

	Policy Category: GOVERNMENT, MANAGEMENT AND ADMINISTRATION
	Policy Name: Child Custody Policy

Purpose

The purpose of this operational policy is to ensure the safety of children by meeting Licensing Criteria **GMA4** and **GMA10**.

Position Statement

As an Early Childhood Education Centre we aim to build strong relationships with parents/whānau, encouraging open and honest communication, with the child at the forefront of all decisions. Where there are custody issues, we will remain impartial, follow due process and abide by the court rulings.

Issue Outline

When parents or guardians live apart, a decision is made about the day-to-day responsibility for the child. This is done either between the parents and additional guardians or by the family court.

If a parent or guardian does not have the day-to-day responsibility, they are still likely to be entitled to have contact / access with the child, unless there is a Family Court Order stopping a parent or guardian from having contact with a child.

Details

- Not all parents and guardians formalize the arrangement. Any dispute over the child's day-to-day care and right to early learning is to be settled by the parents / guardians.
- It is not our Centre's role or responsibility to mediate in a dispute and it is not our Centre's role to enforce agreements between parents and guardians. The Centre will be strictly neutral, with a focus on the child's safety and wellbeing, as well as the health and safety of all children and staff in the centre.
- If visits need to be arranged or in the event of any dispute between parents and guardians they will be expected to settle these without the involvement of the centre.
- The Education and Training Act 2020 sets out the right of entry to ECE services for parents and guardians. Unless a court order rules otherwise, all parents and guardians are entitled to:

- Reports about their child's participation in early learning experiences
- Participate in the opportunities provided by the centre to engage with parents
- Have access to any official records held at the service related to their child's participation in that service.

There is no legal right of access to the centre by a parent without your consent.

Our Centre keeps, maintains and regularly reviews our enrolment records. Parent communication systems are in place. All staff are made aware of Custody Court Orders and follow procedures to ensure the safety and wellbeing of children, staff and families at the Centre. Should a non-custodial parent try to leave the centre with a child, staff know the procedure to follow, e.g.

- Refuse entry
- Contact the custodial parents or designated emergency person
- Call 111

Custody

- Custody of children is a civil matter, not a Police (criminal) matter.

The family justice system

People who have separated can get help outside of the court to help them agree on how they will care for their children. If they can't agree, they can apply to the Family Court to resolve things.

- Custody of children is dealt with through the Family Court. The Family Court can issue a warrant for a particular action and the Police can act on that warrant.
- If one parent is awarded custody of a child attending your Centre, they will be able to produce a copy of the Court Order awarding them custody. You should retain a copy of this document on your records and note the dates during which the Order is relevant.
- Have a conversation with the parent who has full custody, gathering necessary information:
 - where does the non-custodial parent live?
 - what is their character? Circumstances?
 - Are they likely to turn up at the Centre?
 - Do we have your full contact details should this happen and who to ring?
- If the Centre staff have never met the non-custodial parent, ask for a photo of them and keep it somewhere accessible.
- Discuss individual cases and scenarios at staff meetings, deciding who will do what?

- If a non-custodial parent comes to the Centre to remove the child, you should ask them to leave. They do not have a legal right to take custody of the child. Non-custodial parents will tend to do one of three things:

- **They will leave when asked to do so.** In this case, if the situation has been (or is likely to become in future) challenging, you may wish to consider requesting a Trespass Notice from the Police.

- **They will refuse to leave.** If a person refuses to leave, call the Police immediately.

- **They will leave, taking the child with them.** If a non-custodial parent leaves your Centre having removed the child, and where you fear for the safety and well-being of the child, you should call the Police immediately (111). You must then inform the child's legal guardian of what has happened. Only where you believe there is a wider safety issue to other children and adults at your Centre would you release a child to a non-custodial parent.

- If both parents are awarded joint custody, the Family Court will have determined rules that each parent is to follow. A copy of the joint custody order is helpful to ensure you understand those rules.

- As a matter of principle, do not get involved in matters of dispute between parents, particularly where a custody order exists. If there is an issue, that is a matter for the parents (and their lawyers) to resolve and to advise you (in writing) of the outcome. If matters are getting out of hand, and the child, other children or parents at your centre, your staff or you are at risk, do not hesitate in calling the Police immediately.

- If you operate a centre where custody issues are relatively common, establishing and maintaining a relationship with the local Community Constable at your local Police Station is also recommended.

- Ensure contact details are current and able to be accessed quickly if needed.

Protection Order

If a protection order is in place:

- A Protection Order has two main conditions: no violence and no contact with the people protected by the order.

<https://www.justice.govt.nz/family/family-violence/apply-for-a-protection-order/>

'No violence' condition

The person who's been violent must not:

- abuse (physically, sexually, financially or psychologically) the protected people
- threaten to physically or sexually abuse the protected people
- damage, or threaten to damage, property that belongs to the protected people
- encourage anyone else to abuse or threaten the protected people.

'No contact' condition

The person who's been violent must not:

- go to the home, workplace, school or ECE centre of the protected people
- stalk the protected people by hanging around where they live, work or study
- follow the protected people
- try to stop the protected people from coming or going anywhere
- phone, text, email, send letters, fax or contact the protected people in any other way.

If the person who applied for the Protection Order (called the applicant) wants to have contact with the person who's been violent (called the respondent) they must say it is OK (give consent) in writing. They can give written consent by email, letter, text or other digital message.

However, if the court included special conditions restricting contact (such as supervised contact for a child or other no-contact conditions) they must be followed.

The applicant and the respondent can't have contact with each other unless there is an emergency and the contact is reasonably necessary. If the respondent breaks the conditions of a Protection Order this is a criminal offence. This is called a "breach" and it should be reported to the Police. The Police can arrest them and they could appear in the criminal court.

A temporary protection order lasts three months. If it is not lifted (it can be challenged) it becomes final and is in place until the court ends it.

Alignment with Other Policies

- Child Collection Policy

Relevant Background (including legislation/regulation references)

Education and Training Act 2020 (27) Parents Right of Entry. legislation.govt.nz

Licensing Criteria 2008, Governance, Management and Administration, planning and documentation:

- **GMA 4:** Professional Practice regarding separated parents/guardians
- **GMA10:** Enrolment records are maintained for each child attending. Records are kept for at least 7 years. Records include;
 - The names of the people authorised by the parent to collect the child;
 - Any court orders affecting day to day care of, or contact with, the child.

Keeping Children safe: <https://www.justice.govt.nz/family/>

Impacts of Policy on Staff, Parents and Children

This policy aims to ensure the child's safety by ensuring staff are fully aware of custody issues, maintain and regularly review records and know exactly what to do should a scenario arise.

Alignment with the Philosophy of the centre

This policy ensures that processes are in place to ensure the safety of children in alignment with our Centre Philosophy.

Implications and/or Risks for the centre

Following this policy significantly reduces the risk of harm to the child and/or losing trust with parents.

Implementation

Clear procedures have been developed and staff trained to follow them.

Review

Review annually or when there is a significant change in the area of the policy topic.

Authorised by licensed service:	Greendale Kids Preschool Greendale Kids Nursery
Date:	13 January 2025
Review Date:	January 2026
Parents informed:	April 2025