of holidays on top of the statutory entitlement.

  Employees are also entitled to a paid day off on a public holiday if it would otherwise be a working day. These public holidays are separate from and additional to annual holidays.

  After six months continuous employment, an employee is entitled to sick and bereavement leave. This leave is paid at the employee's relevant daily rate. The Act requires employers to maintain records of employees' entitlements and pay.

- **Parental Leave and Employment Protection Act (1987)**

  Protection is provided under the Act to employees who have been employed by the same employer for at least an average of 10 hours per week for 12 months before the expected date of birth of their child.

- **Equal Pay Act (1972)**

  This Act requires that equal remuneration be paid to men and women workers for work of equal value without discrimination based on gender. The principle 'equal pay for work of equal value' must be applied to all workers. An employer cannot pay men and women different pay for doing the same or substantially similar work, if the only difference is their gender. The Human Rights Act and Employment Relations Act also prohibit discrimination in employment on the grounds of gender.

PTEs must ensure that their employment arrangements with employees comply with the requirements of these Acts.

Other Relevant Legislation / Regulations / Codes of Practice

Employment Relations Act (2000)

Relevant Management Policies and Procedures

Personnel Management Policy
Personnel Management Handbook

(11) Copyright Act (1994)

11

Background

The Copyright Act protects authors and other copyright owners against unauthorised use of their works. The Act sets limits on the copying of literacy, music, artistic work, sound recording and film. Copyright protection comes into existence automatically when an original work is produced and usually continues for 50 years. The first owner of copyright is usually the author or in some cases the employer of the author. The copyright owner may sell or assign the copyright to someone else. Many authors pass copyright ownership on to a publisher.

Under New Zealand law, copyright comes into effect automatically as soon as the work is produced. A copyright does not need to be registered.

Many authors and publishers now issue their publications under the terms of a Copyright Licence – a partial right to copy. There is also copyright in most types of material on the internet.

One exception to normal copyright rules is copying for research or private study. 'Fair dealings' with a work for the purposes of research or private study does not infringe copyright on the work and can be used by PTEs to avoid a breach of copyright. Just what is 'fair dealings' depends on the purpose of the copying, the nature and significance of the copying, the amount and substantiality of the part copied (it should not normally be more than one copy at a time) and the effect of the copying on the value of the work.

Normally copying of all or part of a work without approval from the copyright owner or without a licence is an infringement of copyright unless there is a statutory exception to such infringement.

The Act has statutory exceptions or special provisions for copying for educational purposes by educational institutions such as PTEs. The Act allows multiple copying of extracts from copyright works for educational use by tauira if:

- no more than 3% or 3 pages are to be copied. Where copying of 3%- or 3-pages results in the whole work being copied, copying is limited to 50% of the work; and
- no charge is made to recover the cost of such copying; and
- the same or any other part of the work is not copied again within 14 days.

  Examples of a breach of copyright by PTEs, include:
  - retyping or copying unacknowledged newspaper articles
  - copying of a whole work for tauira

Signs warning photocopier users in the PTE (including tauira) about copyright should be prominently displayed around public access to photocopiers.

PTEs must comply with the provisions of the Copyright Act (1994). Boards should have guidelines consistent with both the relevant provisions of the Act that do not permit copying of copyright works, and also with the exceptions which apply for educational purposes in certain circumstances and conditions. Boards should also consider obtaining a Copyright Licence that supplements and extends the provisions of the Copyright Act in relation to multiple copying for education purposes.

Other Legislation / Regulations / Codes of Practice

Copyright Act (1994)

Relevant Management Policies / Procedures

Copyright Policy
Governance and Management Handbook
Copying Licences
Teaching and Learning Programme Handbook

(12) Education Act (1989), The Education and Training (Amendment Act 2023)

12

Background

These are wide-ranging Acts controlling many aspects associated with education. All PTEs who enrol international students are required to be signatories to the Code of Practice for Pastoral Care of International Students. The Code is a mandatory set of minimum standards established under the Education Act.

The Education Act and International Student Code of Practice also require PTEs that are signatories to the Code to have a fee protection policy in place to safeguard fees paid by international students.

The Education Act requires that PTEs have goals and objectives that relate primarily to education and training and provide a written statement to this effect. The Education Act also requires that the governing body of the PTE be a ‘body corporate’ and for it to have acceptable financial management and performance.

The Act makes it compulsory for PTEs to meet the requirements specified by the relevant National Standard Setting Body (SSB), e.g. NZQA or Industry Training Organisation, in relation to the scope of accreditation required to offer standards on the New Zealand Qualifications Framework. Section 236A of the Education Act sets out the tauira information, withdrawals and refund requirements for PTEs.

The Education Amendment Act (2011) strengthened the regulation of tertiary education by improving and modernising NZQA’s powers to establish policies and criteria. The Act also established in law the NZQF (New Zealand Qualification Framework) and the DAS (Directory of Assessment Standards) and put into legislation the concepts of Training Schemes and ‘Consent to assess against Standards’. Quality assurance processes were also put in place to underpin the NZQF and the DAS.
Under the Education Amendment Act all PTEs are required to provide NZQA with a Statutory Declaration from all Board members disclosing any ‘Conflicts of Interest’ and must meet ‘fit and proper person’ criteria. Student fee protection trust fund requirements are now also more detailed. PTEs must keep accurate records of tauira attendance and assessment.
The Education Amendment Act also created a strong NZQA regulatory and enforcement framework in particular when maintaining PTE Registration and in the case of non-compliance.

The Education and Training Amendment Act 2023 makes important legislative changes for early learning services, schools, kura, the tertiary sector and wānanga.

Other Relevant Legislation / Regulations / Codes of Practice

Code of Practice for the Care of International Students

Relevant Policies and Procedures

International Students Policies
Governance and Management Handbook
Teaching and Learning Handbook
Tauira Management and Support Handbook

(13) Fire Service Act (1975)

13

Background

The Fire Safety and Evacuation of Buildings Regulations (2006) require PTEs to have procedures in place for the safe, expeditious and efficient evacuation of the occupants of buildings in the event of a fire.

Other Relevant Legislation / Regulations

Fire Safety Regulations (2006)
Building Act (2004)

Relevant Management Policies and Procedures

Governance and Management Handbook
Health and Safety Handbook

(15) Resource Management Act (1991) and Building Act (2004)

15

Background

The Resource Management Act 1991 (usually called the RMA) is the main piece of legislation that sets out how we should manage our environment.

It's based on the idea of the sustainable management of our resources, and it encourages us (as communities and as individuals) to plan for the future of our environment.

The RMA means that councils set rules and requirements to manage activities ranging from building houses, clearing vegetation and moving earth, to taking water from a stream. Its purpose is to ensure activities won't harm our neighbours or communities, or damage the air, water, soil and ecosystems that we and future generations need to survive.

The RMA encourages us to get involved in deciding what's best for the environment by telling our local councils what we value about it. This is because you – as locals – are best placed to know your own surroundings, and you should be involved in deciding what we need to protect and how.

Although the RMA is a guide to what's important in our environment, it generally leaves the decisions about how to manage it in the hands of the local community. However, in matters of national significance (which could affect everybody in the country), central government can direct how environmental resources will be used, through national direction.

The Building Act 2004 is about ensuring buildings are designed and built right first time. It improves control of, and encourages better practices in, building design and construction.
This means:

- more clarity on the standards we expect buildings to meet
- more guidance on how those standards can be met
- more certainty that capable people are undertaking building design,
- construction and inspections
- more scrutiny in the building consent and inspection process
- better protections for homeowners through the introduction of mandatory warranties.

The buildings and premises used by PTEs must meet the requirements and standards of the Resource Management Act (1991), and the Building Code to the extent required by the Building Act (2004).

The Building Act (2004) establishes a series of minimum safety standards (building regulations) which must be complied with. The purpose of these regulations is to ensure all buildings and alterations are constructed to a standard that ensures the safety of all occupants. The Building Act also requires building owners to ensure access, facilities and signage are in place to cater to the needs of disabled staff, students and visitors when constructing a new building or altering any building.

The purpose of the Resource Management Act is to promote the sustainable management of natural and physical resources. The provisions of the Act, among other things, promote the health and safety of communities. The PTE's activities must not have any adverse effects on the environment. PTE Boards, which as part of their activities discharge contaminants, should ensure that local council bylaws are complied with.

Evidence of compliance with the Building Codes and the Resource Management Act is required for every permanent or regular delivery site used by the PTE.

Other Relevant Legislation / Regulations / Codes of Practice

Fire Safety Regulations
Fire Service Act (1975)
Building Regulations

Relevant Management Policies and Procedures

Governance and Management Handbook

(16) Consumer Guarantees Act (1993)

16

Background

The Consumer Guarantees Act applies to the educational services supplied by PTEs to students including international students. The Act states that services must be:

- Carried out with reasonable care and skill
- Fit for the purpose for which they are required
- Completed within a reasonable time
- Reasonably priced
- Of such a nature and quality that they can reasonably be expected to achieve any particular result made known to the PTE

PTEs must be aware that the education services provided to students (as consumers) are covered by Consumer Guarantees Act and avenues of redress are available to students.

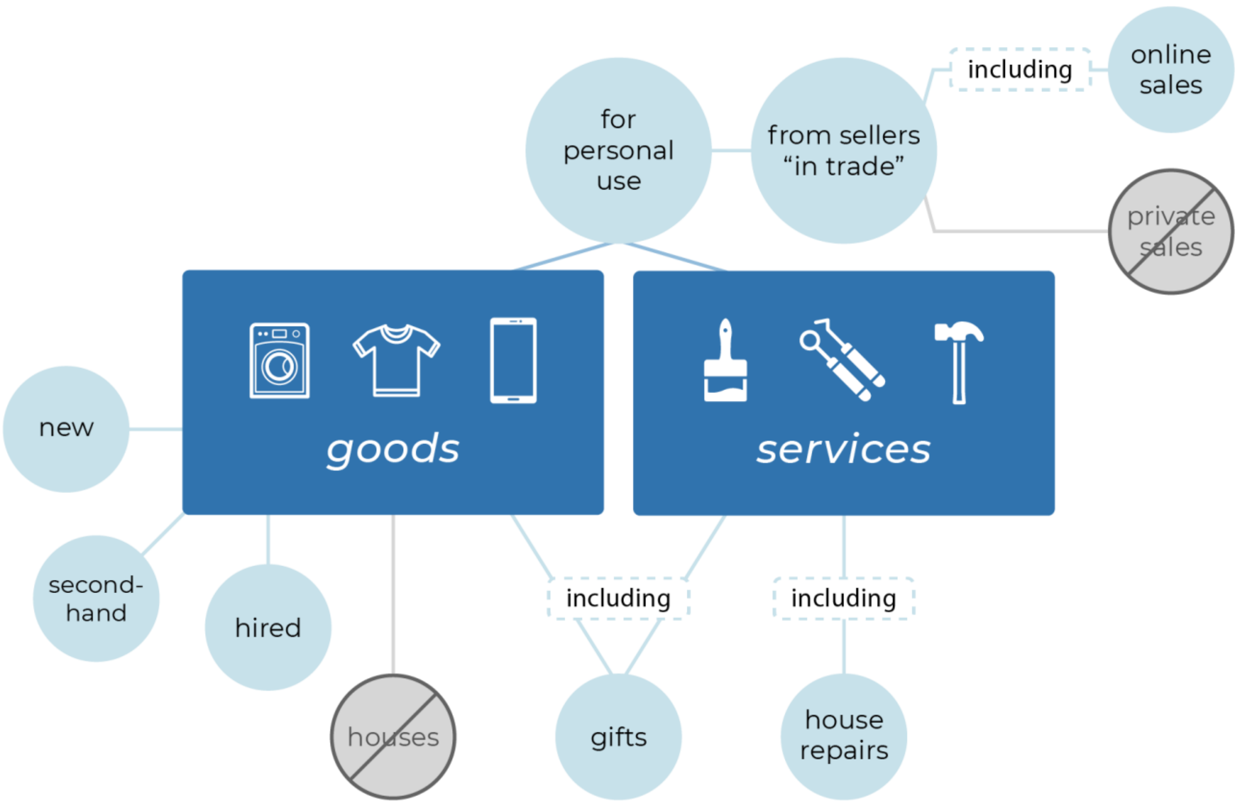
Other Relevant Legislation / Regulation / Codes of Practice

Fair Trading Act (1986)

Relevant Management Policies & Procedures

Tauira Management & Support Handbook – Learner Information

International Student Handbook



(17) Education (Vocational Education, Training Reform) Amendment Act 2020

17

It amends the Education Act 1989 and repeals the Industry Training and Apprenticeships Act 1992 to create a unified and cohesive vocational education and training system. The Amendment Act is part of the reform of vocational education announced on 1 August 2019.

This Act:

- establishes a new regulatory framework for vocational education and training
- enables workforce development councils to be established
- establishes the New Zealand Institute of Skills and Technology
- provides transitional arrangements to enable a smooth transfer of functions and responsibilities from the current to the new system.

A new regulatory framework for vocational education and training

The Act integrates vocational education and work-based training into one statute. It does this by amending the Education Act 1989, including integrating the provisions of the Industry Training and Apprenticeships Act 1992 then repealing it.

The Act creates a unified and cohesive system of vocational education, by establishing new organisations. The roles of these bodies are set out below. The Act amends functions and powers of existing bodies to reflect the new arrangements.

Workforce development councils

The Act enables workforce development councils to be established by Order in Council for one or more industries. Workforce development councils will have functions of providing skills leadership, setting standards and developing qualifications, endorsing programmes and moderating assessments, and providing an advisory and representative role. This includes advising the Tertiary Education Commission about the mix of vocational education and training needed for their respective industries.

Industry training organisations (ITOs) are currently recognised by the Minister to develop and maintain skill standards for industry. The Act provides that, after a period of transition, ITOs will no longer be recognised for this role.

The New Zealand Institute of Skills and Technology

The Act establishes the New Zealand Institute of Skills & Technology (NZIST) to provide, arrange, and support a range of education and training, including in the workplace. All 16 polytechnics (known as institutes of technology and polytechnics) become part of NZIST, as subsidiary companies initially.

The Act includes a charter that NZIST must give effect to. The charter sets out how NZIST will be responsive to the needs of all regions of New Zealand, their learners, industries, employers and communities.

The role of supporting workplace learning will shift from ITOs to NZIST and other providers. ITOs currently arrange or support training in the workplace, through a recognition process. The Act provides that, after a period of transition, during which they will be called transitional ITOs, they will no longer be recognised for that role. This Act deals with the recognition and funding of Industry training Organisations (ITO's) and the setting of skill standards and administration of industry-based training.

Other Relevant Legislation / Regulation / Codes of Practice

Education Act (1989)
Education Standards Act (2001) and Education Amendment Act (2011)

Relevant Management Policies and Procedures

Assessment and Moderation Handbook
Assessment and Moderation Policy
Assessment and Moderation Management Guide

(18) Fair Trading Act (1986)

18

Background

The Fair-Trading Act applies to educational services provided by PTEs to tauira, including international tauira. Educational providers must not:

- Mislead tauira, or engage in behaviour that is likely to mislead tauira, about educational services, including the nature, characteristics, suitability for a purpose, or quantity of educational services
- Make any false or misleading representations to tauira about educational services. This includes (amongst other things) falsely representing that services are:
  - of a particular kind, standard, quality, or quantity
  - supplied by a particular person or by any person of a particular trade, qualification, or skill
  - sponsored, approved, endorsed, or affiliated
  - offered at a particular price
  - needed for a particular purpose

All PTE promotional material should be reviewed on a regular basis to ensure that it does not contain misleading or deceptive information.

PTEs must ensure that all qualifications, courses and other information provided to prospective and existing tauira is clear up to date and accurate.

PTEs also need to take care with both oral and written statements promoting the PTE to tauira. The Contractual Remedies Act (1979) provides that a representation which induces a party to enter a contract can be treated as a contractual term. Accordingly, PTEs must ensure they do not make promises or warranties, either in writing or orally, which cannot be met.

Other Relevant Legislation / Regulation / Code of Practice

Consumer Guarantees Act (1993)

Relevant Management Policies and Procedures

Tauira Management & Support Handbook – Learner Information

International Tauira Handbook

(19) Residential Tenancies Act (1986)

19

The Residential Tenancies Act 1986 in New Zealand outlines the rights and responsibilities of landlords and tenants. Key points include:
Landlord Responsibilities: Landlords must provide and maintain rental properties in a reasonable state of repair.

Tenant Responsibilities: Both landlords and tenants have specific obligations under the Act, which are detailed on the Tenancy Services website.

Landlords must provide tenants with a written tenancy agreement, which can be either a fixed-term tenancy or a periodic tenancy:

Bond and Rent Payments
A bond is a security deposit, and landlords can ask for up to four weeks' rent as a bond. This must be lodged with Tenancy Services within 23 working days of receipt. Tenants are entitled to get their bond back at the end of the tenancy, provided they meet all their obligations.

Rent must be paid in advance, typically weekly or fortnightly. Landlords cannot request more than two weeks' rent in advance and cannot require further rent payments until the advance period has passed.

Since July 2021, all rental properties must meet the Healthy Homes Standards, which cover five key areas:

- Heating: A fixed heater capable of heating the main living area to at least 18°C.
- Insulation: Ceiling and underfloor insulation to a minimum standard.
- Ventilation: Opening windows or doors in living spaces and extractor fans in kitchens and bathrooms.
- Moisture and Drainage: Efficient drainage systems and a moisture barrier if the property has an enclosed subfloor.
- Draught Stopping: Gaps and holes that cause noticeable draughts must be blocked.

For more detailed information, you can refer to the Tenancy Services website and the official legislation page or search https://tbt.nz/2024/09/23/understanding-new-zealands-residential-tenancies-act-key-points-for-landlords/

(20) Vulnerable Children Act (2014)

20

Background

The Vulnerable Children Act introduced significant changes to the Children, Young Persons, and Their Families Act 1989 (the CYPF Act). It includes a series of measures to improve the safety and wellbeing of our most vulnerable children and support for caregivers.

The Children's Action Plan and the Vulnerable Children Act 2014 rest on the belief that no single agency alone can protect vulnerable children. For the first time, five chief executives of government agencies are jointly accountable for acting together to develop and implement a plan to protect our children from harm, working with families/whānau and communities.

A number of measures have been enacted to keep our children safe. These include standard safety checking for paid staff in the government-funded children's workforce and new requirements for government agencies and their funded providers to have child protection policies.

Summary of Vulnerable Children Act changes

Joint accountability: Chief Executives from the Ministries of Education, Health, Justice, Social Development and the NZ Police must jointly develop and report against a vulnerable children's plan to collectively achieve the Government's priorities for vulnerable children. The plan will be reviewed every three years and reported on annually.

Child protection policies: certain state services and their contracted or funded providers of children's services must adopt child protection policies, covering the identification and reporting of child abuse and neglect. In addition to the five government agencies, this requirement applies to the Ministry of Business, Innovation and Employment, Te Puni Kōkiri, district health boards, boards of trustees of state and state-integrated schools, and sponsors of partnership schools kura kaupapa.

The overarching purpose of the child protection policies is to provide information and processes to improve the identification and reporting of child abuse and neglect.

- The requirement for child protection policies applies "as soon as is practicable" for government-funded service providers, except for schools which will be subject to this requirement at a later date – within two years.
- Embedding the new child protection policies will take time and the National Children's Directorate will support each sector to improve their practice.
- As part of this process, each government agency will guide organisations in their sector on how to assess their current policies and ensure they meet the new expectations.
- We want to ensure all organisations implement high quality policies that safeguard the children accessing their service.

Safe children's workforce: the Act introduces new requirements to ensure children are safe with the people who work with them by implementing:

- a new standard safety check for all paid staff in the government-funded children's workforce,
- workforce restrictions preventing people with certain serious convictions from roles that involve working alone with, or with primary responsibility for, children. This restriction is subject to an exemptions process.

Other Key Documents

1. The Vulnerable Children Act 2014
2. Vulnerable Children (Requirements for Safety Checks of Children's Workers) Regulations 2015
3. Safer Organisations, Safer Children (CAP)
4. Safer Recruitment Safer Children, Guidance for choosing Safe People to work with Children
5. Children's worker safety checking under the Vulnerable Children Act (CAP

(21) Child Protection Policy

21

Whakaaro:
Ensuring the wellbeing and safety of children, including prevention of child abuse or maltreatment, is a paramount goal of the PTE. This policy provides guidance to staff on how to identify and respond to concerns about the wellbeing of a child, including possible abuse or neglect. The process for responding to a concern about a child is on page 7 of this policy.

Kaupapa:
The interests of the child will be the paramount consideration when any action is taken in response to suspected abuse or neglect. This PTE commits to support the statutory agencies (Tamariki Ora and the New Zealand Police (the Police)) to investigate abuse and will report suspected cases and concerns to these agencies as per the process in this policy.

Our Designated Person for Child Protection, **Angelia Carter**, will be responsible for the maintenance and annual review of this policy, in addition to carrying out the responsibilities outlined in this policy. Staff will not assume responsibility beyond the level of their experience and training. Our organisation commits to ensure staff has access to the training they need.

This policy was amended on the 27/04/2018 and extends upon the organisation's "Abuse and Neglect Policy". A digital copy can be found on our website at www.ringaatawhaimatauranga.org.nz/. The policy is due to be updated on 25/11/2020. It is consistent with Tamariki Ora and Police guidelines and will be updated when new guidance is issued.

Purpose, scope and principles
Our child protection policy supports our staff to respond appropriately to potential child protection concerns, including suspected abuse or neglect. It is our organisation's commitment to protect children from abuse and to recognise the important roles all of our staff have in protecting children.

This policy provides a broad framework and expectations to protect children, including (but not limited to) staff behaviours in response to actual or suspected child abuse and neglect. It applies to all staff, including volunteers and part-time or temporary roles and contractors. It is intended to protect all children that staff may encounter, including siblings, the children of adults accessing services and any other children encountered by staff as they provide their service. In addition to guiding staff to make referrals of suspected child abuse and neglect to the statutory

agencies – i.e., Tamariki Ora and the Police – this policy will also help our staff to identify and respond to the needs of the many vulnerable children whose wellbeing is of concern.
We recognise that in many of these cases, the involvement of statutory agencies would be inappropriate and potentially harmful to families/whānau. Throughout New Zealand statutory and non-statutory agencies provide a network of mutually supportive services, and it is important for our organisation to work with these to respond to the needs of vulnerable children and families/whānau in a manner proportionate to the level of need and risk. Contact details for agencies and services in our community are provided as an appendix to this policy.

To ensure that this organisation demonstrates continual improvement in child protection practice, we will work to maintain a good working relationship with child protection agencies and support our staff to protect children from abuse by consulting with experts with specialist knowledge and providing the necessary training options. We also commit to explore opportunities to work with other providers, including from other sectors, to develop a network of child protection practice in our community. This policy applies to all staff, including contractors and volunteers.

Definitions

- **Child** – any child or person aged under 17 years and who is not married or in a civil union.
- **Child protection –** activities carried out to ensure that children are safe in cases where there is suspected abuse or neglect or are at risk of abuse or neglect.
- **Designated person for child protection** – the manager/supervisor or designated person responsible for providing advice and support to staff where they have a concern about an individual child or who want advice about child protection policy.
- **Disclosure** – information given to a staff member by a child, parent or caregiver or a third party in relation to abuse or neglect.
- **Tamariki Ora** – the agency responsible for investigating and responding to suspected abuse and neglect and for providing care and protection to children found to be in need.
- **New Zealand Police** – the agency responsible for responding to situations where a child is in immediate danger and for working with Tamariki Ora in child protection work and investigating cases of abuse or neglect where an offence may have occurred.
- **Physical abuse** – any acts that may result in physical harm of a child or young person. It can be, but is not limited to: bruising, cutting, hitting, beating, biting, burning, causing abrasions, strangulation, suffocation, drowning, poisoning and fabricated or induced illness.

- **Sexual abuse** – any acts that involve forcing or enticing a child to take part in sexual activities, whether or not they are aware of what is happening. Sexual abuse can be, but is not limited to:
    - **Contact abuse:** touching breasts, genital/anal fondling, masturbation, oral sex, penetrative or non-penetrative contact with the anus or genitals, encouraging the child to perform such acts on the perpetrator or another, involvement of the child in activities for the purposes of pornography or prostitution.
    - **Non-contact abuse:** exhibitionism, voyeurism, exposure to pornographic or sexual imagery, inappropriate photography or depictions of sexual or suggestive behaviours or comments.
    - **Emotional abuse** – any act or omission that results in adverse or impaired psychological, social, intellectual and emotional functioning or development. This can include:
        - Patterns of isolation, degradation, constant criticism or negative comparison to others.
        - Isolating, corrupting, exploiting or terrorising a child can also be emotional abuse.
        - Exposure to family/whānau or intimate partner violence.
- **Neglect** – neglect is the most common form of abuse and although the effects may not be as obvious as physical abuse, it is just as serious. Neglect can be:
    - Physical (not providing the necessities of life like a warm place, food and clothing).
    - Emotional (not providing comfort, attention and love).
    - Neglectful supervision (leaving children without someone safe looking after them).
    - Medical neglect (not taking care of health needs).
    - Educational neglect (allowing chronic truancy, failure to enrol in education or inattention to education needs).

Training

We are committed to maintaining and increasing staff awareness of how to prevent, recognise and respond to abuse through appropriate training. As part of their induction, new staff will be made aware of the policy on child protection.

Identifying child abuse and neglect

Our approach to identifying abuse or neglect is guided by the following principles:

- We understand that every situation is different and it's important to consider all available information about the child and their environment before reaching conclusions. For example, behavioural concerns may be the result of life events, such as divorce, accidental injury, the arrival of a new sibling etc.

- We understand when we are concerned a child is showing signs of potential abuse or neglect, we should talk to someone, either a colleague, manager/supervisor or the Designated Person for Child Protection – we shouldn't act alone.
- While there are different definitions of abuse, the important thing is for us to consider overall wellbeing and the risk of harm to the child. It is not so important to be able to categorise the type of abuse or neglect.
- It is normal for us to feel uncertain, however, the important thing is that we should be able to recognise when something is wrong, especially if we notice a pattern forming or several signs that make us concerned.
- Exposure to intimate partner violence (IPV) is a form of child abuse. There is a high rate of occurrence between IPV and the physical abuse of children.
- We recognise the signs of potential abuse:
  - *Physical signs* (e.g., unexplained injuries, burns, fractures, unusual or excessive itching, genital injuries, sexually transmitted diseases).
  - *Developmental delays* (e.g., small for their age, cognitive delays, falling behind in school, poor speech and social skills).
  - *Emotional abuse/neglect* (e.g., sleep problems, low self-esteem, obsessive behaviour, inability to cope in social situations, sadness/loneliness and evidence of self-harm).
  - *Behavioural concerns* (e.g., age inappropriate sexual interest or play, fear of a certain person or place, eating disorders/substance abuse, disengagement/neediness, aggression).
  - The child talking about things that indicate abuse (sometimes called an allegation or disclosure).

We are aware of the signs of potential neglect:

- *Physical signs* (e.g., looking rough and uncared for, dirty, without appropriate clothing, underweight).
- *Developmental delays* (e.g., small for their age, cognitive delays, falling behind in school, poor speech and social skills).
- *Emotional abuse/neglect* (e.g., sleep problems, low self-esteem, obsessive behaviour, inability to cope in social situations, sadness/loneliness and evidence of self-harm).
- *Behavioural concerns* (e.g., disengagement/ neediness, eating disorders/substance
- abuse, aggression).
- *Neglectful supervision* (e.g., out and about unsupervised, left alone, no safe home to
- return to).

- *Medical neglect* (e.g., persistent nappy rash or skin disorders or other untreated medical issues).

Every situation is different, and staff will consider all available information about the child and their environment before reaching conclusions. For example, behavioural concerns may be the result of life events, such as divorce, accidental injury, the arrival of a new sibling etc. This organisation will always act on the recommendations of statutory agencies, including Tamariki Ora and the Police. We will only inform families/whānau about suspected or actual abuse after we have discussed this with these agencies.

When we respond to suspected child abuse or any concerning behaviour, we write down our observations, impressions and communications in a confidential register. This is kept separate from our other records and access will be strictly controlled.

Staff involved in cases of suspected child abuse are entitled to have support. We will maintain knowledge of such individuals, agencies and organisations in the community that provide support.

Confidentiality and information sharing

We will seek advice from Tamariki Ora and/or the Police before identifying information about an allegation is shared with anyone, other than the service manager or designated person. Staff should be aware that:

- Under sections 15 and 16 of the Children, Young Persons, and Their Families Act 1989 any person who believes that a child has been or is likely to be, harmed physically, emotionally or sexually or ill-treated, abused, neglected or deprived may report the matter to Tamariki Ora or the Police and provided the report is made in good faith, no civil, criminal or disciplinary proceedings may be brought against them.
- When collecting personal information about individuals, it is important to be aware of the requirements of the privacy principles – i.e., the need to collect the information directly from the individual concerned and when doing so to be transparent about: the purposes for collecting the information and how it will be used; who can see the information; where it is held; what is compulsory/voluntary information; and that people have a right to request access to and correction of their information.
- Staff may, however, disclose information under the Privacy Act/Health Information Privacy
  Code where there is good reason to do so – such as where there is a serious risk to individual

health and safety (see privacy principle 11/Code rule 11). Disclosure about ill-treatment neglect of a child/young person may also be made to the Police or Tamariki Ora under sections 15 and 16 of the Children, Young Persons, and Their Families Act 1989.

Child safe practice guidelines

- To avoid situations where staff may be alone with children, all staff should examine the opportunities or possible situations where staff may be alone with children. Wherever possible an open-door policy for all spaces should be used (excludes toilets). Staff should be aware of where all children are at all times.
- Visitors should be monitored at all times by staff and volunteers and outside instructors should be monitored by staff.
- If activities require one to one physical contact (i.e., classes in swimming, gymnastics etc.) parents and caregivers should be advised.
- Where a child or young person requires assistance, e.g., if they are intellectually or physically disabled, if possible, involve the parents/caregivers and outside agencies (in education such as the Ministry of Education’s Special Education group) to assist. If this assistance is not available, ensure that the staff members are aware of the appropriate procedures when giving assistance.
- Staff should avoid being alone when transporting a child or young person, unless an emergency requires it. Except in an emergency, children and young people are not to be taken from our organisation’s premises, or from the programme we provide, without written parental consent.

Process For Responding To A Concern About A Child.

Disclosure of abuse or neglect is made

- Listen to the child.
- Reassure the child.
- Ask open-ended prompts – e.g., “What happened next?”

If the child is visibly distressed

Provide appropriate reassurance and re-engage in appropriate activities under supervision until they are able to participate in ordinary activities.

If the child is not in immediate danger

Re-involve the child in ordinary activities and explain what you are going to do next.

If the child is in immediate danger.

Contact the Police immediately.

As soon as possible formally record the disclosure.

Record:

- Word for word, what the child said.
- The date, time, location and the names of any staff that may be relevant.
- The factual concerns or observations that have led to the suspicion of abuse or neglect m(e.g., any physical, behavioural or developmental concerns).
- The action taken by our organisation.
- Any other information that may be relevant.

Decision-making

Discuss any concern with the manager, supervisor or the designated person for child protection

Notifying authorities

Notify Tamariki Ora promptly if there is a belief that a child has been, or is likely to be, abused or neglected.
Phone: 0508 Family (0508 326 459)
Fax: 09 914 1211
email: tamarikiora@.govt.nz

Process for Responding When An Allegation Is Made Against A Member of Staff

All matters involving allegations against staff need to be escalated to the Directors. To ensure the child is kept safe, management may take steps to remove the staff member against whom an allegation has been made from the environment, subject to the requirements of the applicable individual or collective employment contract and relevant employment law.

Disclosure/allegation of child abuse by a staff member

Repeat process on previous page up to "decision-making"

Directors to be notified through the CEO

- Directors to consult with Tamariki Ora or the Police.
- Directors to refer to the relevant employment contract.

Tamariki Ora or management to advise employee and seek a response (depending on outcomes of discussions with statutory agencies.)

- Employee will be advised of their right to seek support/advice from union or other appropriate representatives.
- Management to contemplate removal of employee from the programme environment, subject to the employment contract.
- Management to maintain close liaison with Tamariki Ora or the Police.

We commit not to use 'settlement agreements', where these are contrary to a culture of child protection. Some settlement agreements allow a member of staff to agree to resign provided that no disciplinary action is taken, and a future reference is agreed. Where the conduct at issue concerned the safety or wellbeing of a child, use of such agreements is contrary to a culture of child protection.

PART B:

Statement of the Principles of Natural Justice, Fair Process and Good Faith

Statement

The Principles of "Natural Justice", "Fair Process" and "Good Faith" are to be applied to all aspects of tauira and personnel management within the PTE. All the Policies, Procedures and Practice within the PTE must be in accordance with these key Principles.

Principles of Natural Justice

Natural Justice means that people, including all tauira and employees, are to be treated fairly and properly with due regard to their rights and the specific circumstances of each case, in particular when dealing with and resolving disputes or issues.

The key requirements of Natural Justice are:

- A person (e.g. Manager) should not be both the judge and prosecutor in any particular case
- Interested or affected parties must always be given adequate time and opportunity to comment / respond in their defence, comments must always be fairly heard
- All relevant information which may influence a decision must be provided, preferably prior to any hearing or meeting to consider the case
- Fair due process must be followed and both the process and decision flexible enough to consider the particular circumstances of each case / situation
- Decisions must be made in good faith without bias and prejudice and after considering both sides with an open mind and with no preconceived ideas. No interested party should take part in the decision-making process
- The decision maker must act fairly in the circumstances and the decision must be reasonable, i.e. the outcome is not outrageous

Principle of Fair Process

The process followed when dealing with tauira and employee issues or circumstances must be fair, proper and appropriate. Fair process will usually involve the following:

- Provision of information – any information being relied on must be given to the relevant people involved
- Seeking different views – the people involved must be given sufficient time to consider the information, prepare a response and the opportunity to comment
- Transparency – by keeping the relevant people well-informed including during any investigation
- Representation - the interested or affected parties involved have the right to representation, including at any meetings
- Having regard to a person's 'right to privacy'
- Open mind – the person involved has the right to put their side and present their case and have it considered carefully with no predetermined bias
- Relevant considerations – only relevant matters are to be taken into account (including mitigating factors) and all relevant information must be disclosed before any hearing / meeting
- Even handed treatment – there should be even handed treatment. People in similar situations should be treated in the same way, unless there is good reason for treating them differently.
- The decision maker must act in good faith and without bias
- Access to decision maker – the individual involved should have the opportunity to directly address the person who will make the final decision
- No interested party or any person with a conflict of interest should be involved in the decision-making process
- The decision maker should advise the person of his or her final decision
- Alternatives – all alternatives must be considered before a decision is made on the action to be taken

Principle of Good Faith

PTEs have an obligation to deal with all tauira and employees at all times fairly, reasonably and in "good faith". In broad terms good faith means that the organisation and / or its representatives must:

- act honestly, openly and without hidden or ulterior motives
- raise issues in a fair and timely way
- be constructive and co-operative
- be proactive in providing relevant information when dealing with issues
- carefully consider all the information provided
- respond promptly and thoroughly to reasonable requests and concerns
- keep an open mind, listen and be prepared to change a view about a particular situation
- treat the people involved with dignity and respect

Probity and Integrity

The PTE Advisory Board and all the PTE's employees must conduct themselves and their activities in a manner that reflects an appropriate standard of probity and integrity i.e. honesty, fairness, sincerity, honour and trustworthiness.