

Mr [REDACTED]  
Person with Management and Control  
Gungahlin Montessori Academy Pty Ltd  
RE: Gungahlin Montessori Academy

Email: [REDACTED]

Dear Mr [REDACTED]

**Decision to issue Administrative Action RE: NOT-40914735**

1. As you may be aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Incident (NOT-40914735) relating to Gungahlin Montessori Academy - SE-40020141 (the Service) operated by GUNGAHLIN MONTESSORI ACADEMY PTY LTD - PR-40017814 (the Provider).
2. The notification of incident advised children in the Toddler room had accessed a Rat/Bait box.
3. The Authority is satisfied that the Provider did not comply with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) and the *Education and Care Services National Regulations (the Regulations)* in this instance. Web addresses to the Law and the Regulations are provided for your convenience at the end of this Decision.

**Facts**

4. On 18 October 2023, information was received by the Authority, alleging that on 17 October 2023, children at the Service had been able to access a rat bait box located in the Toddler room, and that they may have ingested some of the poison contained.
5. As no notification for the incident had been notified to the Authority, on 19 October 2023, the Authority raised the matter with the Provider. Refer copies of email correspondence at Attachment A.
6. On 20 October 2023, a notification of incident (NOT-40914735) was submitted to the Authority. Refer copy of the NOT-40914735 at Attachment B.
7. On 22 and 23 October 2023, the Provider, upon request, submitted additional documents in relation to NOT-40914735 (Refer correspondence at Attachment C). Additional information included educator statements, risk assessment, meeting minutes and an indoor supervision map.

## Law

8. The Notification engaged the following provisions of the *Law*:

### **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.

## Decision

9. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to support an offence under section 167 of the *Law* in this instance.
10. In relation to section 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that every reasonable precaution was taken to protect children from harm and hazard by having a rat bait box accessible within the Toddlers room on 17 October 2023.
11. The Authority is satisfied that a reasonable precaution to have been taken would have been to not have a rat bait box located in any rooms used by children.
12. The Authority acknowledges that no child sustained any adverse reaction or illness from the incident, however, should there have been bait in the box and this was ingested by a child, the consequences could have been catastrophic.
13. The Authority further notes that risk assessment provided on 23 October 2023 (Attachment D) does not identify suitable actions to be taken to prevent risk of children accessing rat bait boxes, rather it acts more as a reactive tool/procedure to how respond should a child access and/or ingest rat baits.
14. 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.
15. Considering the evidence, the objectives and guiding principles of the *Law*, and the compliance history of the Service, the Authority has decided to issue this administrative action rather than statutory compliance actions to address the non-compliance.

16. In relation to substantiated breach engage by the Provider under section 167 of the *Law*, the Authority requests the Provider to submit the following evidence to support risk mitigation actions have been undertaken:

- (a) Evidence that a pest/rodent control agency has been engaged to review the suitability of rat bait boxes at the Service, and have them moved from any room that children engage in.
- (b) Evidence to support that a review and update of the risk assessment has been undertaken, considering any advice from the pest control agency, to mitigate risk of children accessing these bait boxes.

17. Requested information should be submitted to the Authority by close of business 14 days from the date of receipt of this Decision. Information can be sent by email to [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au) or by post to:

Authorised Officer, Janine Fairburn  
Children's Education and Care Assurance (CECA)  
ACT Education Directorate  
PO Box 158, CANBERRA ACT 2601

18. 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.

### **Legislation**

19. 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> . 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>.

20. Should you have any questions about this Decision please contact me at [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au).



Janine Fairburn  
Assistant Director  
Children's Education and Care Assurance  
Education and Care Regulation and Support  
14 November 2023