



██████████
Person with Management or Control
World of Learning Pty Ltd
RE: Gold Creek World of Learning

Email: ██████████ ██████████

Dear ██████████

Show Cause Notice – Proposed Compliance Action

1. I am a delegate of the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance. As you are aware, the Authority is the regulator of education and care services in the ACT and has the responsibility of monitoring and enforcing compliance with the *Education and Care Services National Law* (the Law). One of the Authority’s roles is to investigate suspected offences under the Law.
2. Authorised Officers are currently investigating an allegation that an educator, known to be ██████████ inappropriately disciplined a child being educated and cared at Gold Creek World of Learning Service SE-00009779 (the Service) operated by World of Learning Pty Limited PR-00000937 (the Provider).
3. Web addresses to 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 have obtained relevant evidence and the Authority has determined that the Provider has a case to answer regarding suspected offences. However, the Authority’s investigation is not complete until the Provider has had an opportunity to respond to the allegation/s and evidence obtained by the Authority. This is the reason for sending this Show Cause Notice (Notice) to you.
5. Detailed instructions of how to respond appear at the end of this Notice.
6. If substantiated, the allegation/s may constitute an offence under sections 166 and 167 of the Law. If, after considering all available evidence, the Authority finds any offences are substantiated on the balance of probabilities, it will need to consider whether compliance action is required.
7. If any offences under the Law are substantiated, the Authority considers many factors when determining appropriate action, the focus being on ensuring future compliance and improved outcomes for children, rather than punishment. Further details regarding potential compliance actions appear at the end of this Notice.

Grounds for issuing Show Cause Notice

8. The evidence obtained during the investigation to date supports offences under the *Law* within the following areas:
 - a) Educator- child interactions amounting to discipline; and
 - b) Precautions reasonably taken to protect children from harms and hazards likely to cause injury or illness.

Background

9. On 23 March 2023, the Authority received a notification of complaint (NOT-40837967) from the Provider alleging that an educator, known as ██████████, used inappropriate discipline on a 4-year-old child on 21 March 2023. Refer copy of the notification at Attachment A.
10. On 27 March 2023, the Provider responded to a request for additional information from the Authority. Additional information included Educator statements and other relevant information. Refer correspondence and additional information at Attachment B.
11. In addition, the Provider submitted copy of CCTV footage. Refer correspondence and slide shots of footage at Attachment C.
12. On 31 March 2023, due to substantiated, on balance of probabilities, unmanaged risks, the Authority issued the Provider with an Emergency Action Notice (EAN) specific to the incident. The Provider responded on 5 April 2023. Refer copy of EAN and response at Attachment D.
13. Due to the risk to children if inappropriately disciplined, the Authority determined to investigate the matter.

Allegations of non-compliance

Allegation One

14. It is alleged that, on 21 March 2023, the Provider failed to ensure that no child being educated and cared for by the service was subjected to any discipline that was unreasonable in the circumstances in that a child, known as ██████████ ██████████ was disciplined by way of being dragged across the floor, picked up and placed down on the ground in a manner contravening section 166(1) of the *Law*.

Allegation Two

15. It is alleged that, by failing to ensure that no child being educated and cared for by the service was subjected to any discipline that was unreasonable in the circumstances on 21 March 2023, the Provider has failed to take reasonable steps to protect children from harms and hazards likely to cause injury or illness, in contravention of s167(1) of the *Law*.

Legislation Relevant to Allegations

16. The following provision of the *Law* is relevant to Allegations One and Two:

Section 166(1) of the Law - Offence to use inappropriate discipline

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

- (a) any form of corporal punishment; or
- (b) any discipline that is unreasonable in the circumstances.

Penalty: \$10 000, in the case of an individual
\$50 000, in any other case.

Section 167(1) of the Law - Offence relating to protection of children from harm and hazards

The Approved Provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and care for by the service from harm and from any hazard likely to cause injury.

Penalty: \$10 000, in the case of an individual
\$50 000, in any other case.

Evidence Relevant to Allegation One and Two

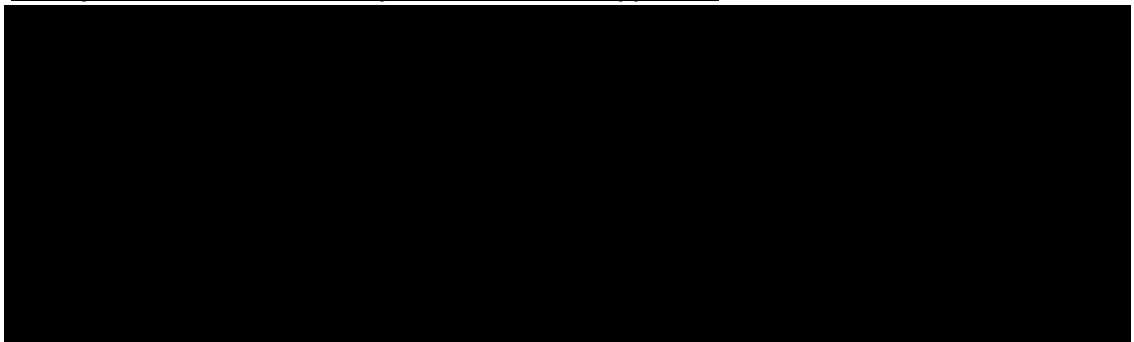
17. As part of the investigation, the Authority obtained documents from the Provider, exercising powers under section 215 of the Law. Records produced by the Provider supported the following:

- a. The Service was operating on 21 March 2023.
- b. [REDACTED] was an educator at the Service and working directly with children in the preschool room on 21 March 2023. [REDACTED] was enrolled at the Service and signed into the Preschool room on 21 March 2023. Refer Attachment E.
- c. Provider internally investigated the complaint identified via NOT-40837967. Refer relevant evidence at Attachment F.

18. Relevant extracts from a statement, taken by the Provider as part of internal investigation, between [REDACTED] and [REDACTED] (Provider's investigator) on 12/04/2023 are:

[REDACTED]. Allegation 1: On 21 March 2023 at approximately 4:15pm, it is alleged that you dragged child ([REDACTED]) on his back by his left arm from the meal table in the preschool room to the front of the room next to the entrance whilst working at Gold Creek World of Learning.

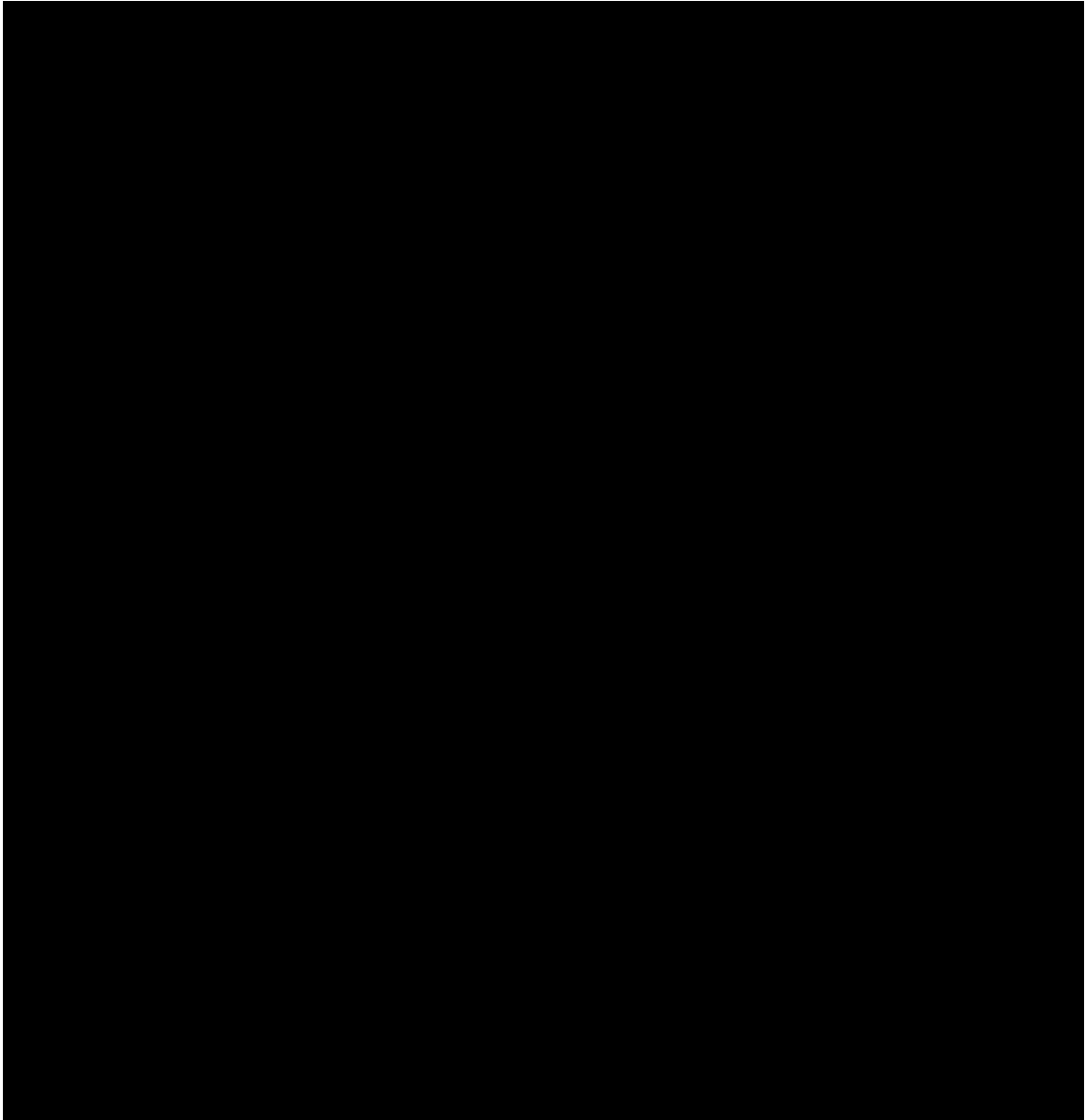
4. Do you recall this incident? If so, tell us what happened.



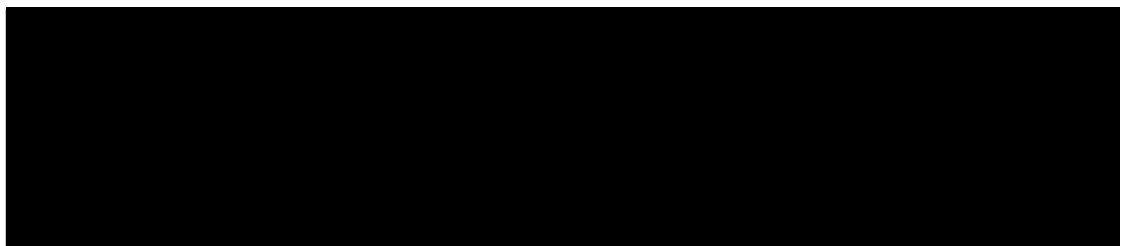


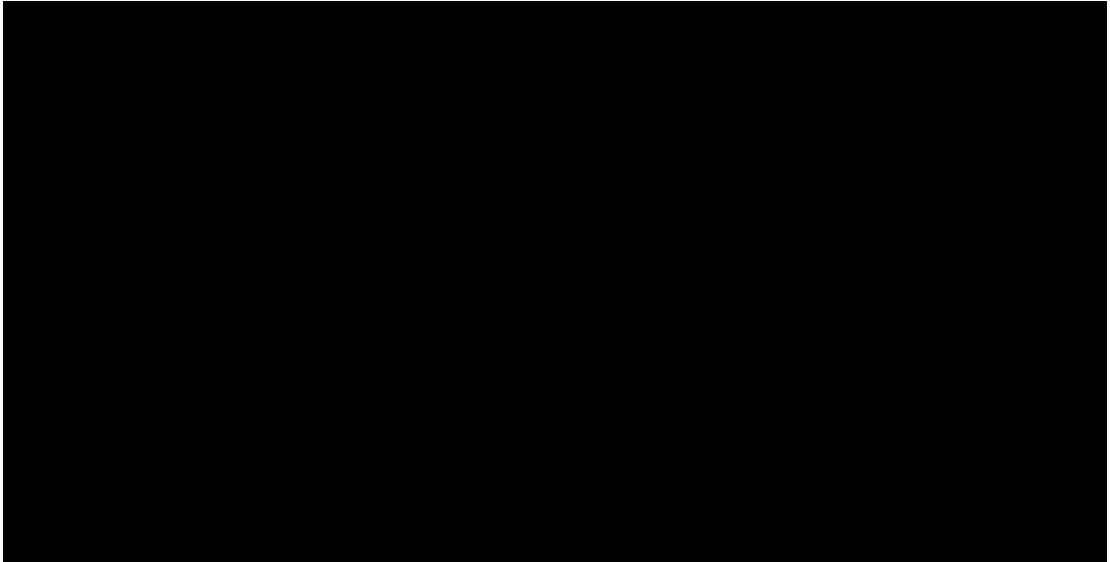
19. During the investigation, the Authority obtained numerous witness statements, relevant extracts from which appear below, with personal information redacted where appropriate. Please note that some witness statements were obtained utilising powers under section 215 of the *Law*, imposing obligations to attend and provide evidence.

20. Relevant extracts from Witness A's statement are:

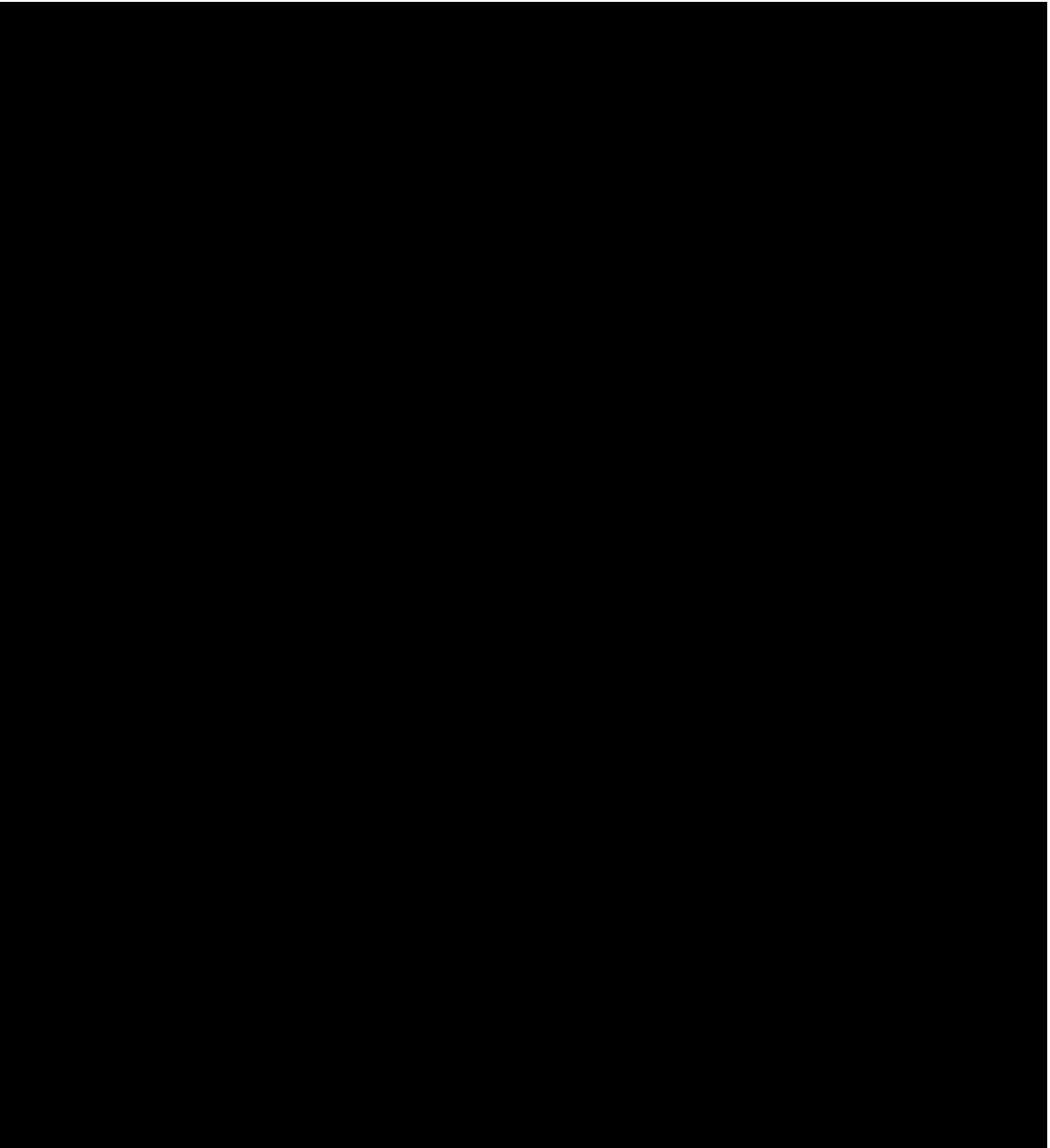



21. Relevant extracts from Witness B's statement are:





22. *Relevant extracts from Witness C's statement are:*





Contraventions Supported by Evidence

23. Evidence gathered via the initial assessment of NOT-40837967 and subsequent regulatory investigation appears to support contraventions of section 166(1) and 167(1) of the *Law*.

Potential Compliance Action

24. The Authority reiterates that no decision has been made at this time – this letter is a step in the investigation process. However, procedural fairness requires that the Authority take this opportunity to advise you of potential compliance actions, if any offences are substantiated. Potential compliance actions include:
- a. Non-statutory Administration Action (similar to a caution) with no further action;
 - b. Non-statutory Administrative Action with measures to be taken and evidence produced; or
 - c. A Compliance Notice under section 177 of the *Law*; or
 - d. Imposing of Conditions on the Service’s approval under section 51 of the *Law*.
 - e. Suspension of the service approval under section 72 of the *Law*. The suspension would be in effect from the time the provider has been notified of the decision until the provider can demonstrate that they have mitigated any future risks.
 - f. Cancellation of the service approval under section 79 of the *Law*.
25. If a matter is determined as warranting consideration of suspension or cancellation of a service approval, please be aware that additional opportunity to respond to the grounds for such action would be provided, as required under sections 71 and 78 of the *Law*.
26. In arriving at a decision concerning compliance action, if warranted, the Authority considers many factors, such as severity of non-compliance and the compliance history of the Provider and Service.

Right of response

27. As mentioned previously, this is the Provider’s opportunity to respond to the allegations and evidence set out in this Notice. You may, within 14 days of receiving this Notice, make a written submission for the Authority’s consideration in deciding if any offences are substantiated and, if so, whether any compliance action should be taken.

28. At Attachment G 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 nicole.withers@act.gov.au or by post to:

Children's Education and Care Assurance
Attention: Nicole Withers
GPO Box 158, Canberra ACT 2601.

Caution

29. I am informing you that the excerpts of witness accounts taken for the Authority's investigation are included in the interests of procedural fairness. The statements taken during the investigation and the excerpts provided for your consideration in the show cause process are protected disclosures under section 296 of the *Law*.
30. The *Law* provides, at section 297, for the protection of persons who make protected disclosures from serious detrimental action against them in reprisal.
31. 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.
32. 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>.
33. 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>
34. Should you have any questions about this Show Cause Notice please contact Authorised Officer Nicole Withers on nicole.withers@act.gov.au.

Yours Sincerely



Jo Williams
Director – Regulatory Operations
Children's Education and Care Assurance
Education and Care Regulation and Support

18 August 2023