

██████████  
Person with Management and Control  
Guardian Community Early Learning Centres Pty Ltd  
RE: Snow Gum Early Childhood Learning Centre

Email: ██████████@hotmail.com

Dear ██████████,

**Decision to issue Administrative Action RE: NOT-40911945**

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-40911945) relating to Snow Gum Early Childhood Learning Centre SE-40013163 (the Service) operated by ██████████ Consulting Pty Ltd PR-00005827 (the Provider).
2. The notification of incident advised whereby a 1-year-old child, known as ██████████ ██████████ suffered a seizure after an hour of having an identified temperature over 39 degrees on 11 October 2023.
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 12 October 2023, a notification of incident (NOT-40911945) was submitted to the Authority by the Provider advising that on 11 October 2023, a child (██████████ ██████████ 1yr old) suffered a seizure after an hour of having an identified temperature over 39 degrees. Refer copy of the NOT-40911945 at Attachment A.
5. On 18 October 2023, the Provider, upon request, submitted additional documents in relation to NOT-40911945 (Attachment B). Additional information included:
  - Incident Illness Accident Trauma Policy and copy of Incident Injury Trauma and Illness Record.
  - Timeline of events and parent communications.
6. Pages 5 and 6 of the Incident Illness Accident Trauma Policy states the following:

*WHEN A CHILD DEVELOPS A HIGH TEMPERATURE OR FEVER AT THE SERVICE  
If a child becomes ill whilst at the Service, educators will respond to their individual symptoms of illness and provide comfort and care. Educators will closely monitor the child*

*focusing on how the child looks and behaves and be alert to the possibility of vomiting, coughing or convulsions. The child will be cared for in an area that is separated from other children in the service to await pick up from their parent/carer. For infants under 3 months old, parents will be notified immediately for any fever over 38°C for immediate medical assistance. If a parent is uncontactable, emergency contacts will be contacted. If family members are unable to be contacted and emergency medical assistance is required the service will follow the Administration of First Aid Policy and contact emergency services where required.*

#### **METHODS TO REDUCE A CHILD'S TEMPERATURE OR FEVER**

- encourage the child to drink plenty of water (small sips), unless there are reasons why the child is only allowed limited fluids*
- remove excessive clothing (shoes, socks, jumpers, pants etc.). Educators will be mindful of cultural beliefs.*
- parents/guardian will be contacted by phone and informed of their child's temperature*
- if requested by a parent or emergency contact person and written parental permission to administer paracetamol or ibuprofen is recorded in the child's individual enrolment form, staff may administer paracetamol or ibuprofen (Panadol or Nurofen) in an attempt to bring the temperature down. However, a parent or emergency contact person, must still collect the child from the Service.*
- before giving any medication to children, the medical history of the child must be checked for possible allergies*
- the child's temperature, time, medication, dosage, and the staff member's name administering the medication and the staff member witnessing the administration will be recorded in the Incident, Injury, Trauma and Illness Record. Parents will be requested to sign and acknowledge the Administration of Medication Form or Administration of Paracetamol Record when collecting their child.*

7. The Incident Report identified that action taken, including first aid and administration of medication, consisted only of a wet face washer applied to [REDACTED] body. The incident report also identified that temperature checks were undertaken seven times within an hour, with [REDACTED] sustaining a temperature over 39 degrees during this time.

#### **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 [REDACTED] from further illness on 11 October 2023.
11. The Authority is satisfied that a reasonable precaution to have been taken would have been to call emergency services when unable to contact the parents after 30 minutes.
12. The Authority acknowledges that the father was spoken to at 1:15pm, but with the advice that he was in Sydney, and still no contact with the mother, it would be expected that emergency services would have been contacted to attend to the child and provide medication to lower his temperature if deemed required.
13. The Authority further notes that in records of contact with the father at 1:15pm, there was no indication of asking the parent for permission to give Nurofen or Panadol. This is considered as another reasonable precaution to be taken to protect the child from effects of high temperature. In addition, information did not indicate that any other family/friend emergency contact number was attempted other than the parents.
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*, the compliance history of the Service, and the demonstrated steps taken by the Provider to mitigate risk, the Authority has decided to issue this administrative action rather than statutory compliance actions to address the non-compliances.
16. In relation to substantiated breaches 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 of reviewed policies, practices, and procedures in relation to the management of illness, injury, and trauma to ensure it is fit for purpose, and guides actions to be undertaken if parents and emergency contacts are unable to be contacted within a reasonable timeframe.
  - (b) Evidence to support that the Nominated Supervisor and all educators are aware of, understand, and are implementing policies, procedures, and practices relevant to the management of illness, injury, and trauma.

(c) Evidence demonstrating that the child's known history of fever and seizure are recorded, and that there are contingencies in place should similar illness be experienced while at the Service and parents cannot be contacted.

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).

Yours Sincerely,



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

2 November 2023