

██████████
Person with Management or Control
Capital Region Community Service Limited
RE: Bruce Ridge Early Childhood Centre

Email: ██████████@crcs.com.au

Dear ██████████

Decision to issue Administrative Action RE NOT-40858158

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Complaint (NOT-40858158) relating to the operation of Bruce Ridge Early Childhood Centre SE-00009755 (the Service), operated by Capital Region Community Service Limited PR-00005807, (the Provider).
2. The Notification advised of a complaint raised by a parent about their ██████████ being given a known allergen - gluten.
3. Web addresses to the *Education and Care Services National Law Act (ACT)* (the Law), and the *Education and Care Services National Regulations 2011* (the Regulations) are provided for your convenience at the end of this Decision.

Facts

4. On 19 May 2023, the Authority received a Notification of Complaint from the Provider in relation to a complaint raised by a parent, ██████████, regarding the provision of gluten products to ██████████ ██████████ is diagnosed with Coeliac disease.
5. Supportive documents submitted with the notification on 19 May 2023 included:
 - a) ██████████ - Copy of complaint and photos.
 - b) Email and response to People and Culture.
 - c) ██████████ response to ██████████.
 - d) ██████████ conversation with ██████████.

Refer submitted NOT-40858158 and supportive documents at Attachment A.

6. On 22 May 2023, additional information was requested from the Provider by the Authority. This was responded to on 23 May 2023. Refer correspondence at Attachment B.
7. Additional information submitted in response included:
 - a) Educator Sign In Area
 - b) Email to ██████████ and Email to ██████████
 - c) ██████████ - RMP
 - d) Food Handling within Childrens Programs Policy and Procedure
 - e) Food Safety Plan for Education and Care Programs and Policy Compliance in Education and Care Form

- f) Medical Quick List - Week Beginning 22/05/2023
- g) Safe Work Guidelines – GF and The Coeliac Child Teachers Guide Educator Awareness

Law

8. The following provision of the *Law* were relevant to the assessment:

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.

Reasons and Decision

9. Upon considering all information submitted by the Provider for assessment, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence to substantiate an offence under section 167(1) of the *Law*.
10. The Authority is satisfied that the Provider, knowing of the child's allergies, has not taken reasonable steps to ensure that the centre cook, and all educators were aware of and understood the specifics of ██████'s allergy to gluten, to ensure that the centre cook and educators were confident in their knowledge of which foods contained the allergen prior to provision, supporting a contravention of section 167(1) of the *Law*.
11. In deciding if compliance action should be taken, the Regulatory Authority has considered the steps undertaken by the Provider, in response to the complaint, to ensure the centre cook and educators were aware of expectations to mitigate risk of a similar incident.
12. The Authority determined that due to this, the Authority will not be initiating statutory compliance action in this instance. In making this determination, the Authority also took into consideration the Services compliance history.
13. This decision, however, is intended to bring to your attention the need to ensure that all staff are aware of, and understand, the importance of knowing and understanding children's dietary requirements to prevent risk of harm. In addition it is a reminder that strategies and dietary action plans implemented to mitigate risk, are also followed at all times by educators when children are being educated and cared for at the Service.
14. In regard to the substantiated offence, the Authority requests that the Provider submit, within 7 days of receipt of this decision, the following:
- a) All records relating to the Provider's investigation, inclusive of findings and outcome;
 - b) Advise as to whether the cook, ██████ is still employed with the Provider, and if so, what actions and monitoring is being undertaken to ensure that ██████ has a comprehensive understanding and awareness of each child's dietary needs.

Legislation

15. The Education and Care Services National Law applies to you as a provider and any service you operate.
16. The National 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> . 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>.
17. Should you have any questions about this Decision please contact me at Janine.Fairburn@act.gov.au.

Yours Sincerely,



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

19 June 2023