

Person with Management or Control
ACT Education Directorate
Garran Primary School – Preschool Unit

Email: [redacted]@act.gov.au
Cc: [redacted]act.gov.au

Dear [redacted]

COMPLIANCE NOTICE
Section 177, Education and Care Services National Law Act (ACT)

Approved provider name: ACT Education Directorate
Approved provider number: PR-00006465

I am satisfied that Garran Primary School – Preschool Unit SE-00011190 (the Service), operated by the ACT Education Directorate, PR-00006465 (the Provider) is not complying with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) as outlined hereunder.

In making the decision to issue this compliance notice, I have considered the number of contraventions, the nature of the risk posed to children by the contraventions.

Provision of the National Law and National Regulations	Description	Steps to be taken by the Approved Provider
National Law Section 165(1)	<p>(1) 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.</p> <p>At the completion of the audit the authorised officer went back to the service to retrieve her forgotten phone and entered the outdoor space unnoticed by staff. Approximately 8 children were playing outside, and both the teacher and their assistant were inside the building at the time. The authorised officer walked across the outdoor play area, along the building and entered the building via the bathroom. Once inside no one noticed the AO until she spoke to</p>	<p>The provider is to provide evidence of:</p> <ul style="list-style-type: none"> a) the implementation of risk mitigation strategies, including evidence that the Nominated Supervisor and educators are aware of and understand their responsibilities to ensure children are adequately supervised at all times when the service is operating; b) a review and incorporation of the required risk mitigation strategies within the Service’s supervision policy and procedure; and c) communication to the Service’s educators of the revised supervision policy and procedure. <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>

	<p>notify her presence. After leaving, the AO waited outside the service to observe if someone would come out to supervise the children. As no one came out she re-entered the outdoor space and waited a few minutes. During that time the AO attempted to call the Principal and was placed on hold. The assistant came outside after approximately one minute and was holding a mobile phone to her ear. The AO then left the service.</p>	
<p>National Law Section 167(1)</p>	<p>(1) 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.</p>	<p>The Approved Provider is to demonstrate through an evidence-based approach:</p> <ul style="list-style-type: none"> a) how support and further education are provided to the Nominated Supervisor, Responsible Person and educators to ensure children are protected from harm and hazards; and b) how the Approved Provider will monitor the service to ensure adequate supervision of children being educated and cared for is maintained. <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
<p>National Regulations Regulation 13</p>	<p>For the purposes of these Regulations a person is working directly with children at a given time if at that time the person—</p> <ul style="list-style-type: none"> (a) is physically present with the children; and (b) is directly engaged in providing education and care to the children 	<p>The Approved Provider is to provide evidence that the Nominated Supervisor and the educators understand the meaning of working directly with children for the purpose of these regulations.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
<p>National Regulations Regulation 170</p>	<p>(1) The approved provider of a centre-based service must take reasonable steps to ensure that nominated supervisors and staff members of, and volunteers at, the service follow the policies and procedures required under regulation 168.</p> <p>The Parent Handbook does not align with Regulation 90. The Parents Handbook only refers to a General Management and Emergency Procedure Plan (Action Plan). The Parent Handbook does not align with the need to complete a Risk</p>	<p>The Approved Provider is to provide evidence:</p> <ul style="list-style-type: none"> a) that the Parent Handbook has been updated to include the need to provide the Medical Conditions Policy and Procedure to any parent whose child is identified as having a medical condition and to include the need to complete a Risk Minimisation Plan and Communication Plan in - consultation with parents aligning with the Medical Conditions Procedure; b) that the Approved Provider takes all reasonable steps to ensure all children who attend the service

	<p>Minimisation Plan and Communication plan as set out within the Preschool Medical Conditions Procedure.</p> <p>The Service failed to follow the Medical Condition Procedure for children attending the service with a known medical condition and have not implemented Risk Minimisation Plans and Communication plan for those children utilising the service.</p> <p>The Regulatory Authority acknowledges [REDACTED] Risk Minimisation and Communication Plan was submitted to the Regulatory Authority on 9 June 2021. However, [REDACTED] who has a diagnosis of Asthma still attends the service without a Risk Minimisation and Communication Plan.</p>	<p>with a known medical diagnosis have an Action Plan, Risk Minimisation Plan, and Communication Plan in place; and</p> <p>c) to demonstrate how they will ensure all employees understand the Medical Conditions Procedure and ensure children attend the service with a current Action Plan and ensure that educators, in consultation with parents, complete a Risk Minimisation Plan and Communication Plan.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
<p>National Law Section 162(1)</p>	<p>(1) The approved provider of an education and care service must ensure that one of the following persons is present at all times that the service is educating and caring for children—</p> <p>(a) the approved provider, if the approved provider is an individual or, in any other case, a person with management or control of an education and care service operated by the approved provider;</p> <p>(b) a nominated supervisor of the service; (c) a person in day-to-day charge of the service.</p> <p>The Responsible Person Record did not identify who the responsible person for each time children are being educated and cared for by the service was.</p> <p>The Responsible Person Record identified that the service was educating and caring for children in absence of the Responsible Person (person in day-to-day charge).</p>	<p>The Approved Provider is to provide evidence to demonstrate and set out how they will ensure the Responsible Person (person in day-to-day charge) is documented accurately and maintained at all times.</p> <p>The Approved Provider is required to demonstrate how they will ensure the Education and Care service operates with a Responsible Person Present at all times.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>

<p>National Regulations Regulation 150</p>	<p>The staff record must include the name of the responsible person at the centre-based service for each time that children are being educated and cared for by the service.</p> <p>The Responsible Person Record did not identify who the responsible person for each time children are being educated and cared for by the service was.</p>	<p>The Approved Provider is to provide evidence to demonstrate and set out how they will ensure the Responsible Person (person in day-to-day charge) is documented accurately and maintained at all times.</p> <p>The Approved Provider is required to demonstrate how they will ensure the Education and Care service operates with a Responsible Person Present at all times.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
<p>National Regulations Regulation 177 (2)</p>	<p>The approved provider of the education and care service must take reasonable steps to ensure the documents referred to in subregulation (1) are accurate ((g) the records of the responsible person at the service as set out in regulation 150).</p> <p>The Responsible Person Record did not identify who was the responsible person for each time children are being educated and cared for by the service.</p> <p>The Responsible Person Record identified that the service was educating and caring for children in absence of the Responsible Person (person in day-to-day charge)</p> <p>Enrolment records did not include risk minimisation plans for children with a medical condition.</p>	<p>The Approved Provider is to provide evidence to demonstrate and set out how they will ensure the Responsible Person (person in day-to-day charge) is documented accurately and maintained at all times.</p> <p>The Approved Provider is required to demonstrate how they will ensure the Education and Care service operates with a Responsible Person Present at all times.</p> <p>The Approved Provider is required to provide evidence to demonstrate how they will ensure a copy of the risk minimisation plan is kept on the children’s enrolment record for children with a medical condition.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
<p>National Law Section 175</p>	<p>(1) An approved provider of an education and care service must keep the prescribed documents available for inspection by an authorised officer in accordance with this section.</p> <p>(2) Documents referred to in subsection (1)— (a) must, to the extent practicable, be kept at the education and care service premises if they relate to— (ii) any staff member employed or engaged by the service.</p>	<p>The Approved Provider is required to provide evidence to demonstrate:</p> <ul style="list-style-type: none"> a) how they will ensure prescribed documents are available for inspection; and b) how staff files will be kept accurate and have the most up-to-date information recorded within them. <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>

	Staff files were missing information such as First Aid Qualification and educators address and date of birth.	
National Regulations Regulation 145	<p>(1) The approved provider of a centre-based service must ensure that a staff record is kept for that service in accordance with this Division.</p> <p>(2) The staff record must include—</p> <p>(a) the information about nominated supervisors set out in regulation 146; and</p> <p>(b) the information about staff members set out in regulation 147; and</p> <p>(c) the information about the educational leader set out in regulation 148.</p> <p>Staff files were missing information such as First Aid Qualification and educators address and date of birth.</p>	<p>The Approved Provider is required to provide evidence to demonstrate:</p> <ul style="list-style-type: none"> a) how they will ensure prescribed documents are available for inspection; and b) how staff files will be kept accurate and have the most up-to-date information recorded within them. <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
National Regulations Regulation 162	<p>The health information to be kept in the enrolment record for each child enrolled at the education and care service is—</p> <p>(d) any medical management plan, anaphylaxis medical management plan or risk minimisation plan to be followed with respect to a specific healthcare need, medical condition or allergy referred to in paragraph (c).</p> <p>Enrolment Records did not include risk minimisation plans for children with a medical condition.</p>	<p>The Approved Provider is required to provide evidence to demonstrate how they will ensure a copy of the risk minimisation plan is kept on the children’s enrolment record for children with a medical condition.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
National Law Section 169(1) and (2)	<p>(1) An approved provider of an education and care service must ensure that, whenever children are being educated and cared for by the service, the relevant number of educators educating and caring for the children is no less than the number prescribed for this purpose.</p> <p>(2) An approved provider of an education and care service must ensure that each educator educating</p>	<p>The Approved Provider is to provide evidence to demonstrate how:</p> <ul style="list-style-type: none"> a) they will ensure the service employs preschool assistants or relief educators who a recognised early childhood qualification or are actively working towards an early childhood qualification; b) the Approved Provider determine that educators hold an equivalent qualification on employment. c) They will ensure that the nominated supervisor is able to

	<p>and caring for children for the service meets the qualification requirements relevant to the educator's role as prescribed by the national regulations.</p> <p>(3) A nominated supervisor of an education and care service must ensure that, whenever children are being educated and cared for by the service, the relevant number of educators educating and caring for the children is no less than the number prescribed for this purpose.</p> <p>(4) A nominated supervisor of an education and care service must ensure that each educator educating and caring for children for the service meets the qualification requirements relevant to the educator's role as prescribed by the national regulations.</p> <p>The Provider and nominated supervisor of an education and care service must ensure that each educator educating and caring for children for the service meets the qualification requirements relevant to the educator's role as prescribed by the national regulations. At the time of the audit, working directly with children records showed that an educator with no approved qualification was counted in the educator to child ratios</p>	<p>determine that educators hold a recognized early childhood qualification or are actively working towards an approved early childhood qualification.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
<p>National Regulations Regulation 123</p>	<p>(1) The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in accordance with the following ratios—</p> <p>(c) for children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children.</p> <p>The working directly with children record identified the Early Childhood Teacher (██████████) going on lunch at 12:55 but no additional educator had signed on the working directly with children record between 12:55 and 1:37pm on 24</p>	<p>The Approved Provider is required to provide evidence to demonstrate:</p> <ul style="list-style-type: none"> a) That staffing arrangements meet the requirements of regulation 123; and b) That staff members have a sound knowledge of the requirements of regulation 123. <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>

	<p>May 2021. Therefore the record shows that one educator was working alone with more than 11 children.</p> <p>It also appears that on 25 May 2021, the service had not met ratios between 12:35 and 1:20 when [REDACTED] her lunch break as [REDACTED] cannot be counted within the ratios as she does not hold or is actively working towards an approved early childhood qualification.</p> <p>Additional information submitted by the service identified only one educator working directly with children between 1.15pm and 1.37pm on 7 June 2021.</p>	
<p>National Regulations Regulation 151</p>	<p>The approved provider of a centre-based service must keep a record of educators working directly with children that includes the following information—</p> <p>(a) the name of each educator who works directly with children being educated and cared for by the service;</p> <p>(b) the hours that each educator works directly with children being educated and cared for by the service.</p>	<p>The Approve Provider is required to provide evidence that:</p> <ul style="list-style-type: none"> a) Strategies are in place to ensure that the working directly with children records are accurate; and b) Staff members are aware of their responsibilities to record accurately their time working directly with the children. <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
<p>National Regulations Regulation 126</p>	<p>(1) The qualification requirements for educators at a centre-based service educating and caring for children preschool age or under are as follows—</p> <p>(a) at least 50 per cent of the educators who are required to meet the relevant educator to child ratios for the service must have, or be actively working towards, at least an approved diploma level education and care qualification; and</p> <p>(b) all other educators who are required to meet the relevant educator to child ratios for the service must have, or be actively working</p>	<p>The Approved provider is required to provide evidence that all educators working at the service meet the requirements of regulation 126.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>

	<p>towards, at least an approved certificate III level education and care qualification.</p> <p>A staff member who does not hold an approved qualification to work with preschool age children was working directly with the children and counted in the educator to child ratios.</p>	
<p>National Regulations Regulation 97</p>	<p>(4) The approved provider of an education and care service must ensure that a copy of the emergency and evacuation floor plan and instructions are displayed in a prominent position near each exit at the education and care service premises, including a family day care residence and approved family day care venue.</p> <p>Emergency and evacuation instructions and floor map displayed at each exit have been adapted to the preschool environment. The evacuation point is demonstrated via an arial photo and not floor plan as required under regulation 97.</p>	<p>The Approved Provider is required to provide evidence that the exit point for evacuations is displayed on a floor plan of the premises.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>

Time for Compliance

You are required to provide written evidence of your compliance **by the time indicated within the above table**, to the ACT Regulatory Authority (the Authority), Children’s Education and Care Assurance, ACT Education Directorate.

Failure to comply

It is an offence for an approved provider to fail to comply with this compliance notice within the period specified. If you do not take the required actions, or do not take those steps within the required timeframe, I may consider imposing further sanctions, including suspension of your service approval or prosecution. The penalty that a court may impose is \$6000 for an individual and \$30,000 for an entity.

Review of decision

A decision to issue a compliance notice is a reviewable decision for internal review by the Regulatory Authority. An application for review may be made by completing the form AR01 Application for Internal Review of Reviewable Decision which can be obtained from the ACECQA website. An application for review must be submitted to the Regulatory Authority within 14 days after the day on which you are notified of this decision.

Service's record of compliance

Details of this compliance notice must be recorded in the service's record of compliance including: the reason the compliance notice was issued; the steps specified in the notice; and the date by which the steps specified must be taken. The information must not identify any person other than the approved provider.

The information does not need to be recorded until after the period for applying for internal review has expired.

Publication

Under section 270(5) of the *National Law*, the Regulatory Authority may publish information about this compliance notice. If no review is requested within 14 days, details of this compliance notice will be published on www.det.act.gov.au.

If you have any questions about this notice, please contact Delphine Coutin via email at delphine.coutin@act.gov.au or by phone on 6207 1114.



Clare Brookes
Senior Director
Early Childhood Policy and Regulation
ACT Education Directorate

12 July 2021