

Mr [REDACTED]
Person with Management or Control
G8 Education Limited
RE: Lavender Lane Child Care Service

Email: [REDACTED]

Dear Mr [REDACTED]

Decision to issue Administrative Letter RE: NOT-40549502

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 Complaint (NOT-40549502) relating to the operation of Lavender Lane Child Care Service, SE-0009802 (the Service), operated by G8 Education Limited, PR-00000898 (the Provider).
2. The Notification (NOT-40549502) related to a complaint alleging that a serious incident had or was occurring at the Service.
3. Web addresses to the *Education and Care Services National Law (ACT)* (the *Law*) and the *Education and Care Services National Regulations 2011* (the *Regulations*) are provided for your convenience at the end of this Decision.

Facts

4. On 18 June 2021, the Authority received NOT-40549502 from the Provider. The Notification advised that a parent, known to be [REDACTED] had raised concerns that their child, [REDACTED] (aged 1yr 9mths) had received a significant scratch whilst enrolled at the Service on 16 June 2021, and that the educator informing the parent of the scratch had not advised as to the severity of the injury. Refer Notification of Complaint at Attachment A.
5. On 22 June 2021, additional information was requested via email. The Provider responded to the request on 28 June 2021. Refer email Correspondence at Attachment B.
6. Between 13 July 2021 and 9 August 2021, further additional information was requested, and forwarded to the Authority, including CCTV footage of the incident involving scratching of [REDACTED] on 16 June 2021. Refer Attachment C.
7. The Authority noted the following timeline of events in relation to the CCTV footage provided – Refer Attachment D. As the Provider submitted footage relevant to the parents complaint, it would appear to support that the child in the light blue hoodie is likely to be [REDACTED] and the child in the blue and white striped top is likely to be [REDACTED]
8. The Authority also noted a similar matter arising in April 2021, involving the same children. Refer Notification of Complaint (NOT-40531537), along with relevant submitted information by the Provider at Attachment E.

Law

9. 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

10. The Authority has considered all the information supplied by the Provider and is satisfied that inadequate supervision contributed to [REDACTED] sustaining injuries because of another child scratching his face on 16 June 2021, in contravention of section 165(1) of the *Law*, and engaging a contravention of sections 167(1) of the *Law*.
11. Information submitted by the Provider indicates that [REDACTED] has known challenges regarding his interactions with peers being aggressive in certain circumstances, and that [REDACTED] was to be shadowed by an educator to mitigate the risk of these types of interactions. However, the Authority noted that CCTV footage clearly shows a lack of engagement by educators with children in the room, and a lack of any suggested shadowing to prevent peers from interacting in a negative way with each other prior to an injury being sustained.
12. In addition, if adequate supervision of children had been occurring, then it is reasonable to assume that an educator would have intercepted the interactions between the two boys identified via the CCTV footage. Footage indicated an interaction that was not playful but appeared to have been more aggressive by the child in the blue and white striped top, in contravention of section 165 of the *Law*, and engaging a contravention of section 167 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 you this Administrative action.
14. This decision 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. 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.

15. In regard to the substantiated offences of the Law, the Authority requests the Provider to submit evidence demonstrating that the following has occurred to mitigate risk of a similar incident:
- a) The service’s senior team members are to view the footage that was provided to the Authority.
 - b) Following viewing of the footage the senior team members are to prepare a strategy to implement with the team of educators to improve their understanding of appropriate practice when guiding and supporting children’s interactions and behaviour.
 - c) Evidence of the strategies developed, and their implementation are to be provided to the Authority.
16. Evidence demonstrating the above can be forwarded to me at Janine.fairburn@act.gov.au. Noting restrictions that are currently in place due to COVID-19, the Authority requires an update on progress within 14 days from the date of this Decision, for further review.
17. This Decision will be recorded on your Service file and may also 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 Regulations* be found.

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 me at janine.fairburn@act.gov.au.

Yours Sincerely,



Janine Fairburn
Assistant Director
Children’s Education and Care Assurance
Education and Care, Regulation and Support
ACT Education Directorate

08 September 2021

