



██████████
Person with Management or Control
G8 Education Limited
Re: Nurture One Holt Children's centre

Email: ██████████

Dear ██████████,

Decision to issue Administrative Action

1. As you are aware, Authorised Officers from Children's Education and Care Assurance (CECA), also known as the ACT Regulatory Authority (the Authority), recently investigated suspected offences at Nurture One Holt Children's Centre SE-4008661 (the Service), operated by G8 Education Limited PR-00000898 (the Provider).
2. The Authority is satisfied that the Provider has contravened provisions of the *Education and Care Services National Law (ACT) (the Law)*.
3. Web addresses to the *Education and Care Services National Law Act (ACT) (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 12 February 2021, a Notification and Incident Report (NOT-40510218) was received by the Authority from the Provider regarding a dislocation injury suffered by a child, known to be ██████████, while being moved from the Dinosaur space to an activity to a table by an educator at the Service on 11 February 2021.
5. Due to the seriousness of the allegation and risk of harm to children when subjected to inappropriate discipline, the Authority determined to conduct an investigation.
6. On 11 May 2021, because of evidence gathered during the Authority's investigation supporting contraventions of the *Law*, the Authority sent you a Show Cause Notice (the Notice). Refer copy of the Notice (minus attachments) at Attachment A
7. The Notice outlined the grounds for issue, and the evidence relied on by the Authority supporting the allegation that, on 11 February 2021, the Provider was in contravention of sections 166(1) and 167(1) of the *Law*. In addition, the Notice also outlined the compliance actions being considered by the Authority should any offence be substantiated.
8. On 10 June 2021, noting that an extension for response by the Provider was agreed to by the Authority, the Provider submitted a response to the Notice. Refer to Attachment B.

Allegation

9. It was alleged that, on 11 February 2021, the Provider failed to protect a child enrolled at the Service from harm and hazard, in that [REDACTED], was inappropriately disciplined by [REDACTED] when he would not stop hanging off the arch bars, in contraventions of sections 166(1) and 167(1) of the *Law*.

Law

10. Provisions of the *Law* relevant to the Allegation are:

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.

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.

Regulation 155 - Interactions with children

An approved provider must take reasonable steps to ensure that the education and care service provides education and care to children in a way that-

- a) encourages the children to express themselves and their opinions; and
- b) allows the children to undertake experiences that develop self-reliance and self-esteem; and
- c) maintains at all times the dignity and rights of the child; and
- d) gives each child positive guidance and encouragement toward acceptable behaviour; and
- e) Has regard to the family and cultural values, age, and physical and intellectual development and abilities of each child being educated and cared for by the service.

Reasons

11. The Authority has carefully considered the Provider's response to the Notice, along with all available evidence, and is satisfied that, on the balance of probabilities, there is insufficient evidence to substantiate a contravention of section 166(1) of the *Law*.
12. The Authority, is however, satisfied on the balance of probabilities, that there is sufficient weight of evidence to substantiate a contravention of the *Law*, namely that on the 11 February 2021, the Provider failed to ensure appropriate education and support to educators

to ensure interactions met the requirements of Regulation 155 when guiding challenging behaviours. It is noted that the educator in question was working towards her Certificate III. The Authority is satisfied that the Provider has failed to ensure every reasonable precaution was taken to protect [REDACTED], from harm and hazard likely to cause injury, engaging Section 167 (1) of the *Law*.

13. 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 this Administrative Decision.
14. In determining whether to issue the Provider with an Administrative action, the Authority took the following into consideration:
 - a) The Notifications of Incident were submitted within the prescribed timeframe, and the Service's previous compliance history;
 - b) The Provider's response to the incident at the time, and implementation of strategies deemed appropriate in mitigating risk of a similar incident; and
 - c) The Provider's subsequent implementation of strategies deemed appropriate in mitigating risk of a similar incident.
15. Regarding the substantiated offence under sections 167(1) of the *Law*, the Authority is satisfied that strategies implemented by the Provider will meet the expectations of the Authority, and therefore no further action is required.
16. However, the Authority takes this opportunity to remind the Provider of its obligations to carry out appropriate inductions and implement a robust framework to ensure appropriate interactions with children, including when managing challenging behaviours.
17. The substantiated contravention has been recorded on your Service file and may be considered by the Authority in any future applications for approvals, amendments or waivers. They may also be considered in determining the action to be taken, should further breaches of the *Law* or *Regulations* be substantiated.

Legislation

18. 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>.
19. 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 on
Tanya.Masterman@act.gov.au.

Yours Sincerely,



Tanya Masterman
a/Assistant Director
Education and Care Regulation and Support
ACT Education Directorate

30 June 2021