

Ms [REDACTED]
Person with Management and Control
Gowrie NSW
RE: Gowrie Discovery House Early Education and Care Centre

Email: [REDACTED]
[REDACTED]

Dear Ms [REDACTED]

Decision to issue Administrative Letter RE: NOT-40525983 and NOT-40525993

1. As you may be aware, Authorised Officers from Children's Education and Care Assurance, also known as the ACT Regulatory Authority (the Authority), recently assessed a Notification of Incidents advising that two children were fed a known allergen resulting in allergic reactions when enrolled at Gowrie Discovery House Early Education and Care Centre SE-40015475 (the Service), operated by Gowrie NSW PR-00003468 (the Provider), on 31 March 2021.
2. The Authority is satisfied that the Provider was not complying with the provisions of the *Education and Care Services National Law (ACT)* (the Law) in respect to this notification.
3. Web addresses to the Law and *Education and Care Services National Regulations (the Regulation)* are provided for your convenience at the end of this Decision

Facts

4. On 1 April 2021, the Authority received a Notification of Incident (NOT-40525983) and associated attachments from the Provider. This Notification reported that on 31 March 2021, a three-year-old child, known to be [REDACTED], was fed a known allergen, being egg, which resulted in an allergic reaction requiring emergency services to be called and hospitalisation. Refer NOT-40525983 at Attachment A.
5. On 1 April 2021, the Authority received a Notification of Incident (NOT-40525993) and associated attachments from the Provider. This Notification reported that on 31 March 2021, a one-year-old child, known to be [REDACTED], was fed a known allergen, being egg, which resulted in an allergic reaction requiring medication to be given. Refer NOT-40525993 and additional submitted documentation at Attachment B.

Law

6. Evidence submitted via NOT-40525983, NOT-40525993 and supporting documentation engages the following sections of the Law and the Regulations:

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.

Reasons

7. Having considered all documents submitted by the Provider the Authority is satisfied that the Provider has failed to comply with the *Law*.
8. The Authority is satisfied that section 167(1) of the *Law* was contravened on 31 March 2021. Section 167 of the *Law* was engaged by documentation obtained from the Provider.
9. Information gathered supports that the Provider, by not ensuring children with known allergens were not given those allergens at mealtimes, has not appeared to ensure that every reasonable precaution was taken to protect children being educated and cared for by the Service from harm and from any hazard likely to cause injury, in contravention of section 167 of the *Law*.
10. The fact that two children of different age groups were fed known allergens on the same day without the educators being aware of exactly what was being served to the children further supports the contraventions of section 167 of the *Law*.
11. In addition, information submitted by the Provider indicates that in the matter involving [REDACTED] the cook had placed known allergens on identified red allergy plates, therefore indicating that reasonable precautions were not taking during the preparation and plating of meals to ensure that children vulnerable to allergens were protected.

Decision

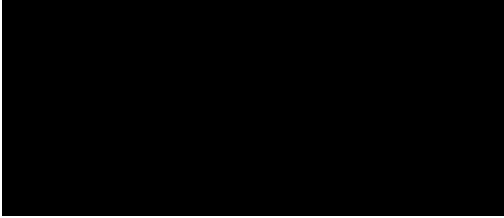
12. The *Law* outlines a range of statutory actions which may be taken by the Authority in response to non-compliance. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue you this Administrative Decision.
13. When determining this outcome, the Authority took into consideration the actions of the Provider and Service at the time of the incidents, the measures undertaken to mitigate risk of a similar incident by taking all egg related foods off the menu and the compliance history of the Service.
14. This Decision is issued to remind the Provider, that reasonable precautions must always be taken, at the Service to protect children from harm and hazard likely to cause injury – both physically and psychologically. In addition, processes and practices supporting these reasonable precautions must be effectively communicated to all staff members to ensure that all staff are aware of and understand the Provider's expectations, as well as their own obligations under the National Law to protect children.
15. This Decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments or waivers. It may also be considered in determining the action to be taken, should further breaches of the *Law* or associated *Regulations* be found.
16. For your convenience, and to support future compliance, please find web addresses to relevant legislation:

The *Law* applies to you as an approved provider and any service that 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>.

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>

17. If you have any queries regarding this Decision, please contact me via email at janine.fairburn@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Early Childhood Policy and Regulation
ACT Education Directorate

28 April 2021