



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

Email: [REDACTED]

Dear Ms [REDACTED]

**Show Cause Notice – Proposed 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* (the *Law*). One of the Authority’s roles is to investigate suspected offences under the *Law*.
2. Authorised Officers are currently investigating an allegation that an educator, known to be [REDACTED] inappropriately disciplined a child being educated and cared for on 13 January 2023 at Lavender Lane Child Care Service SE-00009802 (the Service) operated by G8 Education Limited PR-00000898 (the Provider).
3. 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.
4. Authorised Officers have obtained evidence and the Authority has determined that the Provider has a case to answer regarding suspected offences. However, the Authority’s investigation is not complete until the Provider has had an opportunity to respond to the allegation/s and evidence obtained by the Authority. This is the reason for sending this Show Cause Notice (Notice) to you.
5. Detailed instructions of how to respond appear at the end of this Notice.
6. If substantiated, the allegation/s may constitute an offence under sections 166 and 167 of the *Law*. 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.
7. If any offences under the *Law* are substantiated, the Authority considers many factors when determining appropriate action, the focus being on ensuring future compliance and improved outcomes for children, rather than punishment. Further details regarding potential compliance actions appear at the end of this Notice.

### **Background**

8. On 13 January 2023, the Authority received a notification from the Provider alleging that an educator known as [REDACTED] used inappropriate discipline on a 4-year-old child. Refer Attachment A for documentation relevant to the notification.
9. The Provider further advised that a proactive risk mitigation strategy implemented whilst they undertook their investigation was to suspend the educator known as [REDACTED] employment from the Service pending the outcomes of the Providers investigation. Refer Attachment B.
10. Due to the risk to children if inappropriately disciplined, the Authority determined to investigate the allegation.

### **Allegation One and Two – Section 166 and 167 of the Law**

11. It is alleged that, on 13 January 2023, the Provider failed to ensure that no child being educated and cared for by the service is subjected to any discipline that was unreasonable in the circumstances in that a child, known as [REDACTED], was disciplined by way of lifting off the ground from one arm and moved several steps by [REDACTED] in contravention of section 166(1) of the *Law*.
12. It is alleged that, by failing to ensure that no child being educated and cared for by the service is subjected to any discipline that was unreasonable in the circumstances on 13 January 2023, the Provider has failed to take reasonable steps to protect children from harms and hazards likely to cause injury or illness, in contravention of s167(1) of the *Law*.

### **Legislation Relevant to Allegations**

13. The following provision of the *Law* is relevant to Allegations One:

#### **Section 166(1) of the Law - Offence to use inappropriate discipline**

The approved provider of an education and care service must ensure that no child being educated and cared for by the service is subjected to—

- (a) any form of corporal punishment; or
- (b) any discipline that is unreasonable in the circumstances.

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 One and Two

14. As part of the investigation, the Authority obtained documents from the Provider, exercising powers under section 215 of the *Law*.
15. Records produced by the Provider supported the following:
- The Service was operating on 13 January 2023.
  - ██████████ was an educator at the Service and working directly with children in the Toddler room on 13 January 2023.
  - ██████████ was enrolled at the Service and signed into the Preschool room on 13 January 2023.
  - CCTV footage of the alleged incident.
  - Original notification of allegations received from the Provider on 13 January 2023 (refer Attachment A)

Refer evidence at Attachment C.

16. Relevant extracts from a statement between ██████████ and ██████████ (Provider's investigator) on 18/01/2023 are:

██████████ ***It is alleged that on 13.01.2023 around 8.48am in the Preschool yard you have yelled at child ██████████.***

***What is your response to this allegation?***

██████████ *I did do that, umm everything in there I did do. Umm at the time I was under a lot of stress having been only a trainee and not having any other full-time workers in my room. At the time almost feeling like a room leader, I did also at the time I had not fully completed all the mandatory training to be allowed onto floor. When I was taken off the floor that day and was told to sit in the office and study, during that 1 hour in the office I read through pretty much the child protection policy and realised that pretty much everything I had done was on that list of what not to do, when ██████████ came in to tell me to go home, that I need to go home she noticed that I was doing*

██████████ ***It is alleged on 13.01.2023 around 8.48am in the Preschool yard you have picked up child ██████████ the ground by his right arm above the elbow.***

***What is your response to this allegation?***

██████████ *Umm that I did do that and at the time I was aware that if I am picking up a child I should be using both arms and by grabbing him by one arm and myself holding him by one arm I have put the child in danger.*

██████████ ***Did you check to see if ██████████ was hurt?***

██████████ *Umm I did not as at the time I thought it would be better if I just distanced myself from*

██████████ ***Did ██████████ appear upset or distressed?***

██████████ *He was very distressed at the time.*

**At the time you picked him up?**

Umm it would have been towards when I carried him away from where I picked him up and was yelling at him and his responses to that.

**It is alleged on 13.01.2023 around 8.48am in the Preschool yard that you have used restrictive intervention when holding child [REDACTED] off the ground by his right arm above the elbow using his left hand, suspending child [REDACTED] by the arm with [REDACTED] feet at approximately level height to your knees.**

**What is your response to this allegation?**

Same with the previous one, that I did do that and I was aware at the time that this was not something I should be doing.

**It is alleged on 13.01.2023 around 8.48am in the Preschool yard that you have taken around eight steps while holding child [REDACTED] by his right arm above the elbow using your left hand.**

**What is your response to this allegation?**

Same with this, I did do that at the time I had known that I should not be doing something like that.

17. Relevant extracts from a statement between [REDACTED] and [REDACTED] (Provider's investigator) on 24/01/2023 are:

**On dates unknown it is alleged you have bullied children at Lavender Lane Conder by;**

- **snatching toys away from them,**
- **teasing them,**
- **speaking rudely to children**

**What is your response to this allegation?**

Um I have definitely done the first one. I have done the first one but if I have done the second and third it was not on purpose.

So the first time I have remembered doing that; We had trucks that ended up outside somehow. [REDACTED] had picked up 3-4 of them and was putting them in his pockets to take them home with them. This was around pick up time. I asked him to give them back to me. I was new to the centre at the time and with previous experience with [REDACTED] and [REDACTED] I knew that he was likely to run off, so I grabbed the trucks from him quickly. At the time I thought he would run off and put them somewhere. It would have happened about a month after I started – late August/early September.

I can't remember any other name of children, but I have definitely done it on other occasions, to stop them hurting another child or hurting themselves.

I believe I have never snatched a child to bully them, it's been to stop them hurting someone or themselves.

**Have you ever teased a child while working at Lavender Lane Conder?**

Now that I think about it, there was a recent occasion who with a casual [REDACTED]. I was in there with 2 casuals, my room leader had hurt her back earlier that week. Another casual at the time I can't remember their name, were sitting in the room, assisting another child to go to sleep.

There was a child [REDACTED], in the toddler room. What we had done was, [REDACTED] has a stuffed dog teddy that she is attached to. During sleep time, she refused to lie down, so we

took the dog, and threw it to each other. She was basically effectively playing piggy in the middle with. [REDACTED] was focused on getting her dog back. I can't remember if she was crying or distressed.

After a few throws we put it on her bed.

She picked up the dog and went to the reading area, that do not sleep or refusing to lay down.

This happened I probably I say around 3-13<sup>th</sup> January this occurred.

There are no other instances I can remember where I have teased a child.

18. Relevant extracts from Witness B's statement are:

[REDACTED]

19. Relevant extracts from Witness C's statement are:

[REDACTED]

Contraventions Supported by Allegations

20. Evidence gathered appears to support contraventions of section 166(1) and 167(1) of the Law.

Potential Compliance Action

21. The Authority reiterates that no decision has been made at this time – this letter is a step in the investigation process. However, procedural fairness requires that the Authority take this opportunity to advise you of potential compliance actions, if any offences are substantiated.

Potential compliance actions include:

- a. Non-statutory Administration Action (similar to a caution) with no further action;
- b. Non-statutory Administrative Action with measures to be taken and evidence produced; or
- c. A Compliance Notice under section 177 of the Law; or
- d. Imposing of Conditions on the Service's approval under section 51 of the Law.

22. In arriving at a decision concerning compliance action, if warranted, the Authority considers many factors, such as severity of non-compliance and the compliance history of the Provider and Service.

Right of response


23. As mentioned previously, this is the Provider's 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.
24. At Attachment D 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 [Vittorio.Colosimo@act.gov.au](mailto:Vittorio.Colosimo@act.gov.au) or by post to:

Children's Education and Care Assurance  
Attention: Vittorio Colosimo  
GPO Box 158, Canberra ACT 2601.

**Caution**

25. I am informing you that the excerpts of witness accounts taken for the Authority's investigation are included in the interests of procedural fairness. The statements taken during the investigation and the excerpts provided for your consideration in the show cause process are protected disclosures under section 296 of the *Law*.
26. The *Law* provides, at section 297, for the protection of persons who make protected disclosures from serious detrimental action against them in reprisal.
27. 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.
28. 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>.
29. 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>
30. Should you have any questions about this Show Cause Notice please contact Vittorio Colosimo on [Vittorio.Colosimo@act.gov.au](mailto:Vittorio.Colosimo@act.gov.au).

Yours Sincerely

  
Jo Williams  
Director  
Early Childhood Policy and Regulation  
ACT Education Directorate

18 April 2023