

██████████  
Person with Management or Control  
G8 Education Limited  
RE: Blinky Bill Early Childhood Centre

Email: ██████████  
██████████

Dear ██████████

**SHOW CAUSE NOTICE – PROPOSED COMPLIANCE ACTION**

1. As you may be aware, Authorised Officers from ACT Regulatory Authority (the Authority) also known as Children’s Education and Care Assurance, recently investigated an allegation of inappropriate discipline occurring at Blinky Bill Early Childhood Centre, SE- 00009751 (the Service) operated by G8 Education Limited, PR-00000898 (the Provider) between 11 and 14 January 2021 inclusive.
2. Web addresses to the *Education and Care Services National Law Act (ACT)* (the *Law*) and the *Education and Care Services National Regulations* (the *Regulations*) are provided for your convenience at the end of this notice.
3. I am considering compliance action based on a suspected contravention of the *Law* supported by evidence gathered during the investigation regarding inappropriate discipline. This notice offers you the opportunity to respond to the allegations prior to any determination being made.
4. As a delegate of the Authority, I am considering compliance action under Part 7 of the *Law*.

**Grounds for issuing Show Cause for Compliance Action**

5. Between 18 and 21 January 2021 inclusive, multiple Notifications, including Notifications of Complaint, (NOT-40503150, NOT-40503432 and NOT-40504133) were received by the Authority from the Provider. These Notifications alleged that an educator, known to be Mr ██████████, was subjecting preschool children to inappropriate discipline and interactions. Refer to Attachment A.
6. On 22 January 2021, further information was submitted to the Authority from the Provider advising of the suspension and internal investigation of ██████████ resulting from the allegations raised via the notifications. Refer Attachment B.
7. Due to the risk of harm to children when subjected to inappropriate discipline and inappropriate interactions, the Authority determined to investigate the allegations.

8. I consider that the alleged conduct of [REDACTED], whilst in the capacity of an educator at the Service and an employee of the Provider may constitute an offence of inappropriate discipline under section 166 of the *Law*, engaging an offence under section 167 of the *Law*.

### Allegations

#### Allegation One

9. It is alleged that about 1:53pm on 11 January 2021, the Provider failed to ensure that no child was subjected to a form of discipline, unreasonable in the circumstances, in that an educator, known to be [REDACTED], took hold of a child, believed to be [REDACTED], by the back of the shirt and dragged him backward into a room, in contravention of section 166(1) of the *Law*.

#### Allegation Two

10. It is alleged that about 2.04pm on 11 January 2021, the Provider failed to ensure that no child was subjected to a form of discipline, unreasonable in the circumstances, in that an educator, known to be [REDACTED], took hold of two children, believed to be [REDACTED], roughly handling [REDACTED] and interfering with the ear of [REDACTED], contravening section 166(1) of the *Law*.

#### Allegation Three

11. It is alleged that about 11:23am on 13 January 2021, the Provider failed to ensure that no child was subjected to a form of discipline, unreasonable in the circumstances, in that an educator, known to be [REDACTED] took hold of a child, believed to be, [REDACTED] and then pulled and dragged him by the arm, stood over him and interfered with his ear, contravening section 166(1) of the *Law*.

12. Allegation Four

It is alleged that between 11 and 14 January 2021 inclusive, the Provider failed to ensure every reasonable precaution was taken to protect children from harm and hazards, in that an educator, known to be [REDACTED], subjected children being educated and cared for at the service, to inappropriate discipline and interactions, giving rise to a contravention of section 167(1) of the *Law*.

#### Evidence relevant to Allegation

13. Documents obtained from the Provider included by is not limited to the following:
- Working directly with children records for dates 11 to 15 January 2021 inclusive; and
  - Child attendance records for dates 11 to 13 January 2021 inclusive.

Refer to evidentiary documents at Attachment C.

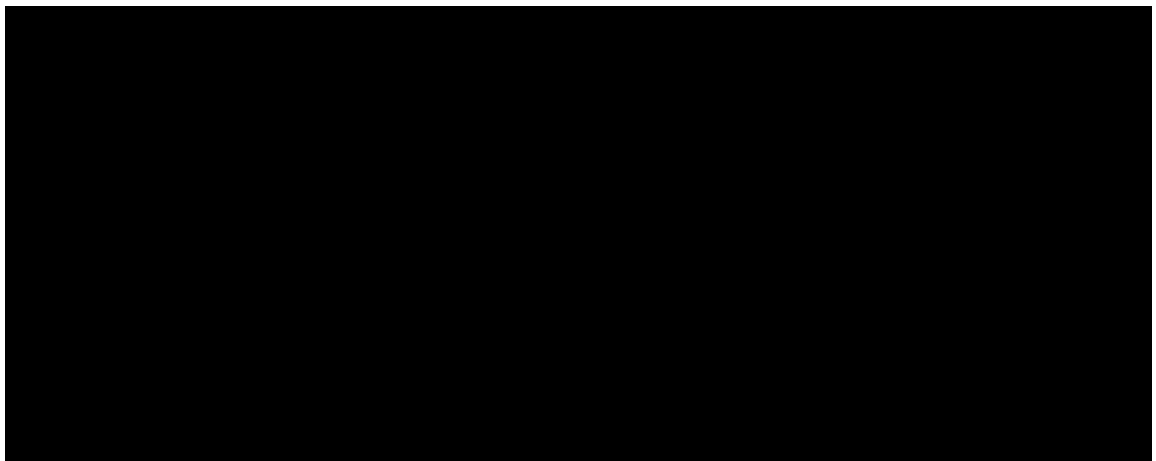
14. On 24 February 2021, the Provider furnished to the Authority closed circuit television video (CCTV) identifying [REDACTED] engaged in the following interactions:

#### Allegations One to Three

- a) Dragging a child believed to be [REDACTED] by the back of the shirt on 11 January 2021 between 1:53:03pm and 1:53:05pm AEDT from two camera angles.
- b) Pulling a child believed to be [REDACTED] by the arm and interfering with the ear of child believed to be [REDACTED] on 11 January 2021 between 2:04:07pm and 2:04:21 AEDT.
- c) Pulling a child, believed to be [REDACTED], by the arm, standing over him and interfering with his ear on 13 January 2021 between 11:23:56am and 11:24:19am AEDT.

Allegation Four

- a) Inappropriate interactions with children, believed to be [REDACTED] and [REDACTED] on 11 January 2021 between 1:12:04pm and 1:38:03pm AEDT.
  - b) Inappropriate interaction with a child, believed to be [REDACTED], on 11 January 2021 between 1:40:41pm and 1:41:23pm AEDT.
  - c) Inappropriate interactions with a child, believed to be [REDACTED], on 11 January 2021 between 1:58:40pm and 1:58:51pm AEDT.
  - d) Inappropriate interactions with a child, believed to be [REDACTED], on 12 January 2021 between 1:06:57pm and 1:09:00pm AEDT.
  - e) Inappropriate interactions with a child, believed to be [REDACTED], on 12 January 2021, between 1:23:09pm and 1:23:36pm AEDT.
  - f) Inappropriate interactions with a child, believed to be [REDACTED], on 14 January 2021, between 1:15:37pm and 1:15:55 AEDT.
15. Due to the size of the video footage, actual video can be provided upon request. Still pictures are available at Attachment D and E.
16. During the process of investigating the Authority obtained evidence from a witness which included child identification from still shots from relevant video footage and an admission from [REDACTED]. Relevant excerpts from Witness A statement include:



- [REDACTED]
- b) Annexure 4(a) – Monday 11 January 2021 1:12:23 PM AEDT - Child A is [REDACTED], Child B is [REDACTED], Green circled educator 1 is [REDACTED], Green circled educator 2 is [REDACTED]
  - c) Annexure 4(b) - Monday 11 January 2021 1:53:00 PM AEDT - Child C is [REDACTED], Child D is [REDACTED], Green circled educator is [REDACTED]
  - d) Annexure 4(c) - Monday 11 January 2021 1:53:04 - Child E is [REDACTED], Green circled female educator is [REDACTED]
  - e) Annexure 4(d) – Tuesday 12 January 2021 1:07:13 PM AEDT- Child F is [REDACTED], Green circled educator is [REDACTED]
  - f) Annexure 4(e) - Tuesday 12 January 2021 1:23:21 AEDT - Child G is [REDACTED], Green circled educator is [REDACTED]
  - g) Annexure 4(f) - Wednesday 13 January 2021 11:23:57 AEDT - Child H is [REDACTED], Green circled educator is [REDACTED].
  - h) Annexure 4(g) - Thursday 14 January 2021 1:15:40 AEDT - Child I is [REDACTED], Green circled educator is [REDACTED], Green circled female educator is a new educator by the name of [REDACTED].

### **Law**

17. Evidence gathered via the investigation engages the following sections of the *Law* and *Regulations*:

#### **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.

#### **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.

#### **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 the 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.

### Contraventions Engaged by Allegation

18. Evidence gathered relevant to the Allegations include documentation supplied under 215 Notice, Notice of Incident forms NOT-40503150, NOT-40503432 and NOT-40504133, CCTV video and a witness statement.
19. Relevant evidence gathered appear to indicate that on 11 January 2021 and 14 January 2021, [REDACTED] an educator at the Service, subjected children to inappropriate discipline by pulling them by the arm, shirt, standing over them or interfering with their ears, contravening section 166(1) and engaging section 167(1).
20. Furthermore, evidence gathered, appears to support that on 11,12 and 14 January 2021, [REDACTED] [REDACTED], an educator at the Service, subjected various children to inappropriate interactions by roughly handling, contravening regulation 155 and engaging section 167(1) of the *Law*.

### **Right of response**

21. You have a right to respond to the allegations set out in this notice. You may, within 14 days of receiving this letter, make a written submission for the Authority's consideration in deciding if a compliance action should be taken.
22. At Attachment F to this Notice is a '4 Step Guide to Responding to a Show Cause Notice' to assist in the development of your submission. Should you require further assistance with understanding this process please contact the officer listed in this Notice to organise a meeting with the Authority.
23. Please direct your written submission via email to Authorised Officer Brian Cropper at [Brian.Cropper@act.gov.au](mailto:Brian.Cropper@act.gov.au) or by post to:

Brian Cropper, Senior Investigator  
Children's Education and Care Assurance  
GPO Box 158, CANBERRA ACT 2601

### **Caution**

24. 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 excerpt provided for your consideration in the show cause process are protected disclosures under section 296 of the *Law*.
25. The *Law* provides, at section 297, for the protection of persons who make protected disclosures from serious detrimental action against them in reprisal. Please also be aware that it is an offence under section 295 of the *Law* to provide the Authority with false or misleading information or documents.

26. The Education and Care Services National Law applies to you as a provider and any service you operate. 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>.
27. 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>
28. Should you have any questions about this Show Cause Notice please contact Brian Cropper by telephone on (02) 620 71104 or email to [brian.cropper@act.gov.au](mailto:brian.cropper@act.gov.au).

Yours sincerely,



Clare Brookes  
Senior Director  
Education and Care Regulation and Support  
ACT Education Directorate

16 June 2021