

Ms [REDACTED]

Communities at Work – Monash Out of School Hours Care Centre

Email: [REDACTED]@yahoo.com

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.
2. As you may be aware, the Authority is the regulator of education and care services in the ACT and is responsible for monitoring and enforcing compliance with the *Education and Care Services National Law (ACT) (the Law)*. One of the Authority’s roles is to investigate suspected offences under the *Law*.
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. The Authority is currently investigating suspected offences relating to inappropriate discipline and the protection of children from harm and hazards at Communities@Work Monash Out of School Hours Care, SE-00009694 (the Service) operated by Communities@Work, PR-00005824 (the Provider).
5. The suspected offence relates to a notification of incident, received by the Authority, alleging that you, [REDACTED], had ordered a child, [REDACTED], out of a space before picking the child up and carrying him from the space, while he was yelling “no, no, no”, at the Service whilst children were being educated and cared for on Tuesday, 8 October 2024.
6. Authorised Officers have now finished obtaining evidence from other sources (unless further lines of enquiry emerge). However, the Authority’s investigation is not complete until you have had an opportunity to respond to the allegation and evidence obtained by the Authority. This is the reason for sending this Show Cause Notice (Notice) to you.
7. Detailed guidance of how to respond appear at the end of this Notice.

Grounds for issuing Show Cause Notice

8. Evidence obtained during the investigation to date supports offences under the *Law* within the following area: Inappropriate discipline of a child.
9. If substantiated, the alleged conduct may constitute inappropriate discipline, which is an offence under section 166(3) of the *Law*.

10. "Discipline" is any strategy employed by an educator with the intention of changing a child's behaviour. Discipline that is inappropriate within the meaning of section 166 of the *Law* includes any form of physical punishment or any behaviour management strategy likely to cause emotional or physical harm to a child. Examples include yelling, physically dragging a child, unreasonable restraint of a child, using threatening or humiliating language, isolating, or shaming children.
11. If, after considering all available evidence, the Authority finds an offence has occurred, it will need to consider whether compliance action is required. The Authority considers many factors when determining appropriate compliance action, the focus being on ensuring future compliance and improved outcomes for children.
12. Possible compliance actions include the following (further details appear at the end of this Notice):
 - a. The Authority issuing you with an official caution;
 - b. An Enforceable Undertaking pursuant to section 179A of the *Law*; or
 - c. A Prohibition Notice pursuant to section 182 of the *Law*.

Facts

13. On Wednesday, 9 October 2024, the Authority received a notification (NOT- 00080642) from the Provider advising that an educator, ██████████, entered a "break out" space and ordered a child, ██████████ (4:6), to leave the room. The child proceeded to lay on the floor before ██████████ repeated her order to leave the room, picking the child up from the floor and forcing him out of the space. ██████████ continued to carry the child through the hallway and into the school hall, while the child could be heard yelling "No! No! No!".

Refer Attachment A

14. Due to the risks posed to children, enrolled at an approved service, when inappropriately interacted with by educators, the Authority determined to investigate the matter.
15. On Monday, 24 February 2025, a Notice allowable under s215 of the *Law* (215 Notice) to produce documents was sent to the Provider. On Monday, 10 March 2025, the Provider responded to the 215 Notice.
16. Information obtained because of the response to the 215 Notice identified the following:
 - a) On Wednesday, 9 October 2024, the Provider issued a "Notice to attend compulsory workplace meeting and standdown" letter to ██████████ regarding the allegation.
Refer Attachment B
 - b) Witness statements obtained by the Provider as a part of the internal investigation appear to support the allegation.
Refer Attachment C

- c) On Thursday, 17 October 2024, ██████████ participated in a record of conversation as a part of the Provider’s internal investigation. Ms ██████ made certain admissions to the allegation.
Refer [Attachment D](#)
- d) On Friday, 15 November 2024, the Provider issued an outcome letter to ██████████, regarding the findings of the Provider’s internal investigation.
- e) As a result of the Provider’s internal investigation, the allegation made against ██████████ was substantiated and a “Formal Final Warning” letter was issued.
Refer [Attachment E](#)

17. During the investigation, the Authority also obtained evidence via various witness statements.

Allegation of Inappropriate Discipline

18. It is alleged that, on Tuesday, 8 October 2024 while engaging as an educator at the Service, you subjected a child, ██████████ (4:6), to a form of corporal punishment or discipline that was unreasonable in the circumstances in that the educator ordered a child to leave a room. The child proceeded to lay on the floor before ██████████ repeated her order to leave the room, picking the child up from the floor and forcing him out of the space. ██████████ continued to carry the child through the hallway and into the school hall, while the child could be heard yelling “No! No! No!”, in contravention of section 166(3) of the *Law*.

Legislation Relevant to Allegation

19. Refer [Attachment F](#) for provision of the *Law* relevant to the Allegation.

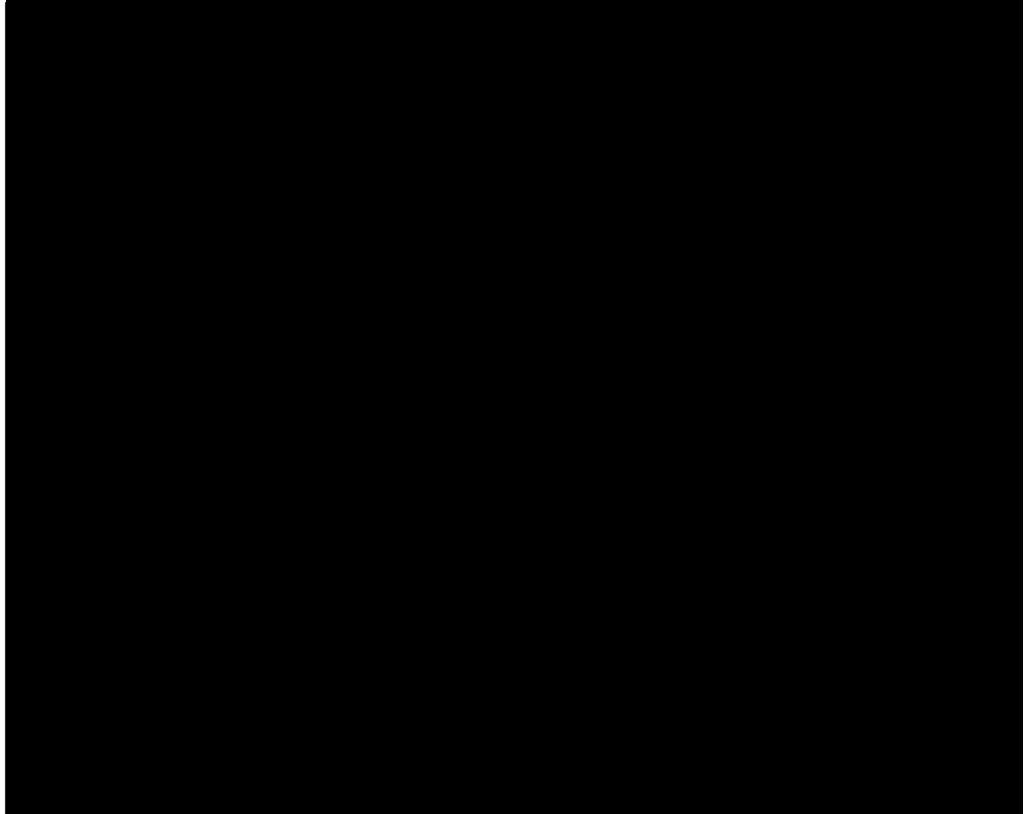
Evidence relevant to Allegation

20. Evidence relevant to the Allegation obtained from the Provider included:

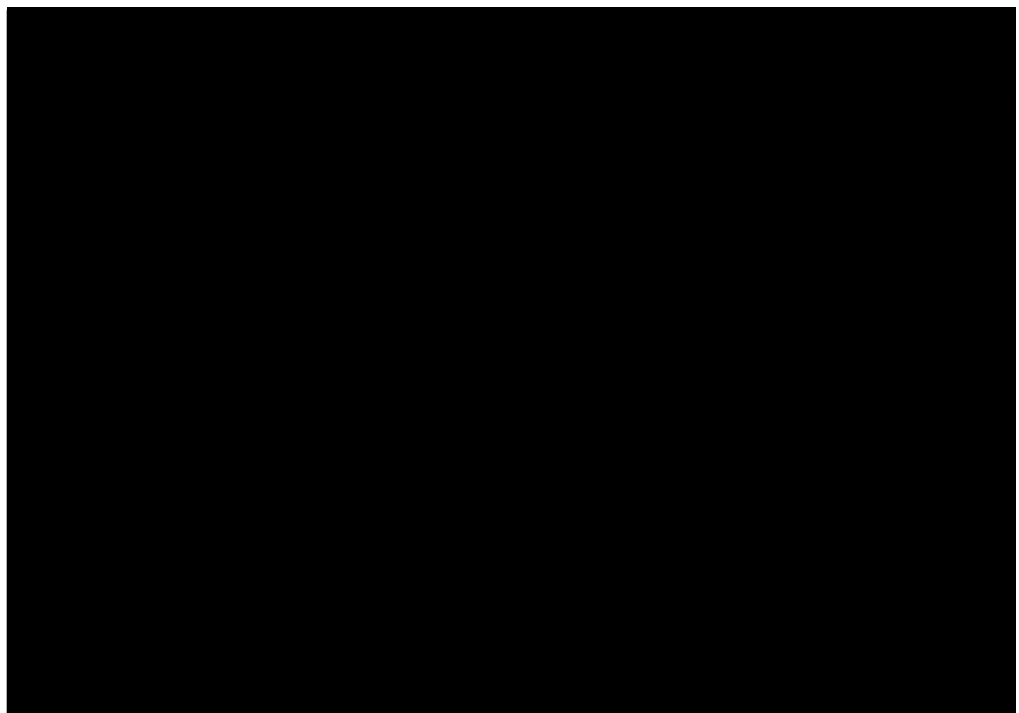
- a) Witness statements obtained by the Provider as a part of the internal investigation appear to support the allegation.
Refer [Attachment C](#)
- b) On Thursday, 17 October 2024, you participated in a record of conversation as a part of the Provider’s internal investigation. You made certain admissions to the allegation.
Refer [Attachment D](#)
- c) On Friday, 15 November 2024, the Provider issued an outcome letter to you, regarding the findings of the Provider’s internal investigation.
- d) As a result of the Provider’s internal investigation, the allegation made against you was substantiated and a “Formal Final Warning” letter was issued.
Refer [Attachment E](#)

21. During the investigation, the Authority obtained further statements from witnesses, relevant extracts from which appear below, with personal information redacted where not required for procedural fairness purposes.

22. Relevant excerpts of Witness A's statement are as follows:



23. Relevant excerpts of Witness B's statement are as follows:



Contravention Supported by Allegation

24. Evidence gathered appears to support that [REDACTED] was subjected to discipline unreasonable in the circumstances, in that the child was verbally ordered to leave a room and when he refused, he was restrained and carried him out of the room while he was resisting you and screaming No, No, No, by you on Tuesday, 8 October 2024, at the Service which you were engaged as an educator, contravening section 166(3) of the *Law*.

Potential Compliance Actions

25. 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 and/or the Authority finds that you may be an unacceptable risk of harm to a child or children.
26. Potential compliance actions are under Part 7 of the *Law*, and include:
- a. Non-statutory action such as a formal caution letter;
 - b. Enforceable undertaking may be accepted by the Authority under section 179A of the *Law*; or
 - c. Prohibition from education and care sector
27. Refer Attachment F for relevant legislation for enforceable undertakings and prohibition.

Effect of an Enforceable Undertaking

28. An Enforceable Undertaking is a formal “promise” to the Authority to do or not do certain things. Terms vary, but examples of requirements are:
- a. only working with children under supervision; and/or
 - b. doing some additional training to improve your skills as an educator; and/or
 - c. keeping the Authority advised of your workplace; and/or
 - d. having an approved mentor.
29. An enforceable undertaking is a flexible way to ensure ongoing compliance with the *Law* and *Regulations* and may be appropriate depending on the level of risk to children.
30. If you offer an enforceable undertaking and the Authority accepts it, failure to comply with any of its terms after acceptance allows the Authority to apply to the relevant tribunal or court for an order under section 181(2) of the *Law* to enforce the undertaking.

Effect of a Prohibition Notice

31. If, after considering all available evidence and any submission you wish to make, the Authority decides to issue a prohibition notice, while the prohibition notice is in force you must not:
- (a) provide education and care to children for an education and care service; or

- (b) be engaged as an educator, family day care educator, employee, contractor or staff member of, or perform volunteer services for, an education and care service; or
- (c) carry out any other activity relating to education and care services.

Right of response

- 32. Please note that the Authority has made no decision at the time of sending the Notice and will make no decision without giving you a reasonable opportunity to respond.
- 33. If you do not respond to the Notice at all, or within the allowed timeframe, the Authority can only consider the evidence it already has when deciding if any offences have been substantiated on the balance of probabilities and, if so, what (if any) compliance action should be taken.
- 34. You have a right to respond to the allegations set out in this notice. You may respond in writing or by way of a recorded interview with two Authorised Officers.

Responding in Writing

- 35. You may, within 14 days of receiving this letter, make a written submission for the Authority's consideration in deciding if compliance action should be taken. If you need additional time, please direct a request with reasons to the contact officer.
- 36. At Attachment G 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 Jarrod.Reid@act.gov.au or by post to:

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

Responding in an Interview

- 37. If you wish to respond in a recorded interview with Authorised Officers, please advise the contact officer within seven days. A convenient time will be arranged for you to attend at the Authority's premises in Stirling, ACT, to provide your response in person. You are permitted to bring a support person to that interview, if the person does not have any connection with the Provider or the Service.

Caution

- 38. Please be aware that it is an offence under section 295 of the *Law* to provide the Authority with false or misleading information or documents.
- 39. 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*.

40. The *Law* provides, at section 297, for the protection of persons who make protected disclosures from serious detrimental action against them in reprisal.

Legislation

41. The *Law* applies to you as an educator and to any service you may be employed at.
42. 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>.
43. 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>
44. Should you have any questions about this Show Cause Notice please contact Jarrod REID by email at Jarrod.Reid@act.gov.au.

Yours sincerely



Vittorio Colosimo
A/g Assistant Director
Education and Care Regulation and Support
Education Directorate

26 June 2025