



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

Email: [REDACTED]

Dear Ms [REDACTED]

Decision to issue Administrative Action

1. As you are aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently investigated suspected offences at Lavender Lane Child Care Service SE-00009802 (the Service) operated by G8 Education Limited PR-00000898 (the Provider).
2. The Authority is satisfied that the Provider was not complying with the provisions of the *Education and Care Services National Law (ACT)* (the Law) and the *Education and Care Services National Regulations* (the Regulations).
3. Web addresses to the Law and the Regulations are provided for your convenience at the end of this notice.

Background

4. On 6 June 2023, the Authority issued the Provider a Show Cause Notice (the Notice). The Notice related to a recent investigation, undertaken by the Authority, in response to allegations of inadequate supervision at the Service. Refer copy of Notice (minus attachments) at Attachment A. Please note that attachments can be provided upon request.
5. The Notice outlined the grounds for issue, relevant evidence and raised the following allegation for response:

Allegation

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. Specifically, that 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.

6. A response to the Notice was received from the Provider on 23 June 2023 within the agreed timeframe. Refer copy of Providers response at Attachment B (minus attachments).

7. The Authority acknowledges the attachments accompanying the response to the Notice including:
 - a. Agency team member induction.
 - b. Area manager planner.
 - c. Centre planner
 - d. Induction checklist
 - e. Team member onboarding

Law

8. The investigation and Notice engaged the following provisions of the *Law*:

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.

Provider Response

9. In response to the allegation, the Provider admitted to the contraventions of the *Law* and outlined an internal investigation that identifies the following causes of the supervision failures:
 - a. Inadequate induction.
 - b. Communication of supervision requirements for underage educator.
 - c. Communication of yard risk assessment.
 - d. Change in Nominated Supervisor
10. Furthermore, the Provider's response identified a timeframe to embed strategies proposed, and implemented, to mitigate risk of re-occurrence including:
 - a. Review of mandatory training for all staff.
 - b. Casual staff to undertake induction and onboarding at start of shift.
 - c. Review of trainee inductions.
 - d. Nominated Supervisor training.
 - e. Appointment of an experienced Nominated Supervisor.
 - f. Recent internal compliance audit.

Decision and Reasons

11. Evidence gathered during the investigation has been carefully considered, inclusive of the Provider's response to the Notice, and the Authority has determined there is sufficient weight of evidence to support all elements of allegation that the Provider has failed to comply with section 165(1) and 167(1) of the *Law*.
12. In relation to section 165 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider has not ensured adequate supervision at all times, which resulted in ██████ being able to sleep unnoticed in the outdoor area of the Service. The very nature of the incident, admissions within the Provider's internal investigation and management of matter supports the contravention being determined.
13. Furthermore, the Authority is satisfied that the Provider, by not ensuring adequate supervision has not ensured all reasonable precautions have been taken to protect children, specifically ██████ in this instance, from harm and hazard likely to cause injury or illness, engaging the substantiated offence under section 167(1) of the *Law*.
14. The Authority acknowledges the steps taken by the Provider to mitigate risk to children related to failures of supervision which, if properly implemented and followed, meet the expectations of the Authority and provisions of the *Law*.
15. 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.
16. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the steps taken by the Provider to mitigate risk of a similar incident, the Authority has decided to issue this administrative action rather than statutory compliance actions.
17. This Decision is issued to remind the Provider, that always, staffing and supervision levels need to meet the emotional, developmental, and physiological needs of all children at all times. 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.
18. The substantiated contraventions have been recorded on your Service file and may be considered by the Authority in any future applications for approvals, amendments, or waivers. They may also be considered in determining the action to be taken, should further similar breaches of the *Law* or *Regulations* be substantiated.

Legislation

19. 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>.
20. 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>

21. If you have any questions about the Decision, please contact Authorised Officer Brian Cropper at brian.cropper@act.gov.au.

Yours sincerely

[Redacted signature]

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

20 July 2023