



[REDACTED]
Nominated Supervisor
Insight Early Learning Throsby Pty Ltd
RE: Insight Early Learning Throsby

Email: [REDACTED]

Dear [REDACTED]

Show Cause Notice – Proposed Compliance Action

1. I am a delegate of the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance. As you are aware, the Authority is the regulator of education and care services in the ACT and has the responsibility of monitoring and enforcing compliance with the *Education and Care Services National Law (ACT) (the Law)*, together with receiving and investigating complaints arising under the *Law*.
2. Authorised Officers are currently investigating suspected offences at Insight Early Learning Throsby SE-40016977 (the Service), operated by Insight Early Learning Throsby Pty Ltd and Insight Early Learning Throsby Pty Ltd PR-40020627 (the Provider).
3. Web addresses to the *Law* and the *Education and Care Services National Regulations (the Regulations)* are provided for your convenience at the end of this notice.
4. Authorised Officers have now finished obtaining evidence from other sources (unless further lines of enquiry emerge) and the Authority has determined that you as Nominated Supervisor have a case to answer regarding one suspected offence. However, the Authority’s investigation is not complete until you have had an opportunity to respond to the allegation and evidence obtained by the Authority. This is the reason for sending this Show Cause Notice (Notice) to you. Detailed instructions of how to respond appear at the end of this Notice.
5. If substantiated, the allegation may constitute an offence under section 167 of the *Law*. If, after considering all available evidence, the Authority finds any offences are substantiated on the balance of probabilities, it will need to consider whether compliance action is required. All such determinations are made via the Authority’s case management processes, involving a dedicated case management committee.
6. If any offences under the *Law* are substantiated, the Authority considers many factors when determining appropriate action, the focus being on ensuring future compliance and improved outcomes for children, rather than punishment. Potential compliance actions in this instance include the following (further details appear at the end of this Notice):
 - a. Formal Caution letter.

Grounds for issuing Show Cause for Compliance Action

7. The evidence obtained during the investigation to date supports an offence under the *Law* within the area of protection from harms.
8. The Authority's records indicate that you were the Nominated Supervisor of the Service at the relevant time, having commenced your role on 15 March 2020 and continuing to date.

Background

9. On 25 February 2022, the Provider notified the Authority of a serious incident, involving a child, [REDACTED] aged 2 years, 2 months, tripping in the bathroom and hitting her forehead, sustaining a cut requiring medical attention (NOT-40654135).

Refer Attachment A for all documentation relevant to the notification of incident.

10. On 7 March 2022, the Provider notified the Authority of a parent complaint doubting the cause of the injury and raising concerns about the management of the injury, in particular, not calling an ambulance (NOT-40662816).

Refer Attachment B for all documentation relevant to the notification of complaint.

11. On 10 March 2022, the Authority received a direct complaint on similar grounds to NOT-40662816.
12. It was determined by the Authority that there were reasonable grounds to suspect that offences had, or may have, occurred at the Service, and a decision was made to investigate suspected offences under section 167.
13. The Authority investigated a suspected offence regarding how the injury was sustained and determined that there was insufficient evidence to support all elements of an offence under the *Law*. Accordingly, the allegation in this Notice refers only to events subsequent to the injury being sustained.

Protection from Harm


Allegation One – Sections 167 of the *Law*

14. It is alleged that, on 24 February 2022, the Provider failed to ensure that every reasonable precaution was taken to protect children from harm and from hazards, in that [REDACTED] [REDACTED] head injury was not adequately managed with immediate call to ambulance and appropriate care pending parent arrival.

Legislation Relevant to Allegation One

15. The following provisions of the *Law* and *Regulations* are relevant to Allegation One

- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]



19. During the investigation, the Authority also obtained witness statements from educators, relevant extracts from which appear below. Due to the specific circumstances surrounding the alleged offence, witnesses are identifiable from the content of their evidence. Please note that all educator witness statements were obtained utilising powers under section 215 of the Law, imposing an obligation to attend before the Authority and provide relevant evidence under questioning by an Authorised Officer. It is an offence to fail to comply.

20. Relevant extracts from Witness A's statement are:



- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

22. Relevant extracts from Witness C’s statement are:

- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

Contraventions Supported by Allegation One

23. Evidence gathered appears to support a contravention of section 167(2) of the *Law*.

Proposed Compliance Action

24. The Authority reiterates that no decision has been made at this time – this letter is a step in the investigation process. However, procedural fairness requires that the Authority take this opportunity to advise you of potential compliance actions, if any offences are substantiated. Potential compliance action includes:

- a. Formal Caution letter.

Right of response

25. As mentioned previously, this letter is your opportunity to respond to the allegations and evidence set out in this Notice. You may, within 14 days of receiving this Notice , make a written submission for the Authority’s consideration in deciding if any offences are substantiated and, if so, whether any compliance action should be taken.

26. At Attachment E to this Notice is a ‘4 Step Guide to Responding to a Show Cause Notice’ to assist in the development of your submission. Please direct your written submission via email to tanya.masterman@act.gov.au or by post to

Children's Education and Care Assurance
Attention Tanya Masterman
GPO Box 158
Canberra ACT 2601.

Caution

27. I am informing you that the excerpts of statements of witness taken for the purpose of the Authority's investigation are included in the interests of procedural fairness. The statements taken during the investigation are protected disclosures under section 296 of the *Law*.
28. The *Law* provides, at section 297, for the protection of persons who make protected disclosures from serious detrimental action against reprisal.
29. 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.
30. The *Law* applies to you as a nominated supervisor. The *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>.
31. 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>
32. Should you have any questions about this Show Cause Notice please contact Senior Investigator Tanya Masterman, on tanya.masterman@act.gov.au.

Yours sincerely



Jo Williams
Director
Education and Care Regulation and Support
ACT Education Directorate

6 June 2022