



Mr [REDACTED]  
Person with Management or Control  
Northside Community Service Limited  
RE: Majura Early Childhood Centre  
PO Box 453  
DICKSON ACT 2602

Email: [REDACTED]@northside.asn.au  
[REDACTED]@northside.asn.au

Dear Mr [REDACTED]

**Decision to issue Administrative Letter RE NOT-40451983**

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 conducted an assessment into a Notification of Incident (NOT-40451983) relating to the operation of Majura Early Childhood Centre, SE-0009809 (the Service), operated by Northside Community Service Limited, PR-00005856 (the Provider).
2. The Notification (NOT-40451983) related to a child, known as [REDACTED] (aged four months), who was given out of date formula on 2 July 2020.
3. Web addresses to the *Education and Care Services National Law Act 2010*<sup>1</sup> (the *Law*) and the *Education and Care Services National Regulations 2011* (the *Regulations*) are provided for your convenience at the end of this letter.

**Facts**

4. On 3 July 2020, the Authority received NOT-40451983 from the Provider in relation to an enrolled child, known as [REDACTED] (four months old), who was given out of date formula on 2 July 2020. Refer Notification at Attachment A.
5. The Notification advised that [REDACTED] had been given out of date formula twice on 2 July 2020 and had also vomited on multiple occasions on 2 July 2020. The Notification also advised that the Nursery Room had a known outbreak of gastro at the time, and that [REDACTED] had vomited on one occasion prior to being given formula.
6. Furthermore, the Notification advised that immediate risk mitigation steps performed by the Provider included:
  - a) Internal enquires made via discussion with educators involved;
  - b) Discussion with parent involved;
  - c) Email communication to all educators;
  - d) Educators required to read and acknowledge the Provider's Bottle Preparation and Safety Policy; and
  - e) That a member of the Children's Services support team was to conduct an audit of quality areas 2,5 and 7.

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<sup>1</sup> As adopted in the ACT via the *Education and Care Services National Law (ACT) Act 2011*.

7. On 6 July 2020, additional information was received from the Provider providing evidence of steps taken. Refer Attachment B.

### Law

8. Provisions of the *Law* relevant to the assessment engaged the following:

#### **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 the provision of out of date formula to █████ twice on 2 July 2020 was not ensuring that every reasonable precaution was taken to protect the child from harm and hazard likely to cause injury or illness, in contravention of section 167(1) of the *Law*.
10. The Authority also noted that there have been two previous instances within the last six months (being January and May 2020) of children being given milk that had out of date. Refer Attachment C and D.
11. Furthermore, the Authority noted that there had been other incidents in April 2020 associated with children being given foods that were known allergens. Refer Attachment E.
12. However, in mitigation, the Authority notes that in relation to all incidents surrounding foods given to children, at the time of the incidents, the Provider appeared to have managed the incidents appropriately and addressed failures by educators, meeting the expectation of the Authority.
13. Although the above mitigations are noted, the Authority has concerns in relation to educators at the Service appearing to be overlooking basic steps to ensure that children are being given foods that are appropriate for consumption. Furthermore, the recent incident involving █████ indicates that strategies and measures undertaken by the Provider with previous incidents do not appear to be being followed or that appropriate food safety practices are not embedded at the Service.
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. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue you this Administrative Letter.
15. The Authority would encourage the Provider to provide additional training and support to educators at the Service in relation to provision of food and food safety practices, for the

purpose of ensuring that all reasonable steps are taken to protect children from harm or hazard likely to cause injury and illness.

16. In addition, the Authority requests that the Provider submit evidence, within 14 days of receipt of this Letter, to demonstrate that all appropriate precautions have been taken to mitigate risk of illness to children in relation to the provision of food, and ensuring that foods provided to children are appropriate for consumption at all times, are in date and are meeting individual children's needs.
17. Evidence can be submitted in writing to Authorised Officer Janine Fairburn via email at [Janine.fairburn@act.gov.au](mailto:Janine.fairburn@act.gov.au), or alternatively via post to:

Children's Education and Care Assurance  
Attention Janine Fairburn  
GPO Box 158  
Canberra ACT 2601.

#### **Legislation**

18. 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>.
19. 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>
20. Should you have any questions about this Decision please contact Authorised Officer Janine Fairburn at [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au).

Yours Sincerely,



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

22 July 2020