

Mr [REDACTED]  
Person with Management or Control  
G8 Education Limited  
RE: Blinky Bill Early Childhood Centre  
[REDACTED]

Email: [REDACTED]

Dear Mr [REDACTED]

**Decision to issue Administrative Letter RE NOT-40448125 and NOT-40448757**

1. As you are 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-40448125) relating to the operation of Blinky Bill Early Childhood Centre, SE-0009751 (the Service), operated by G8 Education Limited, PR-00000898 (the Provider).
2. The Notification (NOT-40448125) related to a child, known to be [REDACTED] exiting the Service premises through a locked pool gate in the main yard.
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 18 June 2020, the Authority received a NOT-40448125 from the Provider in relation to an enrolled child, [REDACTED] (four years old), who exited the premises through a locked pool gate in the main yard on 17 June 2020. Refer Notification at Attachment A.
5. The Notification advised that all children were in the main yard at the time of incident, and that an Educator observed the child from the front office running past the front doors and immediately followed the child and returned [REDACTED] to the Service safely.
6. Furthermore, the Notification advised that immediate risk mitigation steps performed by the Provider included:
  - a) Gate has been made secure;
  - b) Locksmith attended the centre 17 June 2020 and would be returning 18 June 2020 to repair gate;
  - c) Supervision and evacuation risk assessments and procedures were reviewed and updated; and

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

- d) Full investigation was currently underway into supervision and possible equipment (gate) malfunctioning.
7. On 19 and 21 June 2020, additional information was received from representative of the Provider, Ms [REDACTED] advising of status of current investigation and evidence of risk mitigation strategies being implemented (Refer email Correspondence at [Attachment B](#)). Additional information and supportive evidence of actions included:
- a) Provider's investigation notes and meeting minutes;
  - b) Outside Yard Risk Assessment Preschool and Toddler and Daily Centre Checklist;
  - c) Actions for gate and Emergency Evacuation Procedure update;
  - d) [REDACTED] enrolment Form and behaviour documentation;
  - e) Working Directly with Children records, roster and child attendance records; and
  - f) Pictures of educator location and incident report.
8. On 21 June 2020, a second Notification of Incident (NOT-40448757) was submitted by the Provider to the Authority advising that, as a result of the Provider's investigation into NOT-40448125, the Provider had become aware of a similar incident whereby [REDACTED] had exited the Service on 15 June 2020. Refer NOT-40448757 at [Attachment C](#).
9. On 25 June 2020, the Authority requested additional information from the Provider in regard to the two notifications, which was provided 26 June 2020 (refer email correspondence at [Attachment D](#)). Records provided included:
- a) Ratio sheets and working directly with children records for 15 June 2020;
  - b) Attendance summary records for 15 June 2020; and
  - c) Updated supervision plan and signed supervision policy.
10. Between 29 June 2020 and 03 July 2020, Ms [REDACTED] updated the Authority on the Provider's investigation into the matter, and provided additional documentation to demonstrate that the Provider's investigation was complete, disciplinary actions had been taken against educators involved (via coaching and warning letters), and that an Incident Response Audit had been undertaken. Refer email correspondence at [Attachment E](#) and Incident Response Audit at [Attachment F](#).

## Law

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

### **Section 165(1) of the *Law* - Offence to inadequately supervise children**

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: \$10 000, in the case of an individual  
\$50 000, in any other case.

**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**

12. The Authority has considered all the information supplied by the Provider, and is satisfied that inadequate supervision contributed to [REDACTED] being able to exit the Service on multiple occasions, being on 15 and 17 June 2020, in contravention of section 165(1) of the Law, and engaging section 167(1) of the Law.
13. However, in mitigation, the Authority notes the circumstances surrounding the malfunction of the gate were rectified as soon as the Provider became aware of the situation, that the Provider investigated the incidents quickly, appears to have appropriately managed risk moving forward, and addressed supervision failures identified through the Provider's investigation.
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. This Letter is issued to remind the Provider that at all times, staffing and supervision levels need to meet the emotional, developmental and physiological needs of children and educators alike. These staffing and supervision levels may need to be adapted to be above minimum regulated ratio levels to protect children from harm and hazard likely to cause injury – both physically and psychologically.
16. Furthermore, this Letter is to advise the Provider that the Regulatory Authority will be monitoring more strictly how the Service is being operated, and that any further non-compliances may result in stronger enforcement measures being actioned by the Regulatory Authority.
17. The Authority would encourage the Provider to follow through with proposed external training of educators in relation to supervision, communication and guiding children's behaviour, as well as deeper induction processes for staff, and supporting of [REDACTED] behaviour and development through behaviour support and guidance plans - as indicated in the Incident Response Audit (Attachment F).
18. The Authority would like to take this opportunity to thank Ms [REDACTED] for her engagement and assistance in relation to the Authority's assessment of this matter.

### Legislation

19. 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>.
20. 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>
21. 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  
Early Childhood Policy and Regulation  
ACT Education Directorate

14 July 2020