



[REDACTED]

Email: [REDACTED]

Dear Ms [REDACTED]

Show Cause Notice – Proposed Compliance Action

1. Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, received a Notification of an Incident from Wattle early Childhood Centre (SE-00009855), operated by Wattle Community Association Incorporated (PR-00005881).
2. The Notification alleged that on 9 November 2020, your conduct towards a child, whilst in the capacity of an educator at the Service, amounted to inappropriate discipline and as such, your placement at the Service was terminated. Conduct alleged consisted of slapping a child on the back of the hand.
3. Web addresses for the *Education and Care Services National Law (ACT)* (the Law) and the *Education and Care Services National Regulations* (the Regulations) are provided for your convenience at the end of this notice.
4. Authorised Officers from the Authority made further enquiries with the Provider to determine whether you pose an unacceptable risk of harm to a child or children if you were to provide education and care to children or remain on education and care service premises. As a delegate of the Authority, if the allegation is substantiated, I am considering issuing you with a formal caution in relation to the conduct.

Grounds for issuing Show Cause for Compliance Action

5. On 10 November 2020, the Authority received a Notification of Incident from the Service alleging you had made admissions to two educators, on 9 November 2020, to smacking the hand of child [REDACTED] in circumstances whereby you reported you were disciplining that same child.
6. The Notification alleged that your conduct towards the child, whilst in the capacity of an educator at the Service, put that child’s health, safety and wellbeing at risk by way of utilising inappropriate discipline.
7. The Authority is considering action based on information gathered from the Provider which indicates that your conduct poses a risk to safety of children.

Set of grounds – Inappropriate Discipline

Allegation One

8. It is alleged that on 9 November 2020, you, in the capacity of an educator at the Service, inappropriately disciplined a young person [REDACTED] by smacking that child on the back of their hand.

Legislative Provisions Relevant to Allegation One

Section 166(3) of the Law - Offence to use inappropriate discipline

An educator of an education and care service must ensure that no child being educated and cared for by the service is subjected to—

- (b) any discipline that is unreasonable in the circumstances.

Penalty: \$10 000, in the case of an individual.

\$50 000, in any other case.

Evidence Relevant to Allegation One

9. On 8 October 2020, you wrote to the Service to apply for a pre-service teacher position under the Royal Melbourne Institute of Technology (RMIT) University placement. This Professional Experience Placement related to your study towards a Graduate Diploma of Early Childhood Education.
10. That application was subsequently accepted by the Provider and you commenced placement at the Service on, or around 14 October 2020. The placement was specified as being for the period 14 October 2020 to 16 December 2020.
11. On 10 November 2020, the Authority received a Notification of Incident from the Service alleging you had made admissions to two educators, on 9 November 2020, to smacking the hand of a child [REDACTED] in circumstances whereby you reported you were disciplining that same child.
12. The Notification included the following information:

At approximately 5.30pm on Monday 9 November 2020, [Educator A and Educator B] (two lead educators) were sitting in the staff room working when [REDACTED] walked in and started speaking about her not liking the preschool room and about how full-on [REDACTED] was.

She then went on to say that [REDACTED] had been hurting another child outside and that she slapped him on the back on the hand to get him to stop. She also told them that [REDACTED] had said "Hey, you shouldn't slap me". [Educator A and Educator B] noted they were both very shocked at this statement from [REDACTED]

They both describe that they were both very stern with her and stated that under no circumstance do you physically discipline a child and that what she did was not okay. [REDACTED] was seemingly upset by the information they told her and then [REDACTED] asked, "How do you

stop them from hurting someone then?". They both explained that you need to use your words or ask for help but it is never okay to hit them.

After [REDACTED] had left the service [Educator C] walked into the staff room where it was further disclosed that she heard [REDACTED] out in the yard saying "Hey, you shouldn't hit me, she just hit me".

13. Signed statements were secured by the Provider from Educator A and Educator B confirming the events as particularised in the Notification. Refer redacted versions of statements at Attachment A.
14. On 10 November 2020, you attended a meeting at the Service, and you are alleged to have stated, in relation to the incident, that you felt it was just a pat on the back of the child's hand. At the conclusion of that meeting, your placement at the Service was terminated. This termination was then re-iterated to you, and the reasons for the termination, in an email dated 10 November 2020. Refer Attachment B.

Contraventions Engaged by Allegation One

15. Evidence gathered relevant to Allegation One includes documentation furnished by the Provider. Evidence gathered relevant to Allegation One appears to support that you used discipline unreasonable in the circumstances towards a child on 9 November 2020, in contravention of section 166(3) of the *Law*.
16. The compliance action that the Authority is proposing, if the allegation is substantiated, is a formal caution in relation to the incident.

Right of response

17. You have a right to respond to the allegation set out in this notice. You may, within 14 days of receiving this letter, make a written submission for the Authority's consideration in deciding if a compliance action should be taken.
18. At Attachment C to this Notice is a '4 Step Guide to Responding to a Show Cause Notice' to assist in the development of your submission. Please direct your written submission via email to jeffrey.beaver@act.gov.au or by post to:

Children's Education and Care Assurance
Attention: Mr Jeffrey Beaver
GPO Box 158, Canberra ACT 2601.

Caution

19. Please also be aware that it is an offence under section 295 of the *Law* to provide the Authority with false or misleading information or documents.
20. The *Law* applies to you as a provider and any service you operate. The *Law* is applied in the ACT by the *Education and Care Services National Law (ACT) Act 2011* <http://www.legislation.act.gov.au/a/2011-42/default.asp>.

21. The *Law and Regulations* can be viewed at:

- <http://www.acecqa.gov.au/national-law>, and
- <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>

22. Should you have any questions about this Show Cause Notice please contact Jeffrey Beaver on telephone (02) 6207 3917 or email jeffrey.beaver@act.gov.au.

Yours Sincerely



Clare Brookes
Senior Director
Early Childhood Policy and Regulation
ACT Education Directorate

2 December 2020