



Mr [REDACTED]
Company Director
Abacus 49 Pty Ltd
1 Balmain St
CREMORNE VIC 3121

Email: [REDACTED]

Dear Mr [REDACTED]

COMPLIANCE NOTICE
Section 177, *Education and Care Services National Law Act 2010*¹

Approved provider name: Abacus 49 Pty Ltd
Approved provider number: PR-40015589

I am satisfied that Genius Gungahlin SE-40001554 (the Service), operated by Abacus 49 Pty Ltd PR--40015589 (the Provider) is not complying with the provisions of the *Education and Care Services National Law Act 2010* (the Law) and the *Education and Care Services National Regulations* (the Regulations) as outlined hereunder.

In making the decision to issue this compliance notice, I have considered the number of contraventions, the nature of the risk posed to children by the contraventions, and the compliance history of the Provider and its service in the ACT.

The table below outlines the sections of the Law and Regulations which have been engaged where non-compliance was identified during the Compliance Audit conducted on 5 August 2024. The table below outlines the steps to be taken by the approved provider to satisfy the Regulatory Authority (the Authority) that you are meeting your obligations under the Law.

The steps to be taken by the approved provider must be addressed by the close of business of the date mentioned for each item in the table below. You are required to provide written evidence of your compliance to the Authority, Children's Education and Care Assurance, ACT Education Directorate, by the close of business of the date mentioned for each item in the table below.

¹ Adopted in the ACT under the *Education and Care Services National Law (ACT) Act 2011*

Provision of the Law and Regulations	Description	Steps to be taken by the Approved Provider
<p>National Law Section 167 (1) Offence relating to protection of children from harm and hazards</p> <p>Regulation 103 (1) Premises, furniture and equipment to be safe, clean and in good repair</p>	<p>(1) 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.</p> <p>At the time of the audit a shelf was pushed up against the fence in the upstairs playground, providing foot holds for a child to climb over. It was noted that the playground was not in use at the time of the audit.</p> <p>The outdoor environment upstairs was in poor condition and deemed unsafe for children to be in.</p> <p>The Nominated Supervisor informed the Authorised Officers that the playground upstairs is not used much. However, it is an approved area of the service approval to accommodate children and needs to be maintained in a way that is safe for children to use.</p> <p>At the time of the audit, both sets of emergency stairs were blocked with resources. The exit door in the preschool room was blocked by a broken screen.</p> <p>The following safety issues were identified at the time of the audit:</p> <ul style="list-style-type: none"> • Bathroom checklists are not being completed consistently. • The chemical cupboard in the nursery 1 was not locked. Authorised Officer locked the cupboard. • The cupboard containing chemicals in the second nursery room was not locked or labelled. All children in this room were mobile. Authorised Officer locked the cupboard. 	<p>The approved provider is to submit evidence of:</p> <ol style="list-style-type: none"> a) The shelf no longer being against the fence. b) Strategies in place to ensure that the outdoor environment upstairs is set up in a safe way and is maintained. c) Strategies in place to ensure that staff members check the playgrounds and identify and rectify potential risks to children. d) The outdoor environment upstairs is safe for children to use. e) Strategies in place to ensure that emergency exits are accessible at all times. f) Blocked emergency exits have been cleared. g) Strategies in place to ensure that staff members are aware of safety practices to ensure children are not at risk of harm or hazards. h) Labels on cupboards containing chemicals and they are inaccessible to children. i) New nappy change mats. j) Cot being fixed or replaced in nursery 4 and no mattress leaning on cots. <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>

	<ul style="list-style-type: none"> • Multiple nappy change mats across the service had rips and tears. • Cot in nursery 4 has a broken wheel and a mattress leaning against a cot. 	
<p>Section 172 (1) Offence to fail to display prescribed information</p> <p>Regulation 173 Prescribed information to be displayed</p>	<p>(1) An approved provider of an education and care service (other than a family day care service) must ensure that the prescribed information about the following is displayed, in the prescribed form (if any), so that it is clearly visible to anyone from the main entrance to the education and care service premises—</p> <p>(c) each nominated supervisor of the service;</p> <p>(f) any other prescribed matters.</p> <p>(1) For the purposes of section 172(1) of the Law, the following information is prescribed in respect of the matters in paragraphs (a) to (e) of that section—</p> <p>(c) the name of each nominated supervisor;</p> <p>(2) For the purposes of section 172(2)(f) of the Law, the following matters and information are prescribed—</p> <p>(b) the name and telephone number of the person at the education and care service to whom complaints may be addressed;</p> <p>(c) in the case of a centre-based service, the name and position of the responsible person in charge of the education and care service at any given time.</p> <p>(e) the contact details of the Regulatory Authority.</p> <p>At the time of the audit the following was identified:</p> <ul style="list-style-type: none"> • The name and position of the responsible person at any given time was not displayed. A list of names of responsible persons was displayed. However, there was nothing to indicate who the 	<p>The approved provider is to submit evidence of:</p> <p>a) Strategies in place to ensure that all prescribed information, as prescribed in regulation 173, are displayed at all times.</p> <p>b) Issues identified with some of the prescribed information have been rectified.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>

	<p>responsible person was at the time of the audit.</p> <ul style="list-style-type: none"> • The name of one of the Nominated Supervisors was displayed at the service in the entrance. However, [REDACTED] [REDACTED] name, who is also listed as nominated supervisor in the NQAITS, was not displayed. • The name of the person to contact at the service for complaints was not displayed. • Contact details displayed for the ACT Regulatory Authority were inaccurate. Details for NSW Regulatory Authority were also displayed. 	
<p>Section 174 (2): Offence to fail to notify certain information to the Regulatory Authority</p>	<p>(2) An approved provider must notify the Regulatory Authority of the following information in relation to an approved education and care service operated by the approved provider—</p> <p>(a) any serious incident at the approved education and care service.</p> <p>A conversation between the nominated supervisor and the authorised officer regarding evacuation rehearsals, identified that emergency services attended the service on 24 July 2024 for a fire.</p> <p>The incident has not been reported to the Authority.</p>	<p>The approved provider is to submit evidence of:</p> <p>a) Strategies in place to ensure that the Authority is notified of information as required under section 174 of the Law.</p> <p>b) Notification being submitted to the Authority.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
<p>Regulation 75 Information about educational program to be kept available</p>	<p>The approved provider of an education and care service must ensure that—</p> <p>(a) information about the contents and operation of the educational program for the service is displayed at the education and care service premises at a place accessible to parents of children being educated and cared for by the service.</p> <p>At the time of the audit, information about the program was not displayed</p>	<p>The approved provider is to submit evidence of:</p> <p>a) Strategies in place to ensure that staff members are knowledgeable about the requirements to display the educational program.</p> <p>b) Educational program for the service is displayed at the education and care service premises at a place accessible to parents of children being educated and cared for by the service.</p>

	in a place that is accessible to parents of the children in Nursery 1.	Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.
Regulation 89 (1) First aid kits	<p>(1) The approved provider of an education and care service must ensure that first aid kits are kept in accordance with this subregulation, wherever the service is providing education and care to children—</p> <p>(a) an appropriate number of first aid kits must be kept having regard to the number of children being educated and cared for by the service; and</p> <p>(b) the first aid kits must be suitably equipped; and</p> <p>(c) the first aid kits must be easily recognisable and readily accessible to adults, having regard to the design of the education and care service premises.</p> <p>At the time of the audit first aid kits were not adequately stocked. The first aid kits were not easily identified and were not in an accessible location.</p> <p>There wasn't evidence of a system in place at the service for regularly checking contents and ensuring they are in date and in good supply.</p>	<p>The Provider is to submit evidence of:</p> <p>a) Strategies in place to check first aid kits contents regularly.</p> <p>b) First aid kits at the service have been checked and re-stocked.</p> <p>c) First aid kits locations being easily identifiable.</p> <p>d) First aid kits being easily accessible.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
Regulation 90 (1) Medical conditions policy	<p>(1) The medical conditions policy of the education and care service must set out practices in relation to the following—</p> <p>(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—</p> <p>(i) requiring a parent of the child to provide a medical management plan for the child; and</p> <p>(ii) requiring the medical management plan to be followed in the event of an</p>	<p>The Provider is to submit evidence of:</p> <p>a) A risk minimisation plan being in place for the child with asthma.</p> <p>b) Strategies in place to ensure that all staff members are aware of the content of the child's risk minimisation plan and are able to implement.</p> <p>c) Strategies in place to ensure all staff members know where to locate the child's risk minimisation plan.</p>

	<p>incident relating to the child’s specific health care need, allergy or relevant medical condition; and</p> <p>(iii) requiring the development of a risk-minimisation plan in consultation with the parents of a child—</p> <p>(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</p> <p>(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</p> <p>(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</p> <p>(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</p> <p>(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.</p>	<p>d) Strategies in place to ensure that all children with medical conditions who are enrolled at the service have a medical management plan, a risk minimisation plan a communication plan in place.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
--	--	--

	<p>At the time of the audit no risk minimisation plan for ██████'s asthma was in place.</p>	
<p>Regulation 101 (2) (e) Conduct of risk assessment for excursion</p>	<p>(2) Without limiting subregulation (1), a risk assessment must consider— (e) the number of adults and children involved in the excursion.</p> <p>At the time of the audit, the risk assessment for an excursion to the ACT Rural fire service Gungahlin was missing the number of children and adults involved in the excursion as prescribed in Regulation 101 (2) (e).</p>	<p>The Approved Provider is to submit evidence of:</p> <ul style="list-style-type: none"> a) The revised risk assessment for excursion template which include all prescribed information. b) Strategies in place to ensure that the staff members are aware of the new template to use and how to complete. <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice</p>
<p>Regulation 105 Furniture, materials and equipment</p> <p>Regulation 73 Educational program</p>	<p>The approved provider of an education and care service must ensure that each child being educated and cared for by the education and care service has access to sufficient furniture, materials, and developmentally appropriate equipment suitable for the education and care of that child.</p> <p>(1) This Part applies in relation to the program (the educational program) that is required to be delivered under section 168 of the Law to a child being educated and cared for by an education and care service. (2) An educational program is to contribute to the following outcomes for each child—</p> <ul style="list-style-type: none"> (a) the child will have a strong sense of identity; (b) the child will be connected with and contribute to his or her world; (c) the child will have a strong sense of wellbeing; 	<p>The Approved Provider is to submit evidence of:</p> <ul style="list-style-type: none"> a) Sufficient resources being available for children across the service. b) Environments being well maintained. c) Reflections undertaken by the service on how environments are consistently well defined, engaging, well equipped and reflecting children's current interests and learning goals. <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice</p>

	<p>(d) the child will be a confident and involved learner; (e) the child will be an effective communicator.</p> <p>At the time of the audit the following was identified:</p> <ul style="list-style-type: none"> • In all rooms books were ripped with missing pages making them unreadable. • The Toddler room had minimal resources available. The resources available were dirty and in poor repair. The resources were not developmentally appropriate for those children. The children were disengaged, running aimlessly around the room, and jumping on the stretcher beds. Shelves were empty in the room. 	
<p>Regulation 106 (2) Laundry and hygiene facilities</p>	<p>(2) The approved provider of the service must ensure that laundry and hygienic facilities are located and maintained in a way that does not pose a risk to children.</p> <p>At the time of the audit, the laundry door was unlocked and open, potentially making it accessible to children. The door handle is of a height that a child could reach and open the door if left unlocked.</p>	<p>The approved provider is to submit evidence of:</p> <p>a) Strategies in place to ensure the laundry is inaccessible to children at all times.</p> <p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice</p>
<p>Regulation 155 Interactions with children</p>	<p>An approved provider must take reasonable steps to ensure that the education and care service provides education and care to children in a way that—</p> <ul style="list-style-type: none"> (a) encourages the children to express themselves and their opinions; and (b) allows the children to undertake experiences that develop self-reliance and self-esteem; and (c) maintains at all times the dignity and rights of each child; and (d) gives each child positive guidance and encouragement toward acceptable behaviour; and 	<p>The approved provider is to submit evidence of:</p> <ul style="list-style-type: none"> a) Educators being supported to provide positive and encouraging interactions with the children. b) Educators being supported to develop strategies to ensure that children are being encouraged to develop self-reliance and self-esteem. c) Educators being supported to complete professional learning around positive interactions with children.

<p>Regulation 156 Relationships in groups</p>	<p>(e) has regard to the family and cultural values, age, and physical and intellectual development and abilities of each child being educated and cared for by the service.</p> <p>156 Relationships in groups (1) The approved provider of an education and care service must take reasonable steps to ensure that the service provides children being educated and cared for by the service with opportunities to interact and develop respectful and positive relationships with each other and with staff members of, and volunteers at, the service. (2) For the purposes of subregulation (1), the approved provider must have regard to the size and the composition of the groups in which children are being educated and cared for by the service.</p> <p>At the time of the audit the following was observed:</p> <ul style="list-style-type: none"> • Educators were disengaged from the children. • Educators addressed the children using repetitive sentence commands, continually speaking to children from across the rooms. • Educators spending more time taking photos on the iPad than engaging and interacting with children. 	<p>Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.</p>
<p>Regulation 162 Health information to be kept in enrolment record</p>	<p>The health information to be kept in the enrolment record for each child enrolled at the education and care service is— (d) any medical management plan, anaphylaxis medical management plan or risk minimisation plan to be followed with respect to a specific healthcare need, medical condition or allergy referred to in paragraph (c).</p> <p>At the time of the audit medical the management plan for a child with an egg allergy was not kept on the</p>	<p>The approved provider is to submit evidence of:</p> <ul style="list-style-type: none"> a) Strategies in place to ensure that medical management plans and/or risk minimisation plans are kept in children’s enrolment records. b) Strategies in place to ensure that medical management plans are easily accessible at all times for staff.

	enrolment record. The Nominated Supervisor searched for the document around the service. It was eventually found.	Evidence to demonstrate compliance is required within 14 days of the date of receipt of this Notice.
--	---	---

Time for Compliance

You are required to provide written evidence of your compliance **by the time indicated within the above table, to** the ACT Regulatory Authority (the Authority), Children’s Education and Care Assurance, ACT Education Directorate.

Failure to comply

It is an offence for an approved provider to fail to comply with this compliance notice within the period specified. If you do not take the required actions, or do not take those steps within the required timeframe, I may consider imposing further sanctions, including suspension of your service approval or prosecution. The penalty that a court may impose is \$6000 for an individual and \$30,000 for an entity.

Review of decision

A decision to issue a compliance notice is a reviewable decision for internal review by the Regulatory Authority. An application for review may be made by completing the form AR01 Application for Internal Review of Reviewable Decision which can be obtained from the ACECQA website. An application for review must be submitted to the Regulatory Authority within 14 days after the day on which you are notified of this decision.

Service’s record of compliance

Details of this compliance notice must be recorded in the service’s record of compliance including: the reason the compliance notice was issued; the steps specified in the notice; and the date by which the steps specified must be taken. The information must not identify any person other than the approved provider.

The information does not need to be recorded until after the period for applying for internal review has expired.

Publication

Under section 270(5) of the *Law*, the Regulatory Authority may publish information about this compliance notice. If no review is requested within 14 days, details of this compliance notice will be published on www.det.act.gov.au.

If you have any questions about this notice, please contact me at delphine.coutin@act.gov.au



Delphine Coutin
Assistant Director, Audit and Risk Management
Children’s Education and Care Assurance

17 September 2024