



ACT
Government
Education

Ms [REDACTED]
Persons with Management and Control
G8 Education Limited
Blinky Bill Early Childhood Centre

Email: [REDACTED]@g8education.edu.au

Dear Ms [REDACTED]

Decision to issue Administrative Letter

1. I write in regard to Notification (NOT-40699771) lodged on 02/05/2022 from G8 Education Limited PR-00000898 (the Provider), relating to child consuming gluten product at Blinky Bill Early Childhood Centre SE-00009751 (the Service). Having reviewed the information provided, I am satisfied that the Provider was not complying with the provisions of the *Education and Care Services National Law (ACT) Act 2011 (the Law)* and the *Education and Care Services National Regulations 2011 (the Regulation)* in respect to ensuring health, safety and wellbeing of child with known allergies.

Facts

1. On 2 May 2022 the ACT Regulatory Authority (the Authority) received a Notification of Serious Incident (the Notification) from the Service. The Notification advised that at afternoon tea on 29 April 2022, a child with a known medical condition requiring a gluten free diet, was given crumpets. The food item was removed after the child had taken a couple of bites and the child's parents were notified. The child was not reported to have exhibited any adverse reaction.
2. The Authority assessed the information provided in the Notification. The Authority, on this occasion deems the response to the incident was managed appropriately by the Service. However, the Service did not provide information as to how staff are informed or alerted to the specific medical needs of children.

Law

3. The Notification engages the following provisions of the *Law* and *Regulation*.

Section 167 of the *Law* - Offence relating to protection of children from harm and hazard

- (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 any hazard likely to cause injury.
- (2) The nominated supervisor 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 any hazard likely to cause injury.

Regulation 90 Medical conditions policy

(1) The medical conditions policy of the education and care service must set out practices in relation to the following—

- (a) the management of medical conditions, including asthma, diabetes or a diagnosis that a child is at risk of anaphylaxis;
- (b) informing nominated supervisors and staff members of, and volunteers at, the service of practices in relation to managing those medical conditions;
- (c) the requirements arising if a child enrolled at the education and care service has a specific health care need, allergy or relevant medical condition, including—
 - (i) requiring a parent of the child to provide a medical management plan for the child; and
 - (ii) requiring the medical management plan to be followed in the event of an incident relating to the child's specific health care need, allergy or relevant medical condition; and
 - (iii) requiring the development of a risk-minimisation plan in consultation with the parents of a child—
 - (A) to ensure that the risks relating to the child's specific health care need, allergy or relevant medical condition are assessed and minimised; and
 - (B) if relevant, to ensure that practices and procedures in relation to the safe handling, preparation, consumption and service of food are developed and implemented; and
 - (C) if relevant, to ensure that practices and procedures to ensure that the parents are notified of any known allergens that pose a risk to a child and strategies for minimising the risk are developed and implemented; and
 - (D) to ensure that practices and procedures ensuring that all staff members and volunteers can identify the child, the child's medical management plan and the location of the child's medication are developed and implemented; and
 - (E) if relevant, to ensure that practices and procedures ensuring that the child does not attend the service without medication prescribed by the child's medical practitioner in relation to the child's specific health care need, allergy or relevant medical condition are developed and implemented; and
 - (iv) requiring the development of a communications plan to ensure that—
 - (A) relevant staff members and volunteers are informed about the medical conditions policy and the medical management plan and risk minimisation plan for the child; and
 - (B) a child's parent can communicate any changes to the medical management plan and risk minimisation plan for the child, setting out how that communication can occur.

(2) The medical conditions policy of the education and care service must set out practices in relation to self-administration of medication by children over preschool age if the service permits that self-administration.

(3) In subregulation (2), the practices must include any practices relating to recording in the medication record for a child of notifications from the child that medication has been self-administered.

Reasons

4. Having considered the information within the Notification, I am satisfied that the Provider has not taken all reasonable steps to ensure the protection of children and that this had led to a child ingesting a known allergen at the Service, resulting in a risk of harm to the child.
5. On this occasion, rather than take statutory action, I have determined to issue the Provider with an Administration Letter which is intended to acknowledge the contraventions and detail steps to be taken to prevent future incidences.
6. The Provider is required to submit evidence demonstrating how the Service complies with Regulation 90 (1) (b) to ensure that all staff are informed of children's medical conditions and specifically allergy management. This information must be provided to Janine Fairburn Janine.fairburn@act.gov.au by close of business on 14 June 2022.
7. This decision will be recorded on your service file and may be considered in any future applications for approvals, amendments or waivers. This decision will also be considered in determining any future regulatory action, should there be future contraventions of the *Law or Regulations*.
8. If you have any queries regarding this letter, please contact Janine Fairburn on (02) 6205 4309 or email Janine.fairburn@act.gov.au

Yours sincerely



Clare Brookes
Senior Manager
Children's Education and Care Assurance
Education Directorate

1 June 2022