

Ms [REDACTED]
Acting Director School Improvements- Belconnen
ACT Education

RE: Giralang Primary School Preschool Unit

Email: [REDACTED]@act.gov.au
[REDACTED]@act.gov
[REDACTED]@ed.act.edu.au

Dear Ms [REDACTED]

Decision to issue Letter RE: NOT-40819803

1. As you are aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an assessment into a Notification of Incident (NOT-40819803) relating to the operation of Giralang Primary School Preschool Unit, SE-00011192 (the Service), operated by ACT Education Directorate, PR-00006465 (the Provider).
2. The Notification (NOT-40819803) related to an incident where it was identified that multiple children may have ingested leaves from a tree identified to be poisonous if consumed.
3. Web addresses to the *Education and Care Services National Law (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 7 February 2023, the Authority received NOT-40819803 from the Provider. The Notification advised that a student had approached the teacher with green around their mouth and indicated that they had ingested leaves from the ground from a mop top tree in the playground. Poisons hotline was contacted by a staff member, and it was identified that leaves from the tree were poisonous if ingested.
5. The notification stated that there were potentially six children who had ingested or chewed the leaves. All families of the children were contacted and advised to seek medical attention for their child. Attachment A
6. On 7 February 2023, additional information was requested by the Authority via email. A response was provided to the request on 9 February 2023.

Law

7. Provisions of the *Law* relevant to the assessment engaged the following:

Section 165(1) of the *Law* - Offence to inadequately supervise children

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.

Penalty: \$10 000, in the case of an individual
\$50 000, in any other case.

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.

Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied that there has been no contravention of the *Law*. However, the Authority has identified that the risks of similar issues occurring in the future have not been mitigated.
9. Information submitted by the Provider indicates that at the time of the incident that appropriate action was taken by the staff at the service in relation to the medical management of the children. However, the Authority noted that no information has been provided that demonstrates that steps have been taken to mitigate risk of similar incident arising at the Service or any other Government preschools across the directorate.
10. The Authority requests that the provider submit evidence that the following has occurred to mitigate risks of a similar incident:
- a) Risk assessment completed that identifies what steps have been taken to mitigate the risks at the Service.
 - b) Any evidence of liaison with other relevant areas of the directorate that identifies how poisonous plants/ trees are identified within school playgrounds and how risks will be mitigated.
11. Evidence demonstrating the above can be forwarded to me at Jo.Williams@act.gov.au. within 14 days from the date of this letter.

Legislation

12. 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>.

13. The National Law is made up of an Act and Regulations which can be viewed at:

<http://www.acecqa.gov.au/national-law>, and

<http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>

14. Should you have any questions about this letter please contact me at jo.williams@act.gov.au.

Yours Sincerely,



Jo Williams

Director

Children's Education and Care Assurance

Education and Care, Regulation and Support

29 March 2023