



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 RE: NOT-40812324

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) Act 2011* (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.

Facts

4. On 17 January 2023, the Authority received Notifications of Complaint (NOT-40812268 and NOT-40812324) from the Provider advising of allegations made that a child had been subjected to inappropriate discipline. Refer copies of notifications at Attachment A.
5. Furthermore, on 25 January 2023, the Authority received another Notification of Complaint (NOT-408153621) from the Provider advising of an allegation that a child had been dragged across a room. Refer copy of notification at Attachment B.
6. Due to the serious nature of the allegation, risk to children if subjected to inappropriate interactions amounting to discipline, and suspected offences being contravened under the Law, the Authority determined to investigate.
7. Evidence was gathered via witness accounts and obtaining prescribed records under section 215 of the Law. Information submitted by the Provider included:
 - a) Working Directly with Children and Child attendance records.
 - b) Staff records.
 - c) Internal Investigation documents and CCTV video

Law

8. Relevant Provisions of the *Law* engaged by the investigation are:

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

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.

Regulation 155 – Interactions with children

An approved provider must take reasonable steps to ensure that the education and care service provides education and care to children in a way that –

- (a) encourages the children to express themselves and their opinions; and
- (b) allows the children to undertake experiences that develop self-reliance and self-esteem; and
- (c) maintains at all times the dignity and rights of each child; and
- (d) gives each child positive guidance and encouragement toward acceptable behaviour; and
- (e) has regard to the family and cultural values, age, and physical and intellectual development and abilities of each child being educated and cared for by the service.

Section 174 of *Law* - Offence to fail to notify certain information to Regulatory Authority

- (2) An approved provider must notify the Regulatory Authority of the following information in relation to an approved education and care service operated by the approved provider—

- (a) any serious incident at the approved education and care service;
- (b) any complaints alleging—
 - (i) that a serious incident has occurred or is occurring while a child was or is being educated and cared for by the approved education and care service; or
 - (ii) that this *Law* has been contravened
- (c) information in respect of any other prescribed matters.

Penalty: \$4 000, in the case of an individual
\$20 000, in any other case.

- (4) A notice under subsection (2) must be in writing and be provided within the relevant prescribed time to –

- (a) The Regulatory Authority that granted the service approval for the education and care service to which the notice relates.

Regulation 176 – Time to notify certain information to Regulatory Authority

- (2) For the purpose of section 174(4) of the *Law*, a notice must be provided:
 - (b) in case of a notice under section 174(2)(b) or a notice of a matter referred to in regulation 175(2)(b), within 24 hours of the complaint or incident;
 - (c) in any other case, within 7 days of the relevant event or within 7 days of the approved provider becoming aware of the relevant information.

Reasons

- 9. Evidence gathered during the investigation has been carefully considered and the Authority has determined there is insufficient weight evidence to support all elements of allegations relating to inappropriate educator interactions amounting to discipline.
- 10. However, the Authority has determined there is sufficient evidence supporting a contravention of section 174(2)(b)(ii) and (4) of the *Law*.
- 11. Evidence gathered through the investigation supported that by 16 November 2022, the Provider failed to advise the Authority of a complaint that the *Law* had been contravened, in breach of section 174 of the *Law*.
- 12. NOT-40812324 (Attachment A) identified that a complaint, alleging that an educator was holding a child firmly by the wrists for the purpose of a nappy change, when the child does not wear nappies was received by the Provider on 14 November 2022.
- 13. This complaint was alleging that an educator was inappropriately interacting with a child and that the child was emotionally distressed prior to and after attending the Service. The complaint was not notified by the Provider until 17 January 2023, outside the prescribed 24hour timeframe for notification to the Authority, as per Regulation 176.
- 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 Decision.
- 15. This decision is intended to bring to your attention the need to ensure the Provider meets its obligations of, not only ensuring that interactions with children comply with the objectives of 155 of the *Regulations*, but that incidents and complaints within scope of section 174 of the *Law* are always notified within the prescribed timeframe.
- 16. This finding will be recorded on the Service’s file and may be considered in any future in determination, should further breaches of the *Law* or associated *Regulations* be found.

