



## Grounds

6. The audit identified that policies and procedures were not consistently being followed by educators therefore posing risks to inadequately supervise children Section 165 of the *Law*. Child was observed wandering around a classroom with no educator being aware and a child was observed unsupervised in a bathroom.
7. The audit identified that the services quality improvement plan did not appear to be consistently updated as required under Regulation 56 (1).
8. The educational program displayed in each room contained minimal detail about children's learning. Additional program documentation sighted at the time of the visit did not appear to have been done consistently as required under Regulation 73, contravening section 168 (1) of the *Law*.
9. The menu sighted on display included a regular inclusion of highly processed foods such as party pies. The menu provided limited details as to how dietary requirements of individual children are supported, as required under Regulations 78 and 79.
10. At the time of the audit the service's weekly menu was not displayed in a way which made it easily accessible for families as required in Regulation 80. It was unclear how families are notified of changes to the menu.
11. During the audit, some educators demonstrated limited knowledge and confidence in their responsibilities under the *Children and Young People Act* as required under Regulation 84.
12. At the time of the visit each room had access to first aid kits appeared to have insufficient supplies and contained some items which were opened and out of date.
13. During the audit medical management plans, risk minimization plans, and communication plans required under Regulation 90, were not all signed by all parties and contained limited information. It was not demonstrated how the service actively keeps medical information updated, especially when children leave the service.
14. At the time of the audit records provided to the Authorised Officer did not demonstrate that emergency and evacuation procedures are rehearsed every 3 months, as required under Regulation 97. Documents sighted showed only one evacuation rehearsal had been conducted on the 16 August 2023. No evidence was provided that lockdown rehearsals occurred in 2023. Lockdown procedures could not be sighted during the visit.
15. The following safety issues were identified at the time of the audit and contravening section 167 (1) of the *Law*:
  - a. Hazardous products were not stored securely. The safety gate to laundry was broken and not latching automatically. Cupboards in the laundry containing cleaning products did not have child safety latches.
  - b. Some drawers and cupboards in children's bathrooms contained plastic bags and did not have child safety latches on them.
  - c. Floors in the classrooms had dirty footprints and rugs were dirty.

- d. Three rooms had wet puddles which looked like water spills on the floor. Educators had not noticed and did not take any action to clean them up when AOs alerted them to these areas, all of which are failing to comply with Regulation 103.
16. At the time of the audit the laundry was potentially accessible to children as the safety gate latch on the door was broken and there were no child safe locks on cupboard containing hazardous products. Nappy bins and drawers did not have any safety latches and bins of soiled clothing inside plastic bags were sitting on nappy change benches. These were full and overflowing and some soiled clothing had been in the bucket for at least three days. All of which are failing to comply with Regulation 106 and are a contravention of section 167 (1) of the *Law*.
  17. At the time of the audit working directly with children records required under Regulation 151, were not complete in Rainforest 2 and Rainforest 1 rooms and some dates were missing on the Outback 1 room record.
  18. During the audit, attendance records required under Regulation 158 were sighted and it was observed that records for week commencing 9/10/23 were missing a page for Preschool Room 1.
  19. At the time of the visit the policy required under Regulation 168, Participation of Students and Volunteers, could not be sighted.
  20. The requirement of Regulation 170 to ensure that nominated supervisors and staff members of, and volunteers at, the service follow the policies and procedures, could not be demonstrated. At the time of the visit, it was not clear that new educator or agency educators had been given any induction on policies prior to working at the service.
  21. At the time of the audit the following prescribed information required under Regulation 173, was not displayed, contravening Section 172 (1) of the *Law*:
    - Service approval with current waiver information.
    - Current Responsible Person displayed.
    - Contact for complaints, updated and containing correct contact details.
    - Notice of anaphylaxis.
  22. Prescribed enrolment and other documents to be kept by approved provider as described under Regulation 177, were not complete. This included documentation of child assessments or evaluations, medication administration and authorisation records and staff records, contravening Section 175 (1) and (2) of the *Law*.
  23. At the time of the audit a copy of the current prescribed insurance required under Regulation 180, could not be made available for inspection.
  24. During the visit, some prescribed records required under Regulation 183, were not readily accessible at the service or on the service computers. It was unclear if prescribed records are kept for the required time frames.
  25. At the time of the visit the correct version of the Law and Regulations were not accessible as required under Regulation 185.

## **Law and Regulations**

### **Legislative Provisions Relevant to Compliance Audit**

#### **Section 165 of the *Law* - Offence to inadequately supervise children**

- (1) The approved provider of an education and care service must ensure that all children being educated and cared for by the service are adequately supervised at all times that the children are in the care of that service.

Penalty: \$11 400, in the case of an individual. \$57 400, in any other case.

- (2) A nominated supervisor of an education and care service must ensure that all children being educated and cared for by the service are adequately supervised at all times that the children are in the care of that service.

Penalty: \$11 400,

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

- (1) The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause injury.

Penalty: \$11 400, in the case of an individual.

\$57 400, in any other case.

#### **Section 168 (1) of the *Law* - Offence relating to required programs**

- (1) The approved provider of an education and care service must ensure that a program is delivered to all children being educated and cared for by the service that—
- (a) is based on an approved learning framework; and
  - (b) is delivered in a manner that accords with the approved learning framework; and
  - (c) is based on the developmental needs, interests and experiences of each child; and
  - (d) is designed to take into account the individual differences of each child.

Penalty: \$4500, in the case of an individual.

\$22 900, in any other case

#### **Section 172 (1) of the *Law* - Offence to fail to display prescribed information**

- (1) An approved provider of an education and care service (other than a family day care service) must ensure that the prescribed information about the following is displayed, in

the prescribed form (if any), so that it is clearly visible to anyone from the main entrance to the education and care service premises—

- (a) the provider approval;
- (b) the service approval;
- (c) each nominated supervisor of the service;
- (d) the rating of the service;
- (e) any service waivers or temporary waivers held by the service;

**Section 172 (1) of the Law – Offence relating to requirement to keep enrolment and other documents**

(1) An approved provider of an education and care service must keep the prescribed documents available for inspection by an authorised officer in accordance with this section.

Penalty: \$4500, in the case of an individual.  
\$22 900, in any other case.

(2) Documents referred to in subsection (1)—

- (a) must, to the extent practicable, be kept at the education and care service premises if they relate to—
  - (i) the operation of the service; or
  - (ii) any staff member employed or engaged by the service; or
  - (iii) any child cared for, or educated at, those premises—in the previous 12 months; and
- (b) in any other case, must be kept at a place, and in a manner, that they are readily accessible by an authorised officer.

**Regulation 56 Review and revision of quality improvement plans**

(1) The approved provider of an education and care service must ensure that, within 3 months of the grant of the service approval, a quality improvement plan is prepared for the service that—

- (a) includes an assessment by the provider of the quality of the practices of the service against the National Quality Standard and these Regulations; and
- (b) identifies any areas that the provider considers may require improvement; and
- (c) contains a statement of the philosophy of the service.

(2) The approved provider must submit the quality improvement plan to the Regulatory Authority on request.

**Regulation 73 Educational program**

(1) This Part applies in relation to the program (the educational program) that is required to be delivered under section 168 of the Law to a child being educated and cared for by an education and care service.

(2) An educational program is to contribute to the following outcomes for each child—

- (a) the child will have a strong sense of identity;
- (b) the child will be connected with and contribute to his or her world;
- (c) the child will have a strong sense of wellbeing;
- (d) the child will be a confident and involved learner;
- (e) the child will be an effective communicator.

**Regulation 78 Food and beverages**

- (1) The approved provider of an education and care service must ensure that children being educated and cared for by the service—
- (a) have access to safe drinking water at all times; and
  - (b) are offered food and beverages appropriate to the needs of each child on a regular basis throughout the day.

Penalty: \$2200.

- (2) A nominated supervisor of an education and care service must ensure that children being educated and cared for by the service—
- (a) have access to safe drinking water at all times; and
  - (b) are offered food and beverages on a regular basis throughout the day.

Penalty: \$2200.

**Regulation 79 Service providing food and beverages**

- (1) The approved provider of an education and care service that provides food or a beverage to children being educated and cared for by the service must ensure that—
- (a) the food or beverage provided is nutritious and adequate in quantity; and
  - (b) the food or beverage provided is chosen having regard to the dietary requirements of individual children taking into account—
    - (i) each child’s growth and development needs; and
    - (ii) any specific cultural, religious or health requirements.

Penalty: \$2200.

- (2) A nominated supervisor of an education and care service that provides food or a beverage to children being educated and cared for by the service must ensure that—
- (a) the food or beverage provided is nutritious and adequate in quantity; and
  - (b) the food or beverage provided is chosen having regard to the dietary requirements of individual children taking into account—
    - (i) each child’s growth and development needs; and
    - (ii) any specific cultural, religious or health requirements.

Penalty: \$2200.

- (3) To avoid doubt, this regulation does not apply to food or a beverage provided by a parent or family member for consumption by the child.

**Regulation 80 Weekly menu**

- (1) The approved provider of an education and care service that provides food and beverages (other than water) to children being educated and cared for by the service must ensure that a weekly menu—
- (a) is displayed at a place at the education and care service premises accessible to parents of children being educated and cared for by the service; and
  - (b) accurately describes the food and beverages to be provided by the service each day.

Penalty: \$1100.

- (2) A nominated supervisor of an education and care service that provides food and beverages (other than water) to children being educated and cared for by the service must ensure that a weekly menu—
- (a) is displayed at a place at the education and care service premises accessible to parents of children being educated and cared for by the service; and
  - (b) accurately describes the food and beverages to be provided by the service each day.

Penalty: \$1100.

- (4) To avoid doubt, this regulation does not apply to food and beverages provided by a parent or family member for consumption by the child.

**Regulation 84 Awareness of child protection law**

- (1) The approved provider of an education and care service must ensure that a person specified in subregulation (2) who works with children is advised of—
- (a) the existence and application of the current child protection law; and
  - (b) any obligations that the person may have under that law.

Penalty: \$1100.

- (2) The following persons are specified—
- (a) a nominated supervisor of the service;
  - (b) a staff member of the service;
  - (c) a volunteer at the service;
  - (d) a student who participates in the service.

**Regulation 89 First aid kits**

- (1) The approved provider of an education and care service must ensure that first aid kits are kept in accordance with this subregulation, wherever the service is providing education and care to children—
- (a) an appropriate number of first aid kits must be kept having regard to the number of children being educated and cared for by the service; and
  - (b) the first aid kits must be suitably equipped; and
  - (c) the first aid kits must be easily recognisable and readily accessible to adults, having regard to the design of the education and care service premises.

Penalty: \$2200.

### **Regulation 90 Medical conditions policy**

- (1) The medical conditions policy of the education and care service must set out practices in relation to the following—
  - (a) the management of medical conditions, including asthma, diabetes or a diagnosis that a child is at risk of anaphylaxis;
  - (b) informing nominated supervisors and staff members of, and volunteers at, the service of practices in relation to managing those medical conditions;
  - (c) the requirements arising if a child enrolled at the education and care service has a specific health care need, allergy or relevant medical condition, including—
    - (i) requiring a parent of the child to provide a medical management plan for the child; and
    - (ii) requiring the medical management plan to be followed in the event of an incident relating to the child's specific health care need, allergy or relevant medical condition; and
    - (iii) requiring the development of a risk-minimisation plan in consultation with the parents of a child—
      - (A) to ensure that the risks relating to the child's specific health care need, allergy or relevant medical condition are assessed and minimised; and
      - (B) if relevant, to ensure that practices and procedures in relation to the safe handling, preparation, consumption and service of food are developed and implemented; and
      - (C) if relevant, to ensure that practices and procedures to ensure that the parents are notified of any known allergens that pose a risk to a child and strategies for minimising the risk are developed and implemented; and
      - (D) to ensure that practices and procedures ensuring that all staff members and volunteers can identify the child, the child's medical management plan and the location of the child's medication are developed and implemented; and
      - (E) if relevant, to ensure that practices and procedures ensuring that the child does not attend the service without medication prescribed by the child's medical practitioner in relation to the child's specific health care need, allergy or relevant medical condition are developed and implemented; and
    - (iv) requiring the development of a communications plan to ensure that—
      - (A) relevant staff members and volunteers are informed about the medical conditions policy and the medical management plan and risk minimisation plan for the child; and
      - (B) a child's parent can communicate any changes to the medical management plan and risk minimisation plan for the child, setting out how that communication can occur.
- (2) The medical conditions policy of the education and care service must set out practices in relation to self-administration of medication by children over preschool age if the service permits that self-administration.
- (3) In subregulation (2), the practices must include any practices relating to recording in the medication record for a child of notifications from the child that medication has been self-administered.

### **Regulation 97 Emergency and evacuation procedures**

- (1) The emergency and evacuation procedures required under regulation 168 must set out—

- (a) instructions for what must be done in the event of an emergency; and
  - (b) an emergency and evacuation floor plan; and
  - (c) if the education and care service premises is located within a multi-storey building shared with other occupants and on a storey with no direct egress to an assembly area—
    - (i) all possible evacuation routes from each storey on which the premises is located; and
    - (ii) the evacuation routes that are proposed to be used in an evacuation; and
    - (iii) how all children will be safely evacuated from the premises, including non-ambulatory children; and
    - (iv) the stages in which an evacuation will be carried out; and
    - (v) the identity of the person in charge of an evacuation; and
    - (vi) the roles and responsibilities of staff members during an evacuation; and
    - (vii) the arrangements made with the other occupants of the multi-storey building in relation to the evacuation of the multi-storey building.
- (2) For the purposes of preparing the emergency and evacuation procedures, the approved provider of an education and care service must ensure that a risk assessment is conducted to identify potential emergencies that are relevant to the service.

Penalty: \$2200.

- (2A) The approved provider of a centre-based service must review the risk assessment conducted under subregulation (2)—
- (a) at least once every 12 months; and
  - (b) as soon as practicable after becoming aware of any circumstance that may affect the safe evacuation of children from the service.

Penalty: \$2200.

- (2B) As soon as practicable after reviewing the risk assessment under subregulation (2A), the approved provider of a centre-based service must make any necessary updates to the emergency and evacuation policies and procedures.

Penalty: \$2200.

- (3) The approved provider of an education and care service must ensure that—
- (a) in the case of a centre-based service, the emergency and evacuation procedures are rehearsed every 3 months by the staff members, volunteers and children present at the service on the day of the rehearsal and the responsible person in relation to the service who is present at the time of the rehearsal; and
  - (ab) in the case of a family day care service, the emergency and evacuation procedures are rehearsed every 3 months by each family day care educator and the children being educated and cared for by the family day care educator on that day; and
  - (b) the rehearsals of the emergency and evacuation procedures are documented.

Penalty: \$2200.

**Regulation 103 Premises, furniture and equipment to be safe, clean and in good repair**

- (1) The approved provider of an education and care service must ensure that the education and care service premises and all equipment and furniture used in providing the education and care service are safe, clean and in good repair.

Penalty: \$2200.

**Regulation 106 Laundry and hygiene facilities**

(1) The approved provider of an education and care service must ensure that the service has—

- (a) laundry facilities or access to laundry facilities; or
- (b) other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering— that are adequate and appropriate for the needs of the service.

(2) The approved provider of the service must ensure that laundry and hygienic facilities are located and maintained in a way that does not pose a risk to children.

**Regulation 151 Record of educators working directly with children**

The approved provider of a centre-based service must keep a record of educators working directly with children that includes the following information—

- (a) the name of each educator who works directly with children being educated and cared for by the service;
- (b) the hours that each educator works directly with children being educated and cared for by the service.

**Regulation 158 Children’s attendance record to be kept by approved provider**

(1) The approved provider of an education and care service must ensure that a record of attendance is kept for the service that—

- (a) records the full name of each child attending the service; and
- (b) records the date and time each child arrives and departs; and
- (c) is signed by one of the following persons at the time that the child arrives and departs—
  - (i) the person who delivers the child to the education and care service premises or collects the child from the education and care service premises;
  - (ii) a nominated supervisor or an educator.

**Regulation 168 Education and care service must have policies and procedures**

(1) The approved provider of an education and care service must ensure that the service has in place policies and procedures in relation to the matters set out in subregulation (2).

Penalty: \$1100.

Note—

These may include policies and procedures prepared by the approved provider in accordance with an education law of the participating jurisdiction.

(2) Policies and procedures are required in relation to the following—

- (a) health and safety, including matters relating to—
  - (i) nutrition, food and beverages, dietary requirements; and
  - (ii) sun protection; and
  - (iii) water safety, including safety during any water-based activities; and
  - (iv) the administration of first aid; and
  - (v) sleep and rest for children, including the matters set out in regulation 84B;
- (b) incident, injury, trauma and illness procedures complying with regulation 85;
- (c) dealing with infectious diseases, including procedures complying with regulation 88;

- (d) dealing with medical conditions in children, including the matters set out in regulation 90;
- (e) emergency and evacuation, including the matters set out in regulation 97;
- (f) delivery of children to, and collection of children from, education and care service premises, including procedures complying with regulation 99;
- (g) excursions, including procedures complying with regulations 100 to 102;
- (ga) if the service transports or arranges transportation of children other than as part of excursions, transportation including procedures complying with Division 7 of Part 4.2 of Chapter 4;
- (gb) the safe arrival of children who travel between an education and care service and any other education or early childhood service within the meaning of regulation 102AA, including the matters set out in regulation 102AAB;
- (h) providing a child safe environment, including matters relating to—
  - (i) the promotion of a culture of child safety and wellbeing within the service; and
  - (ii) the safe use of online environments at the service;
- (i) staffing, including—
  - (i) a code of conduct for staff members; and
  - (ii) determining the responsible person present at the service; and
  - (iii) the participation of volunteers and students on practicum placements;
- (j) interactions with children, including the matters set out in regulations 155 and 156;
- (k) enrolment and orientation;
- (l) governance and management of the service, including confidentiality of records;
- (m) the acceptance and refusal of authorisations;
- (n) payment of fees and provision of a statement of fees charged by the education and care service;
- (o) dealing with complaints, including matters relating to—
  - (i) the provision of a complaint handling system at the service that is child focused; and
  - (ii) the management of a complaint that alleges a child is exhibiting harmful sexual behaviours.

**Regulation 170 Policies and procedures to be followed**

- (1) The approved provider of a centre-based service must take reasonable steps to ensure that nominated supervisors and staff members of, and volunteers at, the service follow the policies and procedures required under regulation 168.

Penalty: \$1100.

- (2) The approved provider of a family day care service must take reasonable steps to ensure that nominated supervisors and staff members of, and family day care educators engaged by or registered with, the service follow the policies and procedures required under regulations 168 and 169.

Penalty: \$1100.

**Regulation 173 Prescribed information to be displayed—education and care service other than a family day care service**

- (1) For the purposes of section 172(1) of the Law, the following information is prescribed in respect of the matters in paragraphs (a) to (e) of that section—
- (a) in relation to the provider approval—

- (i) the name of the approved provider;
    - (ii) the provider approval number;
    - (iii) any conditions on the provider approval;
  - (b) in relation to the service approval—
    - (i) the name of the education and care service;
    - (ii) the service approval number;
    - (iii) any conditions on the service approval;
  - (c) the name of each nominated supervisor;
  - (d) in relation to the rating of the service—
    - (i) the current rating levels for each quality area stated in the National Quality Standard; and
    - (ii) the overall rating of the service;
  - (e) in relation to any service waivers or temporary waivers held by the service, the details of the waivers including—
    - (i) the regulations that have been waived; and
    - (ii) the duration of the waiver; and
    - (iii) whether the waiver is a service waiver or a temporary waiver.
- (2) For the purposes of section 172(2)(f) of the Law, the following matters and information are prescribed—
- (a) the hours and days of operation of the education and care service;
  - (b) the name and telephone number of the person at the education and care service to whom complaints may be addressed;
  - (c) in the case of a centre-based service, the name and position of the responsible person in charge of the education and care service at any given time;
  - (d) the name of the educational leader at the service;
  - (e) the contact details of the Regulatory Authority;
  - (f) if applicable—
    - (i) in the case of a centre-based service, a notice stating that a child who has been diagnosed as at risk of anaphylaxis is enrolled at the service; or
    - (ii) in the case of a family day care residence or approved family day care venue, a notice stating that a child who has been diagnosed as at risk of anaphylaxis—
      - (A) is enrolled at the family day care service; and
      - (B) attends the family day care residence or family day care venue;
  - (g) if applicable—
    - (i) in the case of a centre-based service, a notice stating that there has been an occurrence of an infectious disease at the premises; or
    - (ii) in the case of a family day care residence or approved family day care venue, a notice stating that there has been an occurrence of an infectious disease at the family day care residence or family day care venue.
- (3) An approved provider of an education and care service must display information specified in subregulation (1)(d) by displaying one or both of the following certificates—
- (a) the certificate issued to the approved provider by or on behalf of the Regulatory Authority about—
    - (i) the current rating levels for each quality area stated in the National Quality Standard; and
    - (ii) the overall rating of the service;
  - (b) if the National Authority has given the service the highest rating level—the certificate about the overall rating of the service issued to the approved provider by the National Authority.

Penalty: \$2200.

**Regulation 177 Prescribed enrolment and other documents to be kept by approved provider**

- (1) For the purposes of section 175(1) of the Law, the following documents are prescribed in relation to each education and care service operated by the approved provider—
- (a) the documentation of child assessments or evaluations for delivery of the educational program as set out in regulation 74;
  - (b) an incident, injury, trauma and illness record as set out in regulation 87;
  - (c) a medication record as set out in regulation 92;
  - (d) a record of assessments of family day care residences and approved family day care venues conducted under regulation 116;
  - (e) in the case of a centre-based service, a staff record as set out in regulation 145;
  - (f) a record of volunteers and students as set out in regulation 149;
  - (g) the records of the responsible person at the service as set out in regulation 150;
  - (h) in the case of a centre-based service, a record of educators working directly with children as set out in regulation 151;
  - (i) a record of access to early childhood teachers as set out in regulation 152;
  - (j) in the case of a family day care service, a record of staff engaged or employed by the service kept under regulation 154;
  - (k) a children’s attendance record as set out in regulation 158;
  - (l) child enrolment records as set out in regulation 160;
  - (m) a record of the service’s compliance with the Law as set out in regulation 167;
  - (n) a record of each nominated supervisor and any person in day-to-day charge of the education and care service under section 162 of the Law;
  - (o) in the case of a centre-based service, a record of children embarking a means of transport at the education and care service premises as set out in regulation 102E(4)(c);
  - (p) in the case of a centre-based service, a record of children disembarking a means of transport at the education and care service premises as set out in regulation 102F(4)(d).
- (2) The approved provider of the education and care service must take reasonable steps to ensure the documents referred to in subregulation (1) are accurate.

Penalty: \$2200.

- (3) Subject to Subdivision 4, the approved provider of the education and care service must ensure that—
- (a) subject to subregulations (4) and (4A), the documents referred to in subregulation (1) in relation to a child enrolled at the service are made available to a parent of the child on request;
  - (b) the record of compliance referred to in subregulation (1)(m) is able to be accessed on request by any person.

Penalty: \$2200.

- (4) If a parent’s access to information of the kind in the documents referred to in subregulation (1) is limited by an order of a court, the approved provider must refer to the court order in relation to the release of information concerning the child to that parent.
- (4A) Before disclosing to a parent of a child enrolled at the service any personal information relating to a person specified in subregulation (4B) that is contained in a document referred to in subregulation (1), the approved provider must obtain the written consent

of the person to whom the personal information relates to the disclosure of that personal information.

- (4B) The following persons are specified—
- (a) a parent of a child enrolled at the service, if that person is not the parent making the request under subregulation (3)(a);
  - (b) a person who is required to be notified of an emergency involving a child enrolled at the service if a parent of the child cannot be immediately contacted;
  - (c) an authorised nominee of a child enrolled at the service;
  - (d) a person who is authorised to consent to medical treatment of, or to authorise administration of medication to, a child enrolled at the service;
  - (e) a person who is authorised to authorise an educator to take a child enrolled at the service outside the service premises;
  - (f) a person who is authorised to authorise the service to transport a child enrolled at the service or arrange transportation of a child enrolled at the service.
- (4C) A person who has given their written consent under subregulation (4A) may withdraw their consent in writing at any time before the personal information is disclosed.
- (5) An approved provider of a family day care service is not required to keep a document set out in subregulation (1) if an equivalent record is kept by a family day care educator under regulation 178.
- (6) In this regulation—  
personal information has the same meaning as it has in the Privacy Act 1988 of the Commonwealth.

#### **Regulation 180 Evidence of prescribed insurance**

- (1) The approved provider of an education and care service must keep evidence of the current prescribed insurance at the education and care service premises, or in the case of a family day care service, at the principal office of the service, and must make the evidence available for inspection by the Regulatory Authority or an authorised officer under the Law.
- (2) A family day care educator must keep evidence of the educator's current public liability insurance at the family day care residence or family day care venue and must make the evidence available for inspection by the Regulatory Authority or an authorised officer under the Law.
- (3) Subregulation (1) does not apply if the prescribed insurance for the education and care service is a policy of insurance or an indemnity provided by the Government of a State or Territory.

#### **Regulation 183 Storage of records and other documents**

- (1) The approved provider of an education and care service must ensure that records and documents set out in regulation 177 are stored—
- (a) in a safe and secure place; and
  - (b) for the relevant period set out in subregulation (2).
- (2) The records must be kept—
- (a) if the record relates to an incident, illness, injury or trauma suffered by a child while being educated and cared for by the education and care service, until the child is aged 25 years;
  - (b) if the record relates to an incident, illness, injury or trauma suffered by a child that may have occurred following an incident while being educated and cared for by the education and care service, until the child is aged 25 years;
  - (c) if the record relates to the death of a child while being educated and cared for by the education and care service or that may have occurred as a result of an

incident while being educated and cared for, until the end of 7 years after the death;

- (d) in the case of any other record relating to a child enrolled at the education and care service, until the end of 3 years after the last date on which the child was educated and cared for by the service;
- (e) if the record relates to the approved provider, until the end of 3 years after the last date on which the approved provider operated the education and care service;
- (f) if the record relates to a nominated supervisor or staff member of an education and care service, until the end of 3 years after the last date on which the nominated supervisor or staff member provided education and care on behalf of the service;
- (g) in case of any other record, until the end of 3 years after the date on which the record was made.

#### **Regulation 185 Law and regulations to be available**

The approved provider of an education and care service must ensure that a copy of the Law and these Regulations is accessible at the education and care service premises at all times for use by nominated supervisors, staff members, volunteers, parents of children enrolled at the service and any person seeking to make use of the service.

#### **Compliance History**

- 26. In determining appropriate compliance action, I have considered the compliance history of the Service, which has had statutory compliance actions taken prior to this Decision.

#### **Decision**

- 27. Considering the evidence obtained, the Service's compliance history, and the objectives and guiding principles of the Law, I have determined that issuing a compliance notice would be appropriate and in the best interests of children.
- 28. The Authority is empowered to issue a compliance notice under section 177 of the *Law*

#### **177 – Compliance notices**

- (1) This section applies if the Regulatory Authority is satisfied that an education and care service is not complying with any provision of this Law.
- (2) The Regulatory Authority may give the approved provider a notice (a **compliance notice**) requiring the approved provider to take the steps specified in the notice to comply with that provision.
- (3) An approved provider must comply with a compliance notice under subsection (2) within the period (being not less than 14 days) specified in the notice.

Penalty: \$6000, in the case of an individual  
\$30 000, in any other case

- 29. The compliance notice is Attachment A to this decision letter. You are required to take steps directed in the Notice to comply with the relevant provisions.

30. You must produce evidence of the steps required by **the time indicated within the Notice at Attachment A.**
31. The Authority will also be maintaining its auditing of the Service to ensure compliance is appropriately monitored, to ensure the health, safety and wellbeing of children being educated and cared for.

### **Rights of Review**

32. A decision to issue a compliance notice is a **reviewable decision** as defined in Section 190 of the *Law*. Under section 191 of the *Law*, you may apply for an internal review of this decision. Any application must be lodged within 14 days after you are notified of the decision (or, if not notified, within 14 days after becoming aware of the decision).
33. An application for review may be made by completing the form AR01 Application for Internal Review of Reviewable Decision which can be obtained from the ACECQA website.

### **Legislation**

25. The Education and Care Services National Law applies to you as a provider and any service you operate. The National 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>.
26. The National Law is made up of an Act and Regulations which can be viewed at: <http://www.acecqa.gov.au/national-law>, and <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>
27. Should you have any questions about this Compliance Notice please contact me at [delphine.coutin@act.gov.au](mailto:delphine.coutin@act.gov.au)

Yours Sincerely



Delphine Coutin  
Assistant Director, Audit and Risk Management  
Children's Education and Care Assurance  
ACT Education Directorate  
27 November 2023