



[REDACTED]  
[REDACTED]  
[REDACTED]

Email: [REDACTED]

Dear [REDACTED]

**Decision to Issue Caution Letter**

1. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, have recently conducted inquiries into an allegation that you inappropriately disciplined a child, known to be [REDACTED] (five years old), on 17 August 2020, at SDN Bluebell Early Childhood Education Centre SE-00009834 (the Service), operated by SDN Children's Services PR-00005562 (the Provider).
2. Web addresses to the *Education and Care Services National Law (ACT)* (the Law), and the *Education and Care Services National Regulations* (the Regulations) are provided for your convenience at the end of this notice.

**Facts**

3. On 18 August 2020, a notification of complaint was received by the Authority regarding your conduct towards a child, known to be [REDACTED], on 17 August 2020, in particular the method used to remove [REDACTED] from a sandpit.
4. The Authority made further enquiries and obtained numerous documents from the Provider, including all documentation relating to the Provider's workplace investigation into the allegations raised against you.
5. A show cause notice (the Notice) was sent to you via registered post, dated 2 October 2020. The Notice advised you that the Authority was considering compliance action based on a suspected contravention of the Law indicated by information produced by the Provider. Potential compliance actions included, but were not limited to, an enforceable undertaking pursuant to section 179A of the Law.
6. The Notice advised you of the allegations raised against you, as well as the evidence held by the Authority supporting the suspected offence of inappropriate discipline pursuant to section 166(3) of the Law.
7. The Authority received your written response on 13 October 2020. Refer response at Attachment A.

8. The Authority considered compliance action based on evidence that there has been a contravention of the *Law* identified during the Authority's enquiries into the matter.

### **Law**

9. Evidence obtained during the Authority's enquiries engages Section 166(3) of the *Law*, which provides as follows:

#### **Section 166 of the *Law* - Offence to use inappropriate discipline**

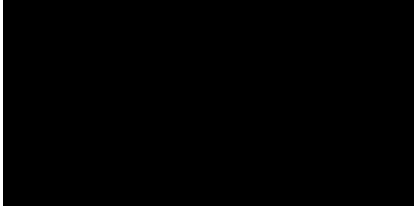
- (3) A staff member of, or a volunteer at, an education and care service must not subject any child being educated and cared for by the service to—
  - (a) any form of corporal punishment; or
  - (b) any discipline that is unreasonable in the circumstances.

### **Decision and Reasons**

10. The Authority has considered all evidence obtained, including your response to the Notice, and is satisfied, on the balance of probabilities, that you have contravened section 166(3) of the *Law*, as your conduct on 17 August 2020 as described is determined as discipline that was unreasonable in the circumstances.
11. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. On this occasion, the Authority has taken into account that:
  - a. The conduct was low on the scale of severity of inappropriate discipline;
  - b. The child was not injured by your conduct;
  - c. Your response demonstrated remorse for your conduct and reflection of your actions.
12. In the circumstances, the Authority has decided not to take statutory compliance action, but to issue you with a Caution Letter.
13. This Caution Letter serves to remind you of your obligations, as an educator, to ensure that your actions in no way compromise the safety, health and wellbeing of children being educated and cared for by yourself.
14. The Authority also strongly encourages you to seek further training in how to manage children's behavioural issues in an appropriate manner.
15. This letter will be recorded on our files and may be taken into consideration if any new evidence is received that warrants further investigation into this matter, or if any other matters involving your conduct with children are notified to the Authority in the future.
18. 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>

19. Should you have any questions about this Caution Letter please contact at email [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au)

Yours Sincerely



Janine Fairburn  
Assistant Director  
Children's Education and Care Assurance  
Early Childhood Policy and Regulation  
ACT Education Directorate

23 October 2020