

██████████
Person with Management or Control
Best Practice Education Group Limited
RE: Blue Gum Early Learning Centre Hackett

Email: ██████████

Dear ██████████

1. As you may be aware, Authorised Officers from Children’s Education and Care Assurance, also known as the ACT Regulatory Authority (the Authority), recently conducted inquiries related to a emailed complaint from a parent sent to Blue Gum Early Learning Centre Hackett SE-40011485 (the Service), operated by Best Practice Education Group Limited, PR-00005808 (the Provider).
2. The complaint email, sent by ██████████ (the Author) on 11 September 2023, raised concerns that supervision had been inadequate, allowing their child to exit a gate at the Service unnoticed by educators the week prior.
3. The Authority is satisfied that the Provider was not complying with the provisions of the *Education and Care Services National Law (ACT) (the Law)* and the *Education and Care Services National Regulations (the Regulation)* in respect to this complaint.

Facts

4. On 11 September 2023, the Authority was cc’d into an email to the Service. Please refer copy of the email at [Attachment A](#).
5. The email raised allegations and concerns from the Author regarding their child ‘escaping’ from the service and requesting clarification surrounding the incident. The Author described the incident as involving their child moving a milk crate in front of the gate, opening the gate, and leaving before an educator noticed.
6. The email also raised allegations and concerns from the Author that the level of supervision and security around the unlocked gate, located around the side of the Hive building, was inadequate and placing children at possible risk.
7. In addition, the Author provided observations of incidents whereby children were appearing unsupervised and engaging with strangers, eating leaves off a plant, and being injured during play without any educator intervention.
8. On 11 September 2023, an Authorised Officer (AO) spoke with Centre Director, ██████████ ██████████ on the telephone in response to a voice mail message received at 11:19am. The email was discussed, and the AO advised ██████████ that due to alleged inadequate supervision and further concerns relating to supervision and risk to children, that this would require notification to the Authority as a complaint alleging that the *Law* had been contravened.
9. The AO advised ██████████ of the notification timeframe requirements set out under the *Law* and *Regulations*, and that the notification of the complaint should be submitted via the ACECQA NQA ITS Portal.

10. On 22 September 2023, an email was submitted to the Authority from ■■■ ■■■■ advising of further communication with the Author, and a review by Blue Gum executive relating to the requirement to notify the matter via the portal. Refer copy of correspondence at [Attachment B](#).

Law

11. Sections of the *Law* and *Regulations* engaged by the email, and subsequent actions are as follows:

Section 165 of the Law - Offence to inadequately supervise children

- (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.

Section 167 of the Law – Offence relating to protection of children from harm and hazards

- (1) The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from hazard likely to cause injury.

Section 174 of the Law – Offence of failing to notify certain information to 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 complaint 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 to any other prescribed matters.
- Penalty: \$4000, in the case of an individual.
\$20,000, in any other acse

- (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

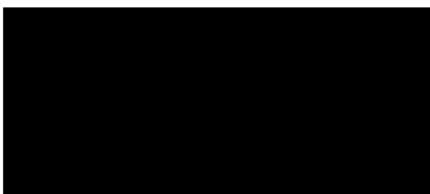
- (2) For the purpose of section 174(4) of the Law, a notice must be provided –
- b) In the case of a notice under section 174(2)(b) or a matter referred to in regulation 175(2)(b), within 24 hours of the complaint or incident.

Reasons

12. The Authority is satisfied that, on 12 September 2023, the Provider has not notified of a complaint alleging that the Law has been contravened as outlined in section 174(2), within the 24-hour timeframe regulated for notification pursuant to *Regulation 176(2)(b)*, and in contravention of section 174(4) of the *Law*.
13. The *Law* is framed to require notification of complaints at time of allegation, not at such time that a Provider determines that the matter is rectified. The email clearly described allegations of children not being adequately supervised and placed at potential risks in relation to the security and supervision levels observed.

14. The Authority notes that, aside from a notification relating to changes with Nominated Supervisor, the Provider has not notified of any serious incidents, complaints, or prescribed matters over the last four years. The Authority has concerns that the Provider is not notifying matters as required by the *Law*.
15. As such, the Authority wishes to afford the Provider an opportunity to comply with section 174 of the *Law*, and notify the complaint at Attachment A. Please ensure that at point of notification via the Portal the Provider also includes additional documents to support how supervision is being ensured to be adequate across the Service at all times, with specific focus on the gate and around the side of the Hive building.
16. Records that could demonstrate this could include:
 - a) Copy of all outdoor risk assessments, including supervision and security assessment of all gates and fence lines;
 - b) Evidence of all strategies (if any) undertaken/implemented to mitigate risks associated with the gate referred to in the email, and inadequate supervision;
 - c) Policy and procedure expectations communicated to all staff relating to supervision and reporting of any incidents and/or received verbal or written complaints up to the Provider
 - d) Procedure for those delegated to ensure all prescribed matters are reported to the Authority within regulated timeframes.
17. Furthermore, the Authority notes in correspondence at Attachment B that [REDACTED] advised the Author on 22 September 2023, that a small fire at the Hackett campus had left large sections around the Hive deemed as unusable space.
18. The email indicates that the Service has been impacted by this fire, deeming large areas around the Hive unusable, and as such, on balance of probabilities, poses a risk to children. The Authority requests the Provider notify this matter under section 174(2)(c) of the *Law*, *Regulation 175(2)(c)* – any circumstance arising at the service that poses a risk to the health, safety or wellbeing of a child or children attending the service.
19. The Authority requests that the Provider respond as outlined above by close of business Friday 27 October 2023.
20. If you have any queries regarding this Decision, please contact me via email at janine.fairburn@act.gov.au.

Yours sincerely



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

26 October 2023