

Mr [REDACTED]  
Person with Management and Control  
Guardian Community Early Learning Centres Pty Ltd  
RE: Guardian Childcare & Education Forde

Email: [REDACTED]  
Cc: [REDACTED]

Dear Mr [REDACTED]

**Decision to issue Administrative Action RE: NOT-4049025**

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 assessed a Notification of Incident (NOT-4049025) reporting that the safety, health and wellbeing of a child was compromised at Guardian Early Learning Centre - Forde, SE-00009804, (the Service) operated by Guardian Community Early Learning Centres Pty Ltd, PR-00000823, (the Provider).
2. The assessment related to whether the Service failed to ensure adequate supervision of a child and a failure to take every precaution to protect a child from harm and from hazards likely to cause injury.
3. I am satisfied that the Provider was not complying with the provisions of the *Education and Care Services National Law (ACT) (the Law)* in respect to operating and education and care service.
4. Web addresses to *Law* and the *National Regulations* are provided for your convenience at the end of this letter.

**Facts**

5. On 25 November 2020, the Authority received a Notification of Complaint (NOT-40490245) from the Provider which alleged that a child ([REDACTED] aged 11 months at the time) had been bitten by another child whilst at the Service on 24 November 2020. Refer NOT-40490245 at Attachment A.
6. On 1 December 2020, the Authority requested further information from the Provider in relation to the complaint. On 17 December 2020, the Provider furnished further information via email. Refer Attachment B.
7. It was noted that the following information was provided attached to the email:
  - a) Incident photos 24/11/2020;
  - b) Provider’s internal investigation report;
  - c) Advice and evidence of staff training options to be undertaken;
  - d) Records of conversation/meeting and diary notes; and
  - e) Evidence of Policy review.
8. The Authority noted this information included that the same child ([REDACTED] had been bitten again on 30 November 2020. Refer Attachment C.

## Law

### **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.

## Reasons

9. The Authority is satisfied that there is sufficient evidence to support that on 24 and 30 November 2020, [REDACTED] was bitten by another child in which the circumstances reasonably support that inadequate supervision contributed that child's injuries; which is an offence engaging sections 165 and 167 of the *Law*.
10. In addition, the Authority is further satisfied that [REDACTED] was bitten on several occasions and this was, in part, resulting from a delay by the Provider in implementing strategies to mitigate the risk of harm and hazard to the other children by the child known to be biting.
11. The Authority notes that advised of risk mitigation strategies have now been implemented, however they should have been implemented earlier to prevent further incidences of biting occurring.

## Decision

12. In deciding if compliance action should be taken, the Authority has considered that the Provider has now implemented training for all educators, support visits for staff, ensured that staff had read and signed policies, and, have developed a plan for the child identified displaying behavioural issues resulting in biting other children.
13. The Authority has determined that strategies to be implemented to address the risk of inadequate supervision and precautions taken to protect children being educated and cared for by the Service from harm and from any hazard likely to cause injury will meet the expectations of the Authority if implemented and followed appropriately.
14. Taking into consideration all information submitted by the Provider in relation to NOT-40490245, the Authority has decided not to initiate statutory compliance action in regard to the substantiated offences under sections 165 and 167 of the *Law*.
15. This Decision, however, is intended to bring to your attention the need to maintain the Providers supervision arrangements across the Service; to ensure that children are adequately supervised and protected from harm and hazard likely to cause injury at all times they are being educated and cared for by the Service.
16. The *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*. Refer <http://www.legislation.act.gov.au/a/2011-42/default.asp>.
17. 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>

18. This letter will be recorded on your Service file and may be considered in any future applications for approvals, amendments or waivers. It may also be considered in determining the action to be taken, should further breaches of the *Law* or *Regulations* be found.

19. If you have any queries regarding this Decision please contact Jeffrey Beaver on (02) 6207 3917 or alternatively at [jeffrey.beaver@act.gov.au](mailto:jeffrey.beaver@act.gov.au).

Yours sincerely



Janine Fairburn  
Assistant Director  
Early Childhood Policy and Regulation  
ACT Education Directorate

11 January 2021