

[REDACTED]
Person with Management or Control
World of Learning Pty Limited
RE: Gold Creek World of Learning

Email: [REDACTED]
[REDACTED]

Dear [REDACTED]

Decision to issue Administrative Action RE NOT-40527647

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an assessment into a Notification of Complaint (NOT-40527647) relating to the operation of Gold Creek World of Learning, SE-0009779 (the Service), operated by World of Learning Pty Limited, PR-00000937 (the Provider).
2. The Notification (NOT-40527647) related to a parent complaint regarding their child being given a known allergen resulting in the child suffering illness.
3. Web addresses to the *Education and Care Services National Law Act (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 8 April 2021, the Authority received a Notification of Complaint from the Provider in relation to an enrolled child, known to be [REDACTED] (one year old), who was given gluten toast, even the child has a known gluten intolerance. Refer Notification at Attachment A.
5. Furthermore, the Notification advised that the parents stated that [REDACTED] had suffered illness because of being given toast whilst at the Service, and that [REDACTED] food log at the Service supported that toast had been provided to her on 6 April 2021. Additional documentation submitted by the Provider supports that staff were serving toast to children in [REDACTED] class (the Dolphin room), and that they were unaware of food intolerances in that class. Refer additional information at Attachment B.
6. On 8 April 2021, the Authority requested further information from the Provider in relation to the internal investigation that the Provider stated in the Notification they were conducting. Additional information was received 12 April 2021 and 16 April 2021 and consisted of:
 - a) Educator statements in relation to the alleged events of 6 April 2021;
 - b) Dolphin and Owls rooms checklists for food and bottles for 7 April 2021;
 - c) Grievance record received from [REDACTED] parent on 7 April 2021; and
 - d) Meeting Minutes outlining staff training and risk mitigation strategies (Attachment C).
7. Educator statements indicated that educators made admission that they did not check to see if there were any intolerances for children in the Dolphin room.

Law

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

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

9. The Authority has considered all the information supplied by the Provider and is satisfied that on 6 April 2021, not all reasonable precautions were taken to ensure that all educators were aware of and understood individual children's intolerances, or that the Services policy and procedure was followed in relation to children's dietary needs, therefore, not protecting children being educated and care for by the service from harm and from any hazard likely to cause injury.
10. Evidence submitted by the Provider, specifically in relation to the educator accounts and the minutes to the staff meeting of 13 April 2021 supports, on the balance of probabilities, the contravention of section 167(1) of the *Law* being substantiated
11. The *Law* outlines a range of statutory actions which may be taken by the Authority in response to non-compliance. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue you this Administrative Decision.
12. In determining this action, the Authority considered the steps already undertaken and demonstrated by the Provider in managing the incident and associated risks, and the compliance history of the Service.
13. Regarding the substantiated offence under section 167 of the *Law*, the Authority is satisfied that the Provider's actions as outlined through evidence submitted on 12 and 16 April 2021 meet the Authority's expectations for mitigating risk of a similar incident.
14. This decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments, or waivers. This decision may also be considered in determining any future regulatory action, should there be future breaches of the *Law* or *Regulations*.

Legislation

15. 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>.

16. 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>
17. Should you have any questions about this Decision please contact me at
janine.fairburn@act.gov.au.

Yours Sincerely,



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

17 May 2021