



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

Email: [REDACTED]

Dear Ms [REDACTED]

Show Cause Notice – Potential Compliance Action

1. I am a delegate of the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance. As you are aware, the Authority is the regulator of education and care services in the ACT and has the responsibility of monitoring and enforcing compliance with the *Education and Care Services National Law (ACT) (the Law)*, together with receiving and investigating complaints arising under the *Law*.
2. Authorised Officers are currently investigating suspected offences regarding the operation of Lavender Lane Child Care Service SE-00009802 (the Service) operated by G8 Education Limited PR-00000898 (the Provider)
3. The suspected offences relate to alleged failure to ensure adequate supervision within the outdoor space at the Service with a child falling asleep for some time.
4. Web addresses to the *Law* and the *Education and Care Services National Regulations (the Regulations)* are provided for your convenience at the end of this notice.
5. Authorised Officers have now finished obtaining evidence (unless further lines of enquiry emerge) and the Authority has determined there is sufficient evidence to support a case to answer regarding the suspected offences under the *Law*. However, the Authority’s investigation is not complete until the Provider has had an opportunity to respond to the allegations and evidence obtained by the Authority. This is the reason for sending this Show Cause Notice (Notice) to you as a person with management or Control of the Provider.
6. Detailed instructions of how to respond appear at the end of this Notice.
7. If substantiated, the allegations may constitute offences under sections 165 and 167 of the *Law* and Regulation (or any combination of them). If, after considering all available evidence, the Authority finds any offences are substantiated, on the balance of probabilities, it will need to consider whether compliance action is required.
8. Where any offences under the *Law* are substantiated, the Authority considers many factors when determining appropriate action with the focus being on ensuring future compliance and improved outcomes for children, rather than punishment. Potential compliance actions that may be considered in this instance appear at the end of this Notice.

Grounds for issuing Show Cause Notice

9. The evidence obtained during the investigation to date supports offences under the *Law* relating to the following areas:
 - a. Adequate supervision.
 - b. Protection of children from harms and hazards.

Background

10. On 23 November 2022, the Authority received a Notification of a complaint from the Provider alleging a child had been left asleep in the play space on 18 November 2022.
11. It was determined by the Authority that there were reasonable grounds to suspect that offences have, or may have, occurred at Service and a decision was made to investigate suspected offences under section 165(1) and 167(1) of the *Law*.

Allegation

12. It is alleged on 18 November 2022, the Provider failed to ensure that all children being educated and cared for by the service were adequately supervised., A child, believed to be [REDACTED] (3:8) was left unsupervised, unchecked, and asleep in the outdoor space of the service for a lengthy period of time, contravening s165(1) of the *Law*, and raising a further contravention of s167(1) of said *Law*.

Legislation Relevant to Allegation

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.

Evidence Relevant to Allegation

13. Documentation obtained from the Provider during the investigation includes the following:
 - a. Working Directly with Children records (WDWC) for 18 November 2022;
 - b. Child attendance records for 18 November 2022;

maintained. It is tailored in each circumstance to address the specific non-compliance identified because of the investigation.

25. If a matter is determined as warranting consideration of suspension or cancellation of a service approval, please be aware that additional opportunity to respond to the grounds for such action would be provided, as required under sections 71 and 78 of the Law.
26. In your response, you may wish to make suggestions as to how this can be demonstrated. The Authority is not bound by any suggestions but will consider them as part of the Authority's case management process.

Right of response

27. As mentioned previously, this letter is your opportunity to respond to the allegations and evidence set out in this Notice. You may, within 14 days of receiving this Notice, make a written submission for the Authority's consideration in deciding if any offences are substantiated and, if so, whether any compliance action should be taken.
28. At Attachment E to this Notice is a '4 Step Guide to Responding to a Show Cause Notice' to assist in the development of your submission. Please direct your written submission via email to brian.cropper@act.gov.au or by post to

Children's Education and Care Assurance
Attention Brian Cropper
GPO Box 158, Canberra ACT 2601.

Caution

29. I am informing you that the excerpts of statements of witness taken for the purpose of the Authority's investigation are included in the interests of procedural fairness. The statements taken during the investigation are protected disclosures under section 296 of the *Law*.
30. The *Law* provides, at section 297, for the protection of persons who make protected disclosures from serious detrimental action against reprisal.
31. Please also be aware that it is an offence under section 295 of the *Law* to provide the Authority with false or misleading information or documents.
32. 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>.
33. 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>
34. Should you have any questions about this Show Cause Notice please contact Senior Investigator Brian Cropper, at email brian.cropper@act.gov.au.

Yours sincerely



Jo Williams
Director Regulatory Operations
Children's Education and Care Assurance
Education and Care Regulation and Support

6 June 2023