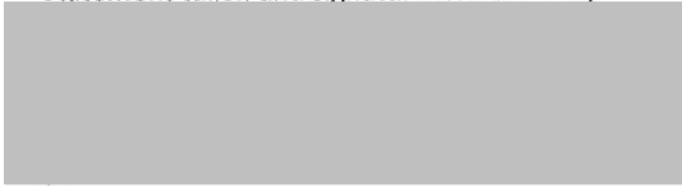




Statement taken and signature witnessed by



Tanya Masterman, Authorised Officer, Children's Education and Care Assurance

At 3.55pm on 6 June 2019 at 51 Fremantle Drive, Stirling, ACT



Attachment A



Charmwood ELC Team Room Sign on

Room: [Redacted] Week Start: 13/5/19 Week End: 17/5/19

Name: [Redacted]		Qualifications:		Signature: [Redacted]	
Day	In	Out	In	Out	Comments
Monday	7:10	10:00	15:15	19:00	5:45
Tuesday	1:10	10:00	16:15	19:30	5:45
Wednesday	7:10	10:00	16:15	19:30	5:45
Thursday	7:10	10:00	16:15	19:30	5:45
Friday	10:5	10:00	10:15	19:30	5:45

Name: [Redacted]		Qualifications:		Signature: [Redacted]	
Day	In	Out	In	Out	Comments
Monday	0:30	1:35	10:45	1:30	7:30
Tuesday	0:35	10:30	10:45	1:20	7:30
Wednesday	0:50	10:30	10:45	1:20	7:30
Thursday	0:15	10:45	11:00	1:35	7:35
Friday	7:20			1:30	2:00

Name: [Redacted]		Qualifications:		Signature: [Redacted]	
Day	In	Out	In	Out	Comments
Monday					
Tuesday					
Wednesday					
Thursday					
Friday					

Name: [Redacted]		Qualifications:		Signature: [Redacted]	
Day	In	Out	In	Out	Comments
Monday	9:00	10:20	10:35	19:40	5:30
Tuesday					
Wednesday	9:00	10:20	10:35	12:30	5:30
Thursday					
Friday	8:31	11:15	10:30	12:30	5:30



Charmwood ELC Team Room Sign on

Room: [redacted] Week Start: 13/5/19 Week End: 17/5/19

Name:	In	Out	In	Out	In	Out	In	Out	Signature:	Comments
[redacted]									[redacted]	
Monday	7:30	10:25	10:40	12:05	1:00	11:05			[redacted]	
Tuesday	7:28	10:30	10:45	12:20	1:10	11:05			[redacted]	
Wednesday	7:28	10:30	10:15	12:00	1:00	11:00			[redacted]	
Thursday	7:20	10:00	10:15	12:00	1:00	11:00			[redacted]	
Friday	9:20	1:00	2:00	6:00					[redacted]	

Name:	In	Out	In	Out	In	Out	In	Out	Signature:	Comments
[redacted]									[redacted]	
Monday	9:40	10:00	10:15	1:00	2:00	6:00			[redacted]	
Tuesday	9:40	10:15	10:40	12:00	11:00	6:00			[redacted]	
Wednesday	9:40	10:15	10:40	12:15	11:15	6:00			[redacted]	
Thursday	9:40	10:15	10:40	12:15	11:15	6:00			[redacted]	
Friday	9:40	10:15	10:40	12:15	11:15	6:00			[redacted]	

Name:	In	Out	In	Out	In	Out	In	Out	Signature:	Comments
[redacted]									[redacted]	
Monday	9:40	11:00	11:15	2:00	3:00	6:00			[redacted]	
Tuesday	9:30	11:00	11:15	2:05	3:15	6:00			[redacted]	
Wednesday	9:40	11:00	11:15	2:00	3:00	6:00			[redacted]	
Thursday	9:40	11:00	11:15	2:00	3:00	6:00			[redacted]	
Friday	9:40	11:00	11:15	2:00	3:00	6:00			[redacted]	

Name:	In	Out	In	Out	In	Out	In	Out	Signature:	Comments
[redacted]									[redacted]	
Monday	8:38	10:20	10:35	1:00	2:00	5:30			[redacted]	
Tuesday	8:38	10:20	10:35	1:00	2:00	5:30			[redacted]	
Wednesday	8:38	10:20	10:35	1:00	2:00	5:30			[redacted]	
Thursday	8:38	10:20	10:35	1:00	2:00	5:30			[redacted]	
Friday	8:38	10:20	10:35	1:00	2:00	5:30			[redacted]	

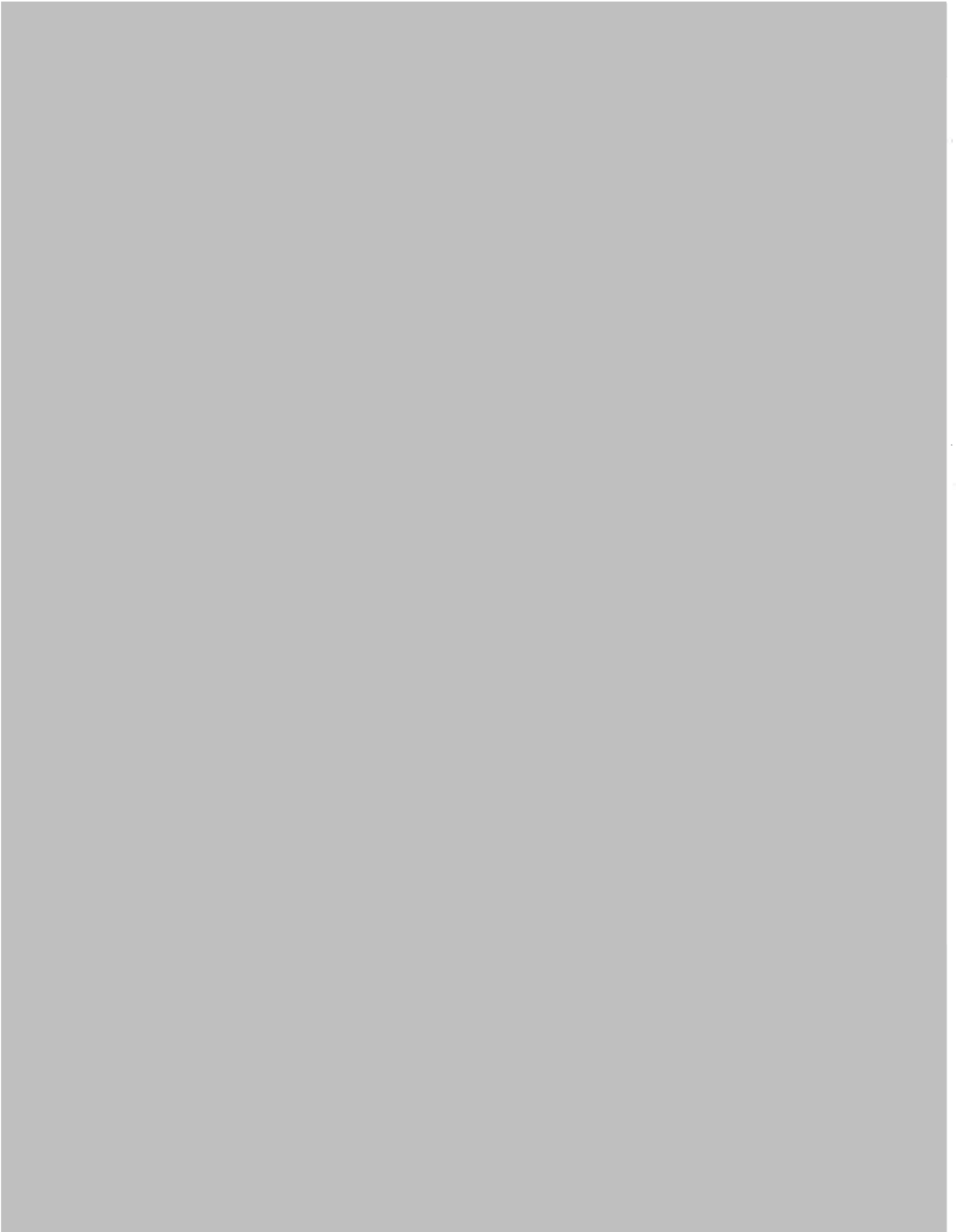


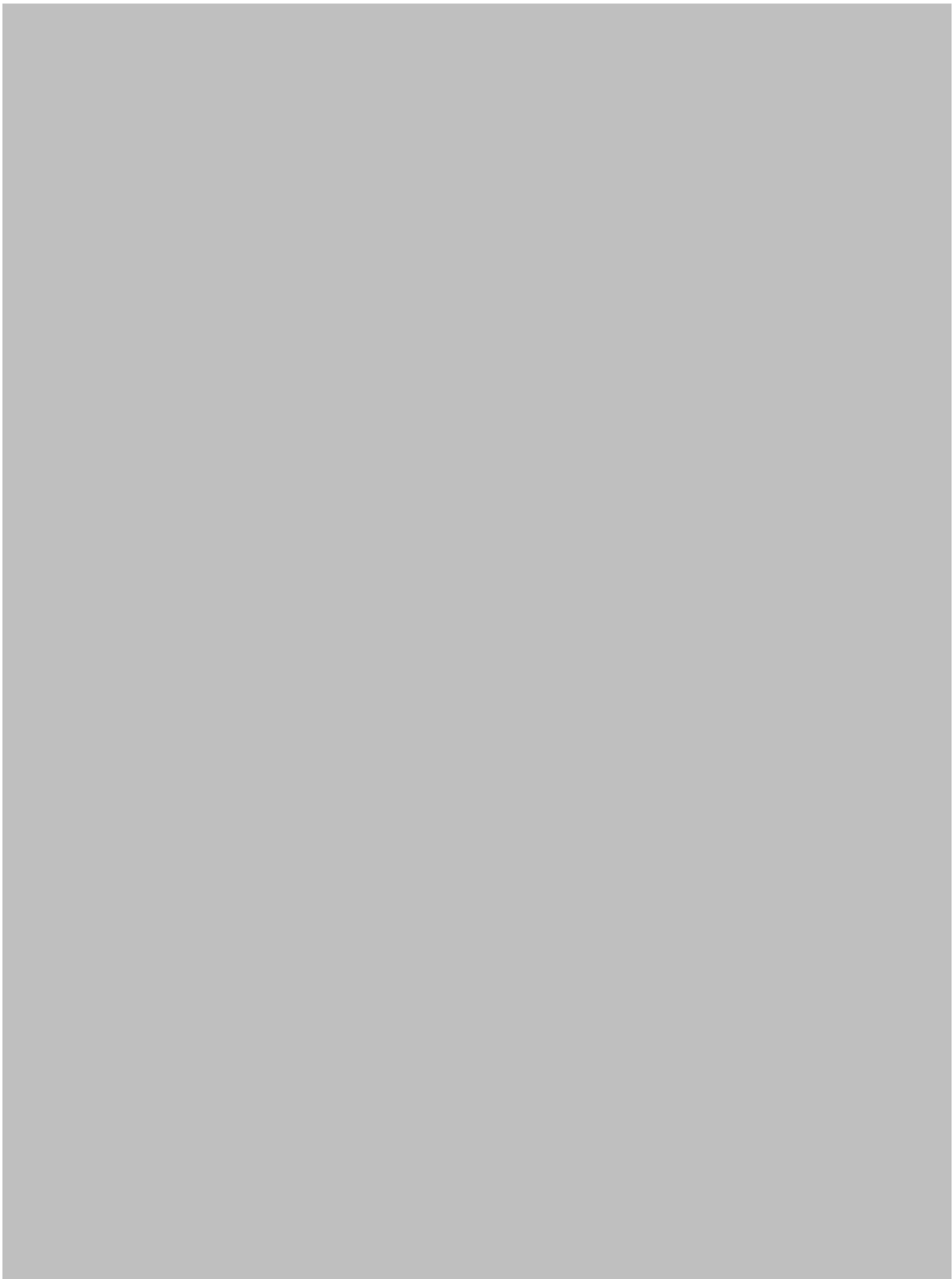
Children's Education and Care Assurance

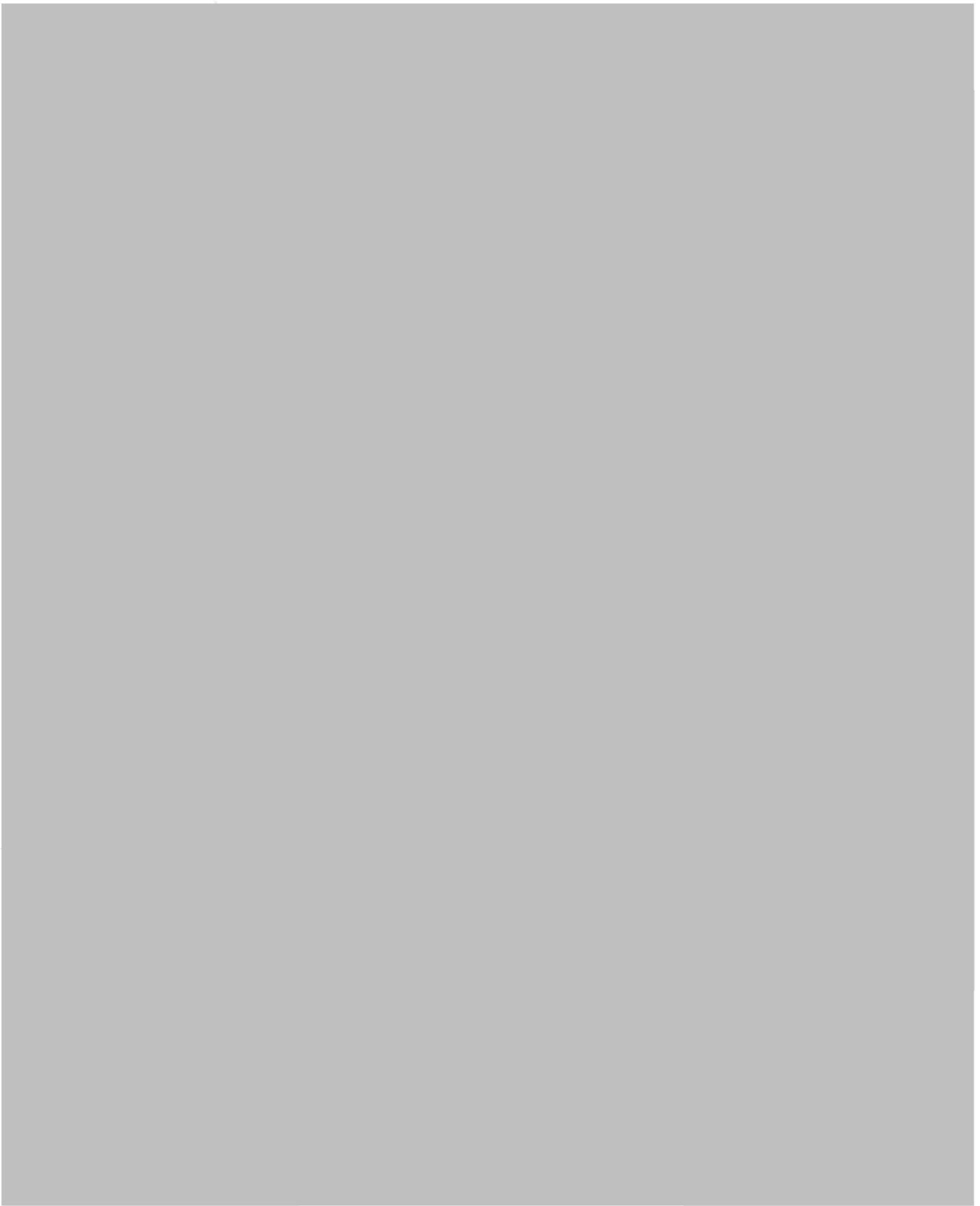
Date: 11 June 2019
Time: 12:30pm
Location: Hedley Beare Centre, 51 Fremantle Drive Stirling, ACT

STATEMENT in the matter of: Brindabella Christian College ELC - Charnwood

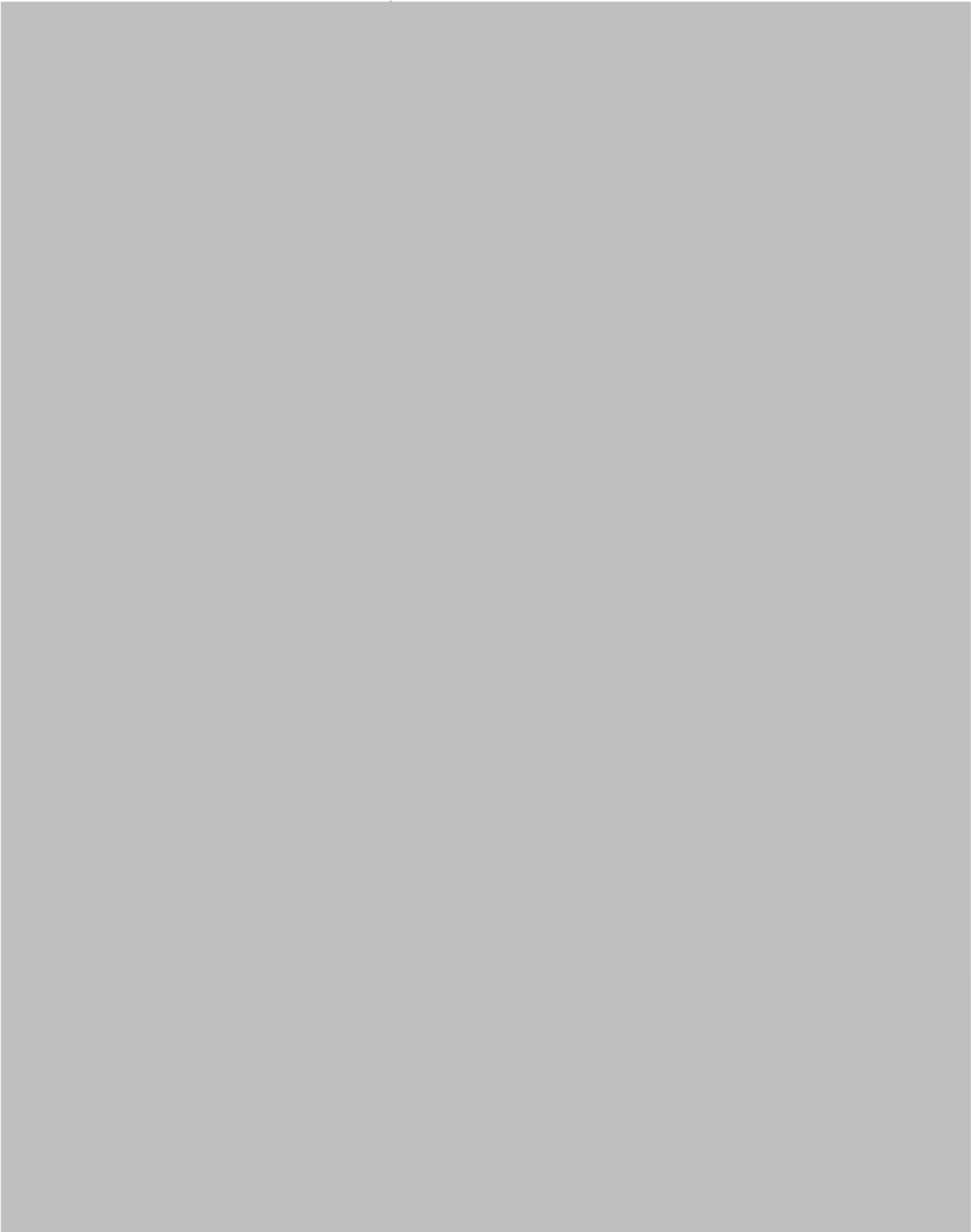


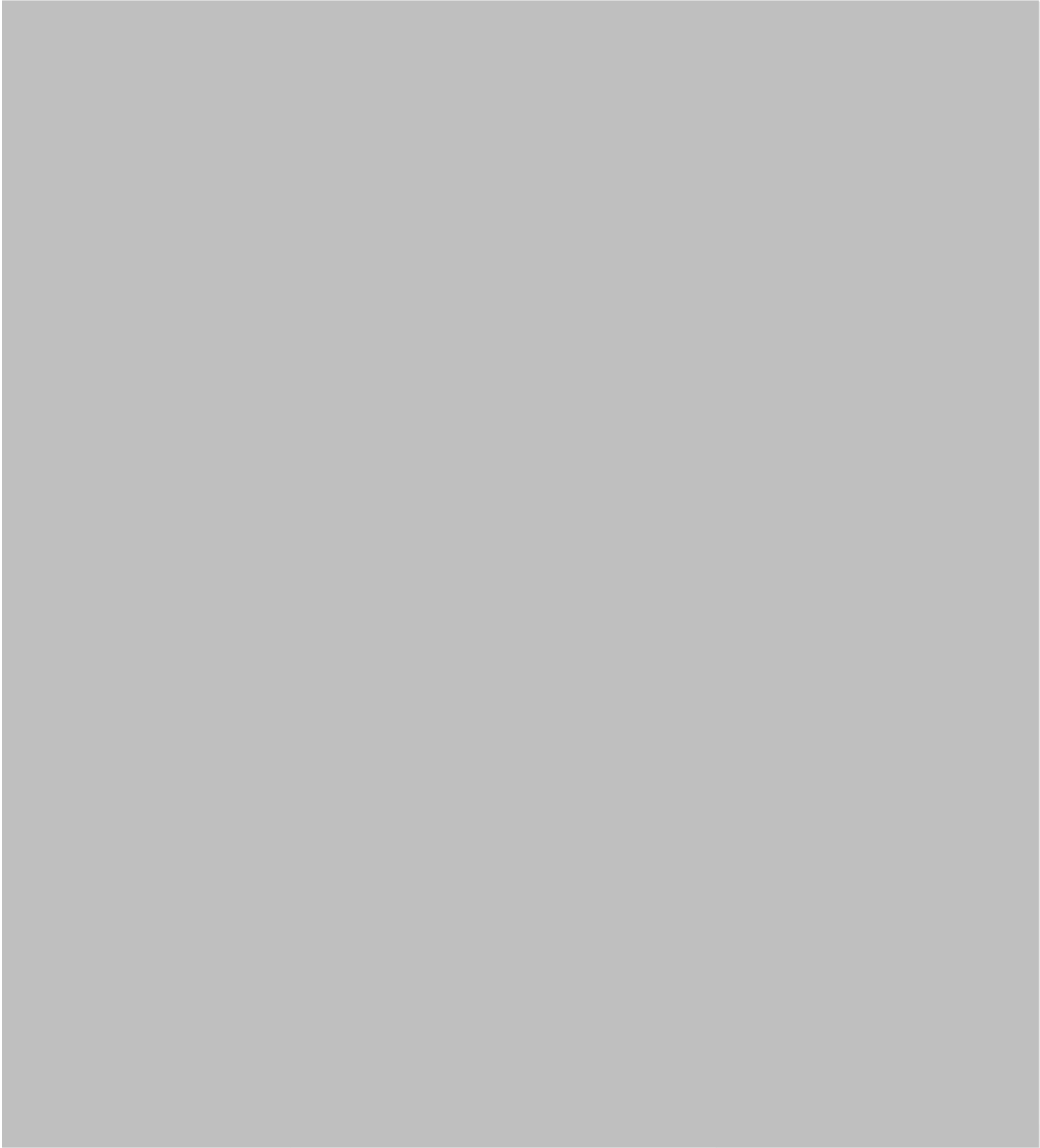




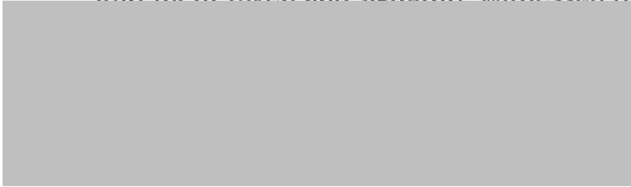








Statement taken and signature witnessed by



Tanya Masterman, Authorised Officer, Children's Education and Care Assurance

At 1.35pm on 11 June 2019 at 51 Fremantle Drive, Stirling, ACT



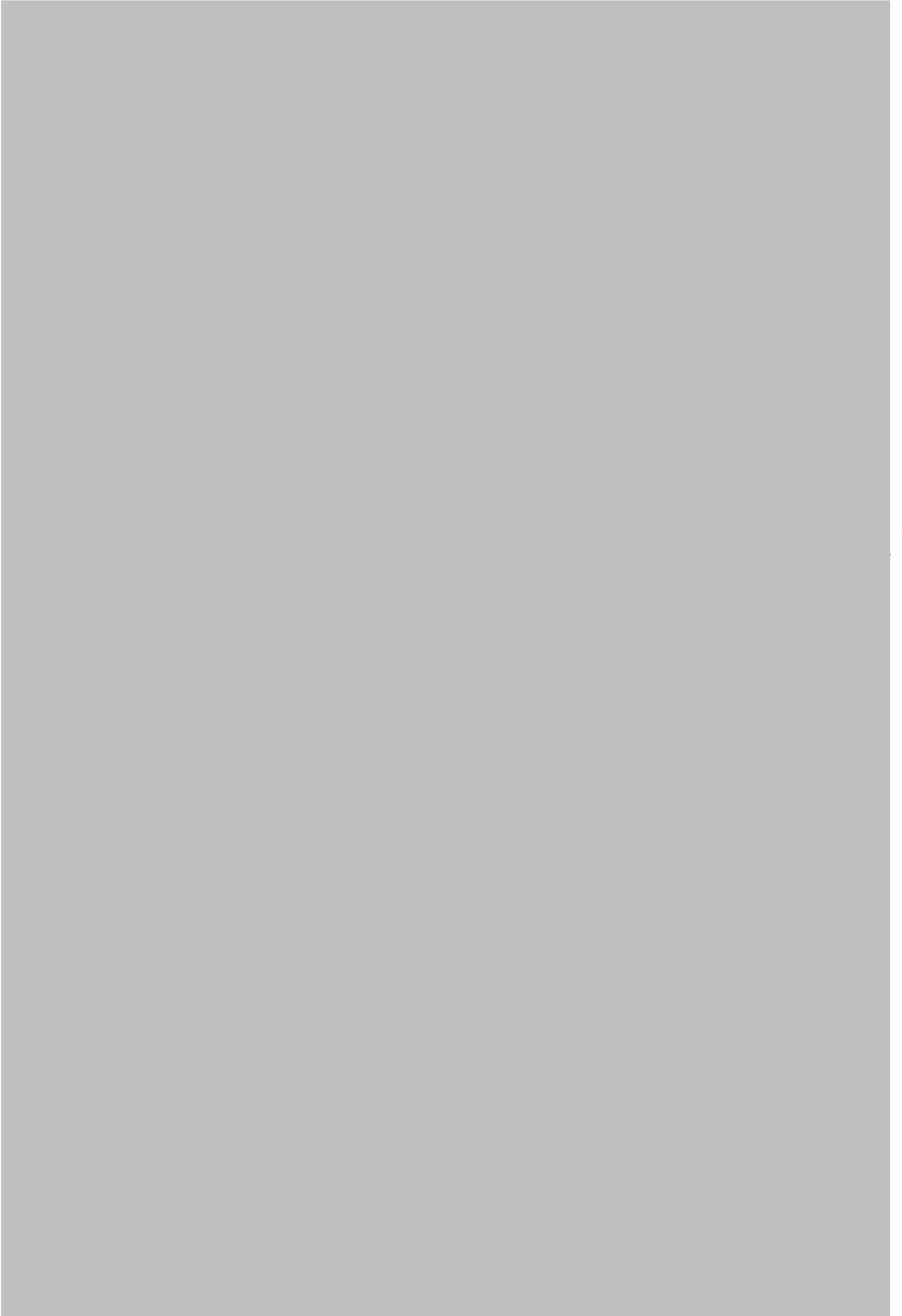
Children's Education and Care Assurance

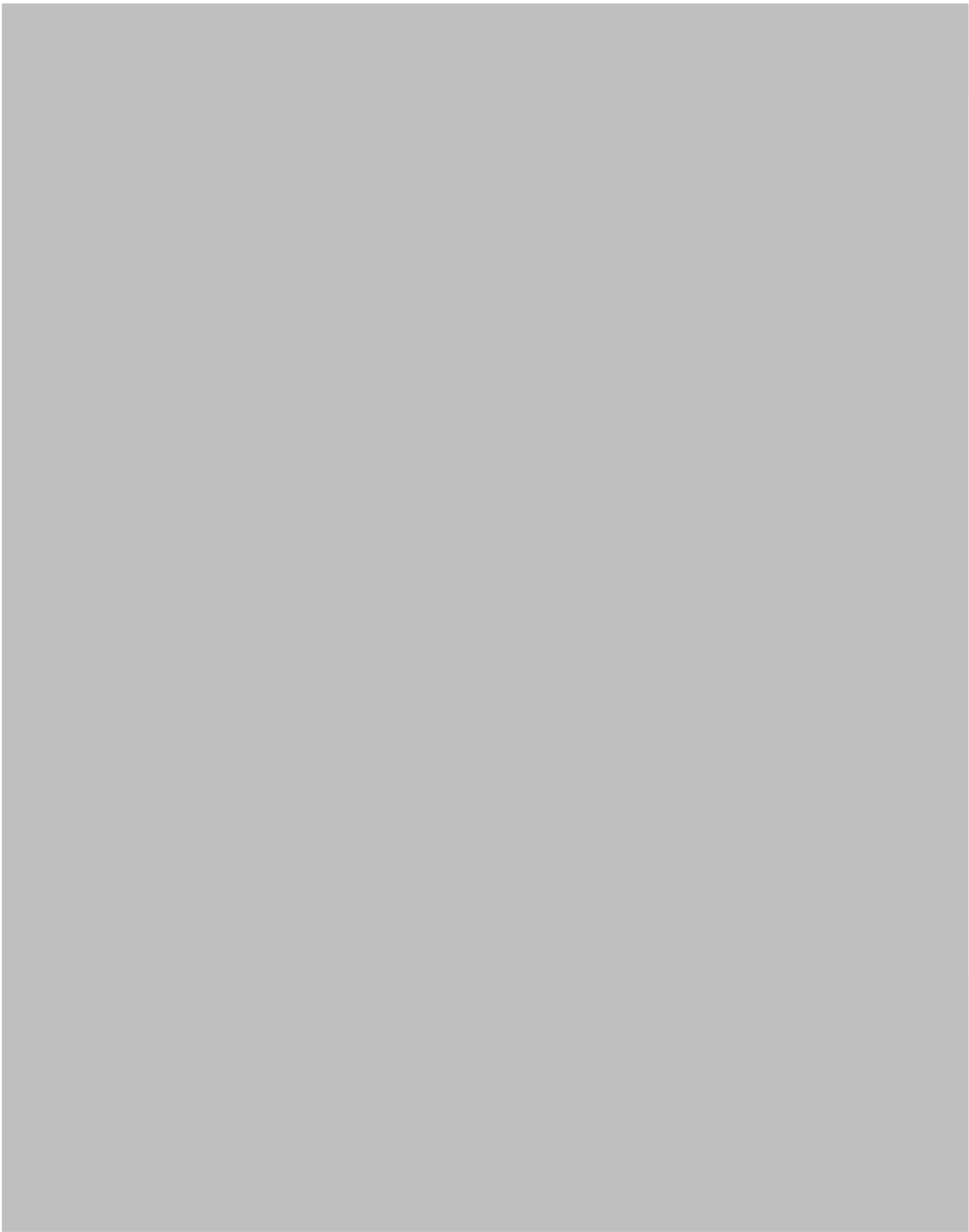
Date: 20 June 2019
Time: 12:00pm
Location: Hedley Beare Centre, 51 Fremantle Drive Stirling, ACT

STATEMENT in the matter of: Brindabella Christian College ELC - Charnwood

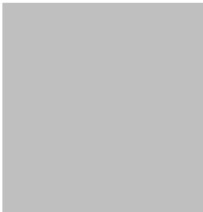


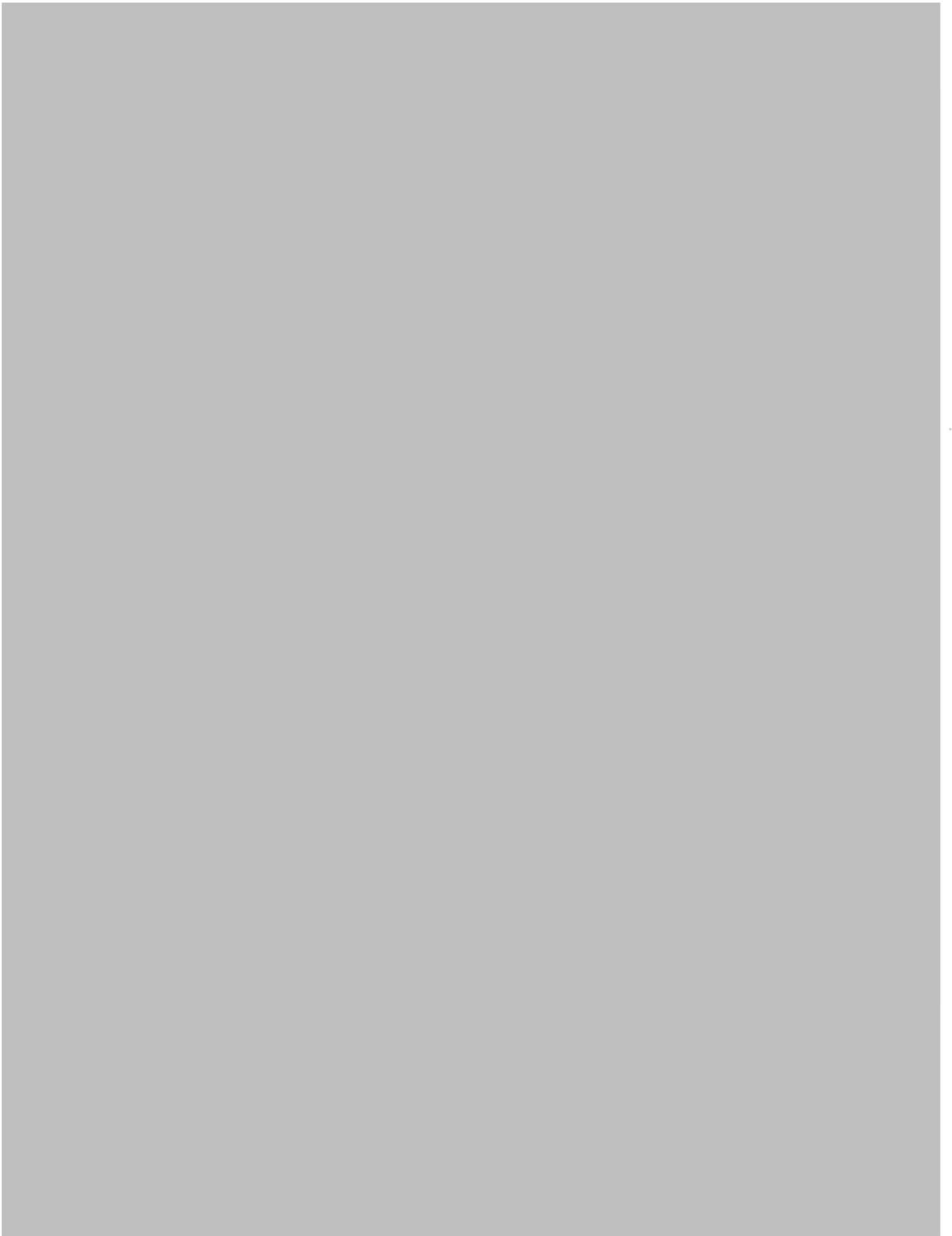












Statement taken and signature witnessed by

Tanya Masterman, Authorised Officer, Children's Education and Care Assurance

At 10.25am on 20 June 2019 at 51 Fremantle Drive, Stirling, ACT



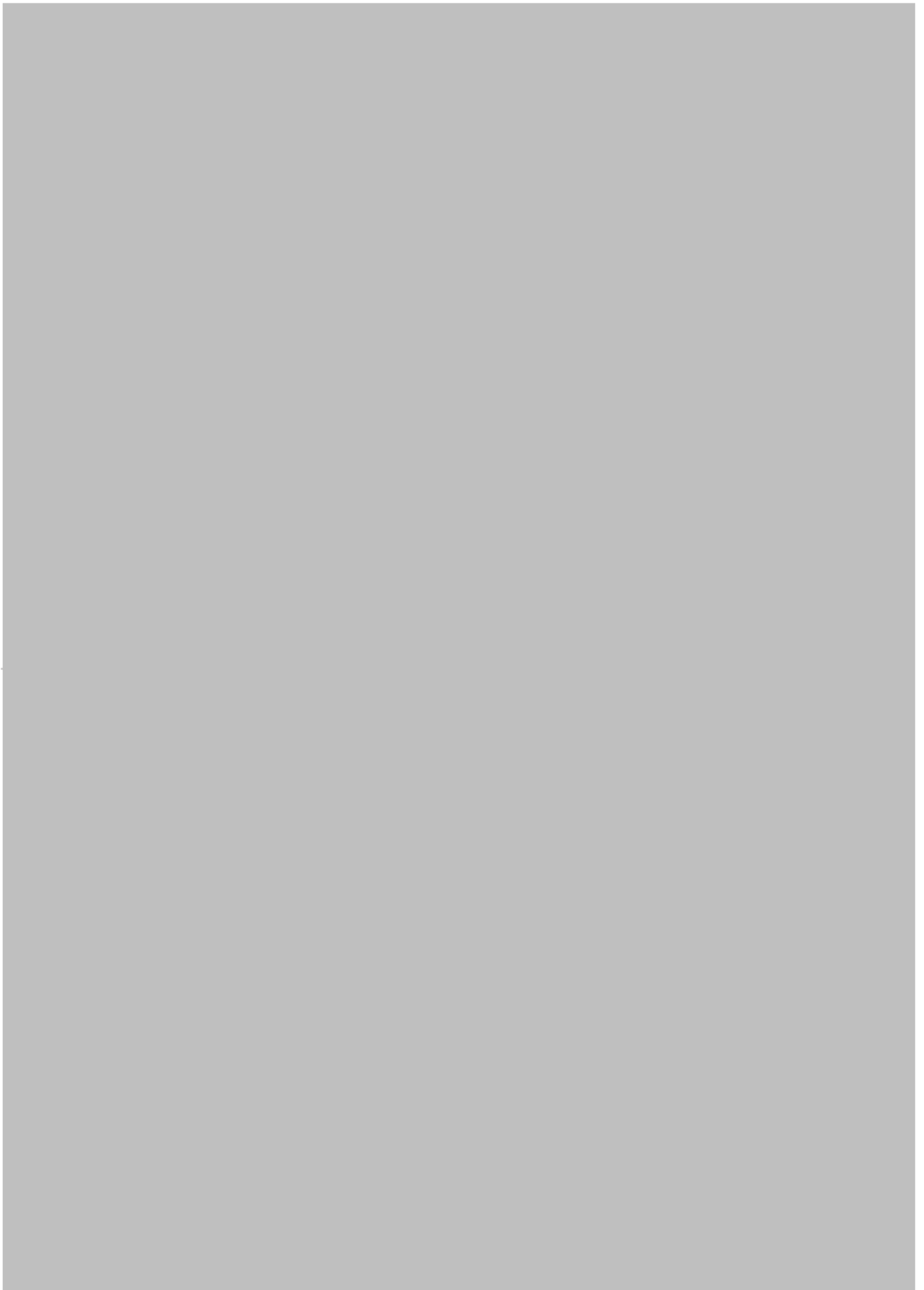


Children's Education and Care Assurance

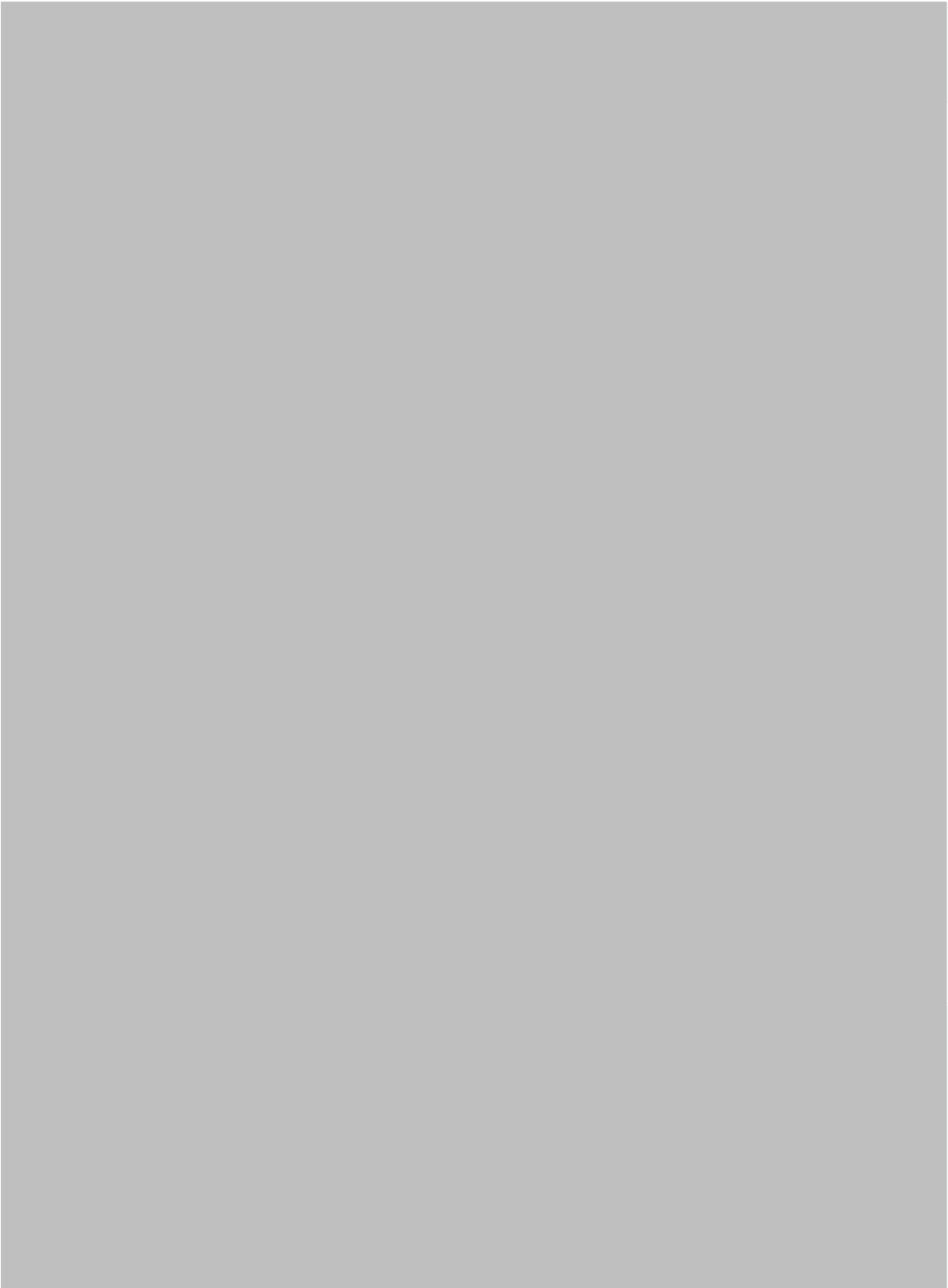
Date: 21 June 2019
Time: 11:30pm
Location: Hedley Beare Centre, 51 Fremantle Drive Stirling, ACT

STATEMENT in the matter of: Brindabella Christian College ELC - Charnwood

















Statement taken and signature witnessed by



Tanya Masterman, Authorised Officer, Children's Education and Care Assurance

At 12.20pm on 20 June 2019 at 51 Fremantle Drive, Stirling, ACT



Attachment A



Fairburn, Janine

From: Masterman, Tanya
Sent: Wednesday, 3 July 2019 10:56 AM
To: [REDACTED]
Subject: Brindabella Christian College ELC - Charnwood Campus
Attachments: Direct Complaint Form - Online Submission.doc

UNCLASSIFIED

Dear [REDACTED]

Further to our conversation this morning, please find attached a Direct Complaint form. I would be grateful if you could fill it out with as much detail as possible about your concerns, then return it to the email address on the form and to this email address as well.

I confirm that no further steps will be taken without first engaging with you.

Yours sincerely

Tanya Masterman | Senior Investigator
Phone 02 6205 2012 | Email tanya.masterman@act.gov.au
Early Childhood Policy and Regulation | Education | ACT Government
Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive, Stirling 2611
GPO Box 158 Canberra ACT 2601
www.education.act.gov.au | [Facebook](#) | [Twitter](#) | [Instagram](#) | [LinkedIn](#) | [CECA Facebook](#)

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Instructions

This form should be used to lodge a complaint to the ACT Regulatory Authority in circumstances where your complaint alleges possible offences and/or engage a risk to the safety, health and wellbeing of children or a child attending an education and care service.

The completed form should be forwarded to complaintsCECA@act.gov.au

The Authority is obligated to protect personal information in accordance with the Privacy Act 1988 (Cth) and the Australian Privacy Principles contained in the Privacy Amendment (Enhancing Privacy Protection) Act 2012. Information provided in this form would only be shared subject to the information sharing provisions under the relevant Legislation.

Direct Complaint Form - Online

Date completing form:	
Time completing form:	
Your full name:	
Date of birth	
Contact details: (phone and email)	
Service to which the complaint relates?	
Has the complaint been raised directly with the service? If yes what was the response? If <i>not</i> why?	
Complainant's relationship to the service (how long have you had an association <i>parent/educator</i> for)?	
Date/time of incident/ issue to which the complaint relates. If unknown, approximate timeframes?	
If delay in reporting, reasons for delay?	

<p>Name of children (in full if possible) involved in the incident/ issue to which the complaint relates?</p>	
<p>Age of Children (DOB if possible and relevant?)</p>	
<p>Name of educator(s), staff member(s) or other persons involved?</p>	
<p>Details of the incident/issue:</p> <p><i>Consider details such as:</i></p> <p><i>What happened?</i></p> <p><i>Where did it happen?</i></p> <p><i>Has it ever happened before?</i></p> <p><i>Has it happened to anyone else?</i></p> <p><i>Who was present?</i></p> <p><i>Who was involved?</i></p> <p><i>Have you discussed the incident/issue with anyone else?</i></p> <p><i>Has any action been taken?</i></p>	
<p>Did you make any notes at the time, or send any emails? Are you prepared to provide a copy?</p>	
<p>If necessary would you be prepared to make a statement?</p>	
<p>Is there any other information (documents, memos, emails etc) that you may have that would substantiate the allegation(s)?</p>	

Fairburn, Janine

From: [REDACTED]@bcc.act.edu.au>
Sent: wednesday, 3 July 2019 11:03 AM
To: Masterman, Tanya
Cc: [REDACTED]
Subject: RE: Brindabella Christian College ELC - Charnwood Campus

Tanya,

I have passed on your email to [REDACTED] of the College to reply to your concerns asap.

[REDACTED]

Kind Regards

[REDACTED]

<http://www.bcc.act.edu.au>

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From: Masterman, Tanya <Tanya.Masterman@act.gov.au>
Sent: Wednesday, 3 July 2019 10:52 AM
To: [REDACTED]@bcc.act.edu.au>
Subject: Brindabella Christian College ELC - Charnwood Campus

UNCLASSIFIED

Dear [REDACTED]

Further to our conversation this morning, I confirm that the Regulatory Authority has received an anonymous complaint that there is a [REDACTED] person who has started working at the Charnwood Campus without current working with vulnerable people registration.

Can you please advise:

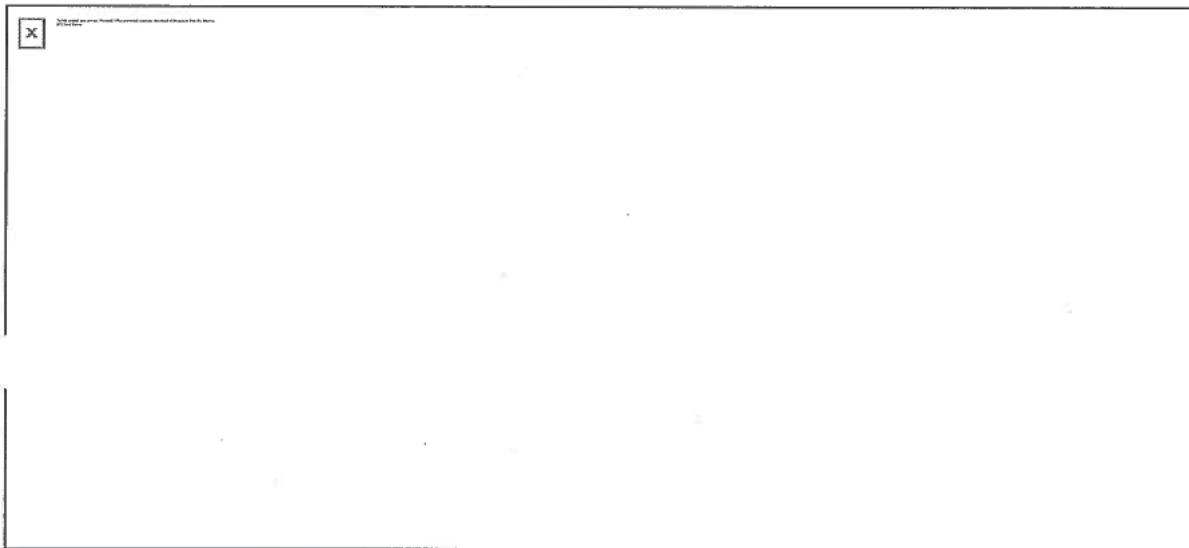
1. The commencement date of the person (whom I understand is called [REDACTED])
2. Whether the person has applied for registration and, if so, please provide a copy of the receipt;
3. What supervision arrangements are in place for the person.

I look forward to receiving responses to the above questions by close of business today.

Yours sincerely

Tanya Masterman | Senior Investigator
Phone 02 6205 2012 | Email tanya.masterman@act.gov.au
Early Childhood Policy and Regulation | Education | ACT Government
Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive, Stirling 2611
GPO Box 158 Canberra ACT 2601
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Fairburn, Janine

From: [REDACTED]@bcc.act.edu.au>
Sent: Monday, 8 July 2019 12:33 PM
To: Fairburn, Janine
Cc: [REDACTED] BCC ELC, [REDACTED]
Subject: RE: Brindabella Christian College ELC - Charnwood campus
Attachments: [REDACTED] WWVP invoice.pdf

Janine,

My apologies for the delay,

Please find attached a copy of the receipt for [REDACTED]

In answer to your other questions

1. The commencement date of the person (whom I understand is called [REDACTED])
 [REDACTED] tried to start with us on [REDACTED] but could not due to [REDACTED]
 lack of WWVP however after we checked with access Canberra as to the regulation [REDACTED] returned [REDACTED]
 [REDACTED] and was escorted by [REDACTED] staff
2. Whether the person has applied for registration and, if so, please provide a copy of the receipt
 [REDACTED] has applied and the receipt is attached
3. What supervision arrangements are in place for the person
 [REDACTED] was to be supervised by other [REDACTED] staff while onsite but after the [REDACTED] refused to take the
 responsibility of [REDACTED] onsite as [REDACTED] believed even supervised [REDACTED] could not be onsite we have removed [REDACTED]
 from site until [REDACTED] card arrives. However whilst onsite [REDACTED] was always supervised.

In future am I correct in the assumption that as long as the person has applied for the WWVP and is always supervised by current WWVP card holder [REDACTED] is allowed to work onsite at both the School and ELC.

Kind Regards

<http://www.bcc.act.edu.au>

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From: BCC ELC
Sent: Monday, 8 July 2019 12:16 PM
To: [REDACTED]@bcc.act.edu.au>
Subject: Fwd: Brindabella Christian College ELC - Charnwood campus

Sent from my iPhone

Begin forwarded message:

From: "Fairburn, Janine" <Janine.Fairburn@act.gov.au>
Date: 8 July 2019 at 12:02:05 pm AEST
To: [REDACTED]@bcc.act.edu.au" [REDACTED]@bcc.act.edu.au>, [REDACTED]@bcc.act.edu.au"
[REDACTED]@bcc.act.edu.au>
Cc: [REDACTED], "elc@bcc.act.edu.au"
<elc@bcc.act.edu.au>, [REDACTED]
Subject: RE: Brindabella Christian College ELC - Charnwood campus

UNCLASSIFIED

Dear [REDACTED]

I am following up on a matter in the absence of my colleague, Tanya Masterman – I am aware that you both corresponded with her on 3 July 2019 in regard to information that the ACT Regulatory Authority received which alleges that the Provider was and is permitting an unauthorised person on the Service premises. The allegation received states that a [REDACTED] employee, [REDACTED] has commenced employment at the Charnwood Campus without being the holder of a valid working with vulnerable person registration.

I am also aware that my colleague made enquiries via email to [REDACTED] noted as a person with management or control/delegate of the approved provider, on 3 July 2019 and that [REDACTED] referred this to the Chief Financial Officer [REDACTED]. I further note that a response to the email was originally requested to be submitted to the Regulatory Authority by close of business 3 July 2019.

Further to this, I spoke with [REDACTED] on 5 July 2019, who advised that [REDACTED] would respond to the email forwarded to him on 5 July 2019. I asked [REDACTED] to forward [REDACTED] response to my email at Janine.fairburn@act.gov.au. To date, no response has been received.

As you may already be aware, the ACT Regulatory Authority (the Authority), also known as the Children's Education and Care Assurance unit of ACT Education Directorate, is responsible for the implementation and enforcement of the *Education and Care Services National Law Act 2010* and the *Education and Care Services National Regulations* (National Law).

A key objective of the National Law is to protect children in the context of education and care services. The Authority looks to exercising its powers to emphasise and require best practice, as the National Law requires, which is also inherently in the best interests of children.

The section of the National Law engaged by this allegation is as follows:

170 Offence relating to unauthorised persons on education and care service premises

(1) This section applies to an education and care service operating in a participating jurisdiction that has a working with children law.

(2) The approved provider of the education and care service must ensure that an unauthorised person does not remain at the education and care service premises while children are being educated and cared for at the premises unless the person is under the direct supervision of an educator or other staff member of the service.

Penalty: \$1000, in the case of an individual. \$5000, in any other case.

(3) The nominated supervisor of the education and care service must ensure that an unauthorised person does not remain at the education and care service premises while children are being educated and cared for at the premises unless the person is under the direct supervision of an educator or other staff member of the service.

Penalty: \$1000

(5) In this section—unauthorised person means a person who is not—

(a) a person who holds a current working with children check or working with children card; or

(b) a parent or family member of a child who is being educated and cared for by the education and care service or the family day care educator; or

(c) an authorised nominee of a parent or family member of a child who is being educated and cared for by the education and care service or the family day care educator; or

(d) in the case of an emergency, medical personnel or emergency service personnel; or

(e) a person who is permitted under the working with children law of this jurisdiction to remain at the education and care service premises without holding a working with children check or a working with children card.

As delegated Persons with Management or Control on behalf of the approved Provider, can you please ensure that a response to the email sent to [REDACTED] dated 3 July 2019, is forwarded to me by close of business today.

Kind Regards,

Janine Fairburn | Assistant Director

Phone 02 6205 4390 | Email : janine.fairburn@act.gov.au

Early Childhood Policy and Regulation | Education Directorate | ACT Government

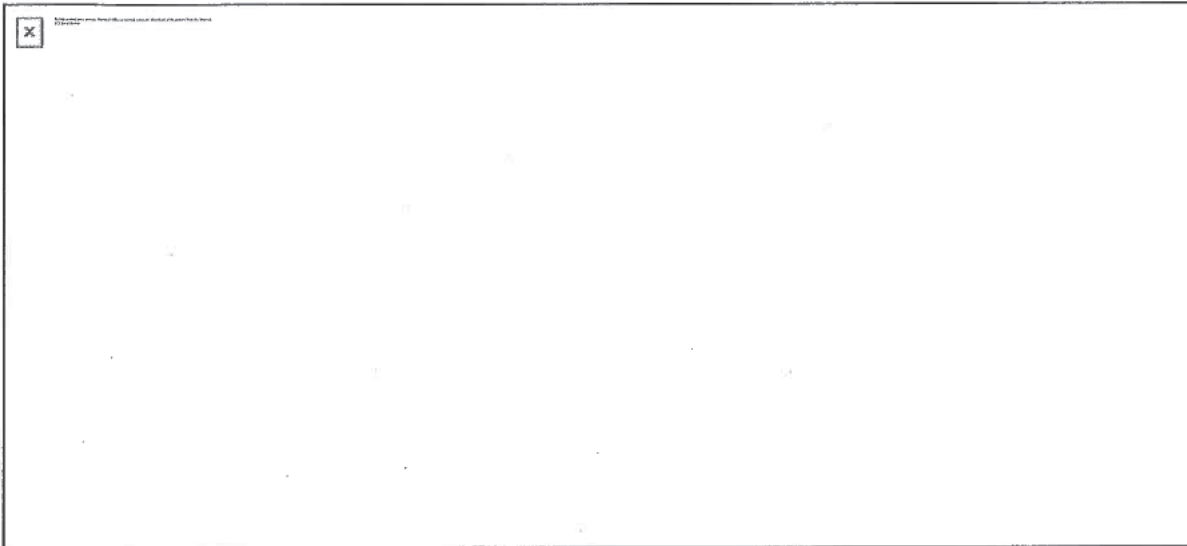
Hedley Beare Centre for Teaching and Learning, Stirling 2611 | PO Box 158, Canberra City 2601

www.act.gov.au

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ACT
Government

Chief Minister, Treasury and
Economic Development

WWVP (Background Checking) Act 2011

ABN 16 479 763 216

Telephone Enquiries 13 22 81
GPO Box 158 Canberra ACT 2601

Tax Invoice / Adjustment Notice

Receipt Date: 28/06/2019
Receipt Number: SJT320190628165817
Page: 1
CRN: 341062
Location: BELCONNEN

TAX INVOICE ITEMS

Accept WWVP Registration Application

Working With Vulnerable People Registration-Employee

Total Amount Due

Amount	GST	Total
85.00	0.00	85.00
85.00	0.00	85.00
Total Amount of GST Paid		0.00

Tendered Amount

CASH

Total Received

100.00

Refunds Issued

100.00

CASH

Total Refunds Issued

15.00

15.00

Fairburn, Janine

From: [redacted]
Sent: Monday, 8 July 2019 12:38 PM
To: Fairburn, Janine
Cc: [redacted]@bcc.act.edu.au; [redacted]@bcc.act.edu.au;
Subject: Re: Brindabella Christian College ELC - Charnwood campus

Dear Janine,

Sorry for any inconvenience as I am not aware of the detail of the e-mail traffic or the response deadlines. [redacted] has been dealing with some issues relating to [redacted]

[redacted]

[redacted] will get [redacted] to respond more formally, however, suffice to say [redacted] holds a [redacted] and had applied for [redacted] WWVP the week before coming to the Charnwood Campus on [redacted]

[redacted] will be the [redacted] was being shown the around the site accompanied by our [redacted] and holder of a current WWVP Card.

[redacted] is not working on site at all and was again on site on [redacted] to also go over the balance of the building with [redacted] our landlords [redacted] At all times as [redacted] was being shown around [redacted] and its other sub-tenants [redacted] was also accompanied by a [redacted] current WWVP Card holder.

[redacted] is not going to be working on site for some 2-3 weeks and would only do so fully accompanied while [redacted] is awaiting [redacted] WWVP Card to come through accordingly, and only in the [redacted] areas unless otherwise agreed and accompanied by our ELC Management with current WWVP Cards.

I trust this helps.

Regards [redacted]

[redacted]



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Sent from my iPhone

On 8 Jul 2019, at 12:02 pm, Fairburn, Janine <Janine.Fairburn@act.gov.au> wrote:

UNCLASSIFIED

Dear [REDACTED]

I am following up on a matter in the absence of my colleague, Tanya Masterman – I am aware that you both corresponded with her on 3 July 2019 in regard to information that the ACT Regulatory Authority received which alleges that the Provider was and is permitting an unauthorised person on the Service premises. The allegation received states that a [REDACTED] employee, [REDACTED] has commenced employment at the [REDACTED] without being the holder of a valid working with vulnerable person registration.

I am also aware that my colleague made enquiries via email to [REDACTED] noted as a person with management or control/delegate of the approved provider, on 3 July 2019 and that [REDACTED] referred this to the [REDACTED]. I further note that a response to the email was originally requested to be submitted to the regulatory Authority by close of business 3 July 2019.

Further to this, I spoke with [REDACTED] on 5 July 2019, who advised that [REDACTED] would respond to the email forwarded to [REDACTED] on 5 July 2019. I asked [REDACTED] to forward [REDACTED] response to my email at Janine.fairburn@act.gov.au. To date, no response has been received.

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A key objective of the National Law is to protect children in the context of education and care services. The Authority looks to exercising its powers to emphasise and require best practice, as the National Law requires, which is also inherently in the best interests of children.

The section of the National Law engaged by this allegation is as follows:

170 Offence relating to unauthorised persons on education and care service premises

(1) This section applies to an education and care service operating in a participating jurisdiction that has a working with children law.

(2) The approved provider of the education and care service must ensure that an unauthorised person does not remain at the education and care service premises while children are being educated and cared for at the premises unless the person is under the direct supervision of an educator or other staff member of the service.

Penalty: \$1000, in the case of an individual. \$5000, in any other case.

(3) The nominated supervisor of the education and care service must ensure that an unauthorised person does not remain at the education and care service premises while children are being educated and cared for at the premises unless the person is under the direct supervision of an educator or other staff member of the service.

Penalty: \$1000

(5) In this section—unauthorised person means a person who is not—

(a) a person who holds a current working with children check or working with children card; or

(b) a parent or family member of a child who is being educated and cared for by the education and care service or the family day care educator; or

(c) an authorised nominee of a parent or family member of a child who is being educated and cared for by the education and care service or the family day care educator;

or

- (d) in the case of an emergency, medical personnel or emergency service personnel;
- or
- (e) a person who is permitted under the working with children law of this jurisdiction to remain at the education and care service premises without holding a working with children check or a working with children card.

As delegated Persons with Management or Control, on behalf of the approved Provider, can you please ensure that a response to the email sent to Mr Kent, dated 3 July 2019, is forwarded to me by close of business today.

Kind Regards,

Janine Fairburn | Assistant Director

Phone 02 6205 4390 | Email : janine.fairburn@act.gov.au

Early Childhood Policy and Regulation | Education Directorate | ACT Government

Hedley Beare Centre for Teaching and Learning, Stirling 2611 | PO Box 158, Canberra City 2601

www.act.gov.au

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<image001.png>

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Fairburn, Janine

From: Masterman, Tanya
Sent: Wednesday, 17 July 2019 3:03 PM
To: [REDACTED]
Subject: Brindabella Christian College ELC - Charnwood - Show Cause Notice from ACT Regulatory Authority
Attachments: Show Cause Notice [REDACTED].pdf

UNCLASSIFIED

Dear [REDACTED]

I am an Authorised Officer under the *Education and Care Services Law (ACT)*. The Regulatory Authority recently received a complaint regarding your conduct towards children at the above service and carried out a formal investigation.

It has been determined by the Authority's Case Management Committee that there is sufficient evidence to warrant a show cause notice being issued to you, to provide you with an opportunity to respond to the allegations made.

The notice is attached, together with a guide to responding to a show cause notice. A hard copy is being sent by registered post today.

You will see that any response you wish to submit is due 14 days from the date of receipt of the notice.

Yours sincerely

Tanya Masterman | Senior Investigator
Phone 02 6205 2012 | Email tanya.masterman@act.gov.au
Early Childhood Policy and Regulation | Education | ACT Government
Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive, Stirling 2611
GPO Box 158 Canberra ACT 2601
www.education.act.gov.au | [Facebook](#) | [Twitter](#) | [Instagram](#) | [LinkedIn](#) | [CECA Facebook](#)

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- please notify the sender and delete all copies of this transmission along with any attachments immediately.
- you should not copy or use it for any purpose, nor disclose its contents to any other person.



Email: [REDACTED]

Dear [REDACTED]

Show Cause Notice – Proposed Compliance Action

1. Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, have recently investigated an allegation that you inappropriately disciplined a child on 14 May 2019 at Brindabella Christian College Early Learning Centre Charnwood SE-00011290 (the Service), operated by Brindabella Christian Education Ltd PR-00005809 (the Provider).
2. Electronic links to the *Education and Care Services National Law* (the Law), and the *Education and Care Services National Regulations* (the Regulations) are provided for your convenience at the end of this notice.
3. I am considering compliance action based on suspected contraventions of the Law indicated by evidence gathered during the investigation. Potential compliance actions include, but are not limited to, an Enforceable Undertaking or a Prohibition Notice, pursuant to sections 179A or 182 of the Law respectively.
4. The grounds for issuing this show cause notice arise from a direct complaint received by the Authority and subsequent investigation regarding your conduct on 14 May 2019 whilst employed at the Service.
5. I consider that your alleged conduct, if substantiated on the balance of probabilities, may pose an acceptable risk of harm to children, as you have been described as subjecting children in your care to inappropriate discipline. "Discipline" is any strategy employed by an educator with the intention of changing a child's behaviour. Discipline which is inappropriate within the meaning of the Law includes any form of physical punishment or any behaviour management strategy likely to cause emotional or physical harm to a child such as yelling, using threatening or humiliating language, isolating or shaming children.

Background

6. On 14 May 2019, a direct complaint was received by the Authority regarding your conduct towards [REDACTED] children [REDACTED] at the Service that day.

7. Evidence gathered supports two allegations of inappropriate discipline which engage offence provisions under the *Law*, and supports allegations of interacting inappropriately with children.

Allegations of Inappropriate Discipline

Allegation One

8. It is alleged that, on 14 May 2019, you told a child, [REDACTED]
- a. words to the effect of *"if you don't stop being naughty I'll send you somewhere else and you won't be able to come back here or see your mummy or daddy again"*; and
 - b. words to the effect of *"if you don't go to sleep right now, I'll call your mummy and daddy and tell them to not come and get you today"*

Evidence relevant to Allegation One

9. On 23 May 2019, a notice allowable under section 215 of the *Law* was sent to the Provider to obtain relevant documents. Documents obtained identified that:
- a. You were an educator employed by the Provider working at the Service on 14 May 2019;
 - b. You were working directly with children in the [REDACTED] on 14 May 2019 from 9:25 to 10:30am, from 10:45am to 1:30pm and from 2:30pm to 6:00pm;
 - c. [REDACTED] was a child enrolled in the [REDACTED] and present on 14 May 2019 from 8:41am to 4:38pm.
10. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
11. Relevant excerpts from Witness A's statement (obtained 24 May 2019) are:

a.

b.

c. ...

d.



Contravention Supported by Allegation Two

12. The evidence obtained by the Authority supports a contravention of the following section of the *Law*:

Section 166 – Offence to Use Inappropriate Discipline

- (3) A staff member of, or a volunteer at, an education and care service must not subject any child being educated and cared for by the service to-
- (a) any form of corporal punishment; or
 - (b) any discipline that is unreasonable in the circumstances.

Allegation Two

13. It is alleged that, on 14 May 2019, when [redacted] was at the lunch table and crying about wanting to go to bed, you took a spoonful of [redacted] lunch and put it in [redacted] mouth when [redacted] was yelling, held [redacted] chin to close [redacted] mouth and held [redacted] arms down when [redacted] tried to push your hands away.

Evidence relevant to Allegation Two

14. On 23 May 2019, a notice allowable under section 215 of the *Law* was sent to the Provider to obtain relevant documents. Documents obtained identified that:
- a. You were an educator employed by the Provider working at the Service on 14 May 2019;
 - b. You were working directly with children in the [redacted] on 14 May 2019 from 9:25 to 10:30am, from 10:45am to 1:30pm and from 2:30pm to 6:00pm;
 - c. [redacted] was a child enrolled in the [redacted] and present on 14 May 2019 from 7:37am to 5:12pm.
15. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
16. Relevant excerpts from Witness A's statement (obtained 24 May 2019) are:

a.



b.

c.

d.

e.

f.

Contravention Supported by Allegation Two

17. The evidence obtained by the Authority supports a contravention of the following section of the *Law*:

Section 166 – Offence to Use Inappropriate Discipline

- (3) A staff member of, or a volunteer at, an education and care service must not subject any child being educated and cared for by the service to-
- (a) any form of corporal punishment; or
 - (b) any discipline that is unreasonable in the circumstances.

Potential Compliance Actions

18. Should the allegation/s be substantiated, the statutory compliance actions available to the Authority to consider are a Prohibition Notice or Enforceable Undertaking, as set out below:

Section 182 of the Law – Grounds for issuing prohibition notice

- (1) The Regulatory Authority may give a prohibition notice to a person who is in any way involved in the provision of an education and care service if it considers that there may be an unacceptable risk of harm to a child or children if the person were allowed-
- a) To remain on the education the education and care service premises; or
 - b) To provide education and care to children.

Section 179A of the Law – Enforceable undertaking

- (1) This section applies-
- a) if a person has contravened, or if the Regulatory Authority alleges a person has contravened, a provision of this Law; or
 - b) in the circumstances set out in section 27(a), 72(a) or 184(3).

- (2) If subsection (1) (a) applies the Regulatory Authority may accept a written undertaking from the person under which the person undertakes to take certain actions, or refrain from taking certain actions, to comply with this Law.
- (4) If subsection (1)(b) applies in relation to a person other than the approved provider of an education and care service, the Regulatory Authority may accept a written undertaking from the person, under which the person undertakes to take certain actions, or refrain from taking certain actions in relation to an education and care service.

Effect of a Prohibition Notice

- 19. Should a decision be made to issue a Prohibition Notice, pursuant to section 182 of the *Law*, you would be immediately prohibited from doing any of the following:
 - a. providing education and care to children for an education and care service;
 - b. being engaged as a supervisor, educator, family day care educator, employee, contractor or staff member of, or being a volunteer at, an education and care service; or
 - c. carrying out any other activity relating to education and care services.

Effect of an Enforceable Undertaking

- 20. Should a decision be made to offer you an enforceable undertaking, under section 179A of the *Law*, and you accept the undertaking, failure to comply with any of its terms after acceptance allows the Authority to apply to the relevant tribunal or court for an order under section 181(2) of the *Law* to enforce the undertaking.

Right of response

- 21. You have a right to respond to the allegations set out in this notice. You may, within 14 days of receiving this letter, make a written submission for the Authority's consideration in deciding if a compliance action should be taken.
- 22. At Attachment A to this Notice is a '4 Step Guide to Responding to a Show Cause Notice' to assist in the development of your submission.
- 23. Please direct your written submission via email to Senior Investigator Tanya Masterman at tanya.masterman@act.gov.au or by post to:

Tanya Masterman
 Senior Investigator
 Children's Education and Care Assurance
 GPO Box 158
 CANBERRA ACT 2601.


Caution

- 24. Please be aware that it is an offence under section 295 of the *Law* to provide the Authority with false or misleading information or documents.

Legislation

25. The *Education and Care Services National Law Act 2010* (the *Law*) applies to you as an educator and to any service you may be employed at.
26. 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>.
27. The *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>
28. Should you have any questions about this Show Cause Notice please contact Tanya Masterman by telephone on (02) 6205 2012 or email to tanya.masterman@act.gov.au.

Yours sincerely,


Clare Brookes
Senior Director
Children's Education and Care Assurance
Early Childhood Regulation
Education Directorate

17 July 2019



4 Step Guide to Responding to a Show Cause Notice

This resource has been developed to assist you in responding to a Show Cause Notice.

Step 1: Read your Show Cause Notice and Identify the reasons that you have been required to show cause

The ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, has a function to monitor and enforce compliance in respect to Education and Care Services operating in the ACT. You can access the complete *Education and Care Services National Law Act (ACT) 2011 (the Law)* and the *Education and Care Services National Regulation (the Regulation)* at <http://www.acecqa.gov.au/national-law>.

If you are sent a Show Cause Notice, it is your opportunity to formally respond to the Authority to the allegations discussed in the notice. If you don't respond to the notice at all, or within the allowed timeframe, the Authority can only take into account what it already knows when deciding if any compliance action should be taken.

You should read your Show Cause Notice carefully, make note of the prescribed timeframe to respond (generally within 14 days) and the specific alleged contraventions of *Law* or *Regulation* that has resulted in you receiving a Show Cause Notice.

You may choose to consult a legal practitioner to assist you to understand your rights and responsibilities. Legal Aid ACT helps people in the ACT with their legal problems. You can call the Legal Aid Helpline on 1300654314 or visit <http://www.legalaidact.org.au/>

Step 2: Commence drafting your show cause response

It is important to note that:

- Your show cause response should be formal and formatted as an official business letter.
- Your show cause response must address each allegation set out in the notice.
- If your response is refuting allegations of non-compliance, then your response must clearly explain how, and why, the allegations are incorrect. Include any evidence to support your explanation.
- If your response is agreeing to non-compliance, then your response could explain the context within which the non-compliance occurred including what has led to the non-compliance.
- Your response could also set out any steps you have taken, or will take, and the strategies you have implemented to ensure future compliance.
- It is strongly recommended that you include any documentation or evidence supporting your response. Supporting documentation will be used as evidence by the Authority in

considering an outcome. Depending on your circumstances, your supporting documentation may differ. Some examples of supporting documentation include employment records, attendance rosters, policy and procedure, photographs, records of communication and incident reports.

- Please note that it is a criminal offence to supply false and misleading information. Any documents, or evidence, must be genuine.

Step 3: Analyse and reflect on your show cause response

Remember, responding to a show cause notice is your opportunity to address allegations put to you in relation to a specific incident or circumstance.

Generally Part 6 of the *Law* sets out the majority of the specific offences related to operating an education and care service. Read through your response to the Show Cause Notice and confirm that all allegations have been addressed. Each separate alleged offence will be clearly outlined in the Show Cause Notice under a bold heading starting with the relevant section of *Law* or *Regulation*. Your response should also address allegations in the same way with clear references given for any attachment of supportive documentation/evidence.

Part 7 sets out the majority of the compliance actions that may be taken by the Authority in circumstances where offences have been found with the Law. The Show Cause Notice will indicate if the range of actions or a specific action is being considered by the Authority. In circumstances where your response is agreeing to any non-compliances, you may wish to suggest a compliance action that you feel is fair and appropriate in the circumstances.

Have you attached all relevant supportive evidence? Ensure that documentation you attach to your response is evidence to support any claims or statements you have made in regard to your compliance.

If you feel you haven't been afforded enough time to respond, contact the Authorised Officer identified in the Show Cause Notice as soon as you identify that you may need more time – extension for response is allowable dependant on the circumstances.

You can also contact an Authorised Officer if you have any questions about the Show Cause Notice or need some clarity in regards to specific requirements for response. Be aware that an Authorised Officer will not be able to assist you in how to word your response.

Step 4: Submit your show cause response

It is suggested that you should always make two copies of your show cause response and ensure you obtain proof of your submission.

If sending your response by email, request a read receipt. If sending by post, send via registered post to confirm receipt or request that the Authorised Officer who receives your submission notify you.

Fairburn, Janine

From: Masterman, Tanya
Sent: Wednesday, 17 July 2019 3:03 PM
To: [REDACTED]
Subject: Brindabella Christian College ELC - Charnwood - Show Cause Notice from ACT Regulatory Authority
Attachments: Show Cause Notice [REDACTED].pdf

UNCLASSIFIED

Dear [REDACTED]

I am an Authorised Officer under the *Education and Care Services Law (ACT)*. The Regulatory Authority recently received a complaint regarding your conduct towards children at the above service and carried out a formal investigation.

It has been determined by the Authority's Case Management Committee that there is sufficient evidence to warrant a show cause notice being issued to you, to provide you with an opportunity to respond to the allegations made.

The notice is attached, together with a guide to responding to a show cause notice. A hard copy is being sent by registered post today.

You will see that any response you wish to submit is due 14 days from the date of receipt of the notice.

Yours sincerely

Tanya Masterman | Senior Investigator
Phone 02 6205 2012 | Email tanya.masterman@act.gov.au
Early Childhood Policy and Regulation | Education | ACT Government
Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive, Stirling 2611
GPO Box 158 Canberra ACT 2601
www.education.act.gov.au | [Facebook](#) | [Twitter](#) | [Instagram](#) | [LinkedIn](#) | [CECA Facebook](#)

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Email: [REDACTED]

Dear [REDACTED]

Show Cause Notice – Proposed Compliance Action

1. Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, have recently investigated an allegation that you inappropriately disciplined a child on 14 May 2019 at Brindabella Christian College Early Learning Centre Charnwood SE-00011290 (the Service), operated by Brindabella Christian Education Ltd PR-00005809 (the Provider).
2. Electronic links to the *Education and Care Services National Law* (the *Law*), and the *Education and Care Services National Regulations* (the *Regulations*) are provided for your convenience at the end of this notice.
3. I am considering compliance action based on a suspected contravention of the *Law* indicated by evidence gathered during the investigation. Potential compliance actions include, but are not limited to, an Enforceable Undertaking or a Prohibition Notice, pursuant to sections 179A or 182 of the *Law* respectively.
4. The grounds for issuing this show cause notice arise from a direct complaint received by the Authority and subsequent investigation regarding your conduct on 14 May 2019 whilst employed at the Service.
5. I consider that your alleged conduct, if substantiated on the balance of probabilities, may pose an acceptable risk of harm to children, as you have been described as subjecting a child in your care to inappropriate discipline. "Discipline" is any strategy employed by an educator with the intention of changing a child's behaviour. Discipline which is inappropriate within the meaning of the *Law* includes any form of physical punishment or any behaviour management strategy likely to cause emotional or physical harm to a child such as yelling, using threatening or humiliating language, isolating or shaming children.

Background

6. On 14 May 2019, a direct complaint was received by the Authority regarding your conduct towards a child [REDACTED] at the Service that day.

7. Evidence gathered supports an allegation of inappropriate discipline which engages an offence provision under the *Law*.

Allegation of Inappropriate Discipline

8. It is alleged that, on 14 May 2019, lunch was being served in the [REDACTED] and [REDACTED] [REDACTED] was laying in [REDACTED] bed, you:
- a. Removed [REDACTED] from [REDACTED] bed and pulled [REDACTED] by the arm to the table, while [REDACTED] was crying and yelling that [REDACTED] wanted to go to bed; and
 - b. When [REDACTED] went back to [REDACTED] bed, you again removed [REDACTED] from [REDACTED] bed and dragged [REDACTED] to the table, while [REDACTED] was crying and yelling that [REDACTED] wanted to go to bed.

Evidence relevant to Allegation

9. On 23 May 2019, a notice allowable under section 215 of the *Law* was sent to the Provider to obtain relevant documents. Documents obtained identified that:
- a. You were an educator employed by the Provider working at the Service on 14 May 2019;
 - b. You were working directly with children in the [REDACTED] on 14 May 2019 from 7:10-10:00am, from 10:15am to 12:30pm, and from 1:30 to 3:45pm;
 - c. [REDACTED] was a child enrolled in the [REDACTED] and present on 14 May 2019 from 7:37am to 5:12pm.
 - d. The Sleeping and Rest Requirements Policy states that educators will:
 - i. *Ensure that those children who do wish to sleep are allowed to do so, without being disrupted. If a child requests a rest, or if they are showing clear signs of tiredness, regardless of the time of day, there should be a comfortable, safe area available for them to rest (if required);*
 - ii. *Respond to children's individual cues for sleep (yawning, rubbing eyes, disengagement from activities, crying etc).*

Refer Attachment A – Sleeping and Rest Requirements Policy

10. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
11. Relevant excerpts from Witness A's statement (obtained 24 May 2019) are:

a. [REDACTED]

b.



c.



d.



e.



f.



Contravention Supported by Allegation

12. The evidence obtained by the Authority supports a contravention of the following section of the *Law*:

Section 166 – Offence to Use Inappropriate Discipline

- (3) A staff member of, or a volunteer at, an education and care service must not subject any child being educated and cared for by the service to-
- (a) any form of corporal punishment; or
 - (b) any discipline that is unreasonable in the circumstances.

Potential Compliance Actions

13. Should the allegation be substantiated, the statutory compliance actions available to the Authority to consider are a Prohibition Notice or Enforceable Undertaking, as set out below:

Section 182 of the Law – Grounds for issuing prohibition notice

- (1) The Regulatory Authority may give a prohibition notice to a person who is in any way involved in the provision of an education and care service if it considers that there may be an unacceptable risk of harm to a child or children if the person were allowed-
- a) To remain on the education the education and care service premises; or
 - b) To provide education and care to children.

Section 179A of the Law – Enforceable undertaking

- (1) This section applies-

- a) if a person has contravened, or if the Regulatory Authority alleges a person has contravened, a provision of this Law; or
 - b) in the circumstances set out in section 27(a), 72(a) or 184(3).
- (2) If subsection (1) (a) applies the Regulatory Authority may accept a written undertaking from the person under which the person undertakes to take certain actions, or refrain from taking certain actions, to comply with this Law.
- (4) If subsection (1)(b) applies in relation to a person other than the approved provider of an education and care service, the Regulatory Authority may accept a written undertaking from the person, under which the person undertakes to take certain actions, or refrain from taking certain actions in relation to an education and care service.

Effect of a Prohibition Notice

14. Should a decision be made to issue a Prohibition Notice, pursuant to section 182 of the Law, you would be immediately prohibited from doing any of the following:
- a. providing education and care to children for an education and care service;
 - b. being engaged as a supervisor, educator, family day care educator, employee, contractor or staff member of, or being a volunteer at, an education and care service; or
 - c. carrying out any other activity relating to education and care services.

Effect of an Enforceable Undertaking

15. Should a decision be made to offer you an enforceable undertaking, under section 179A of the Law, and you accept the undertaking, failure to comply with any of its terms after acceptance allows the Authority to apply to the relevant tribunal or court for an order under section 181(2) of the Law to enforce the undertaking.

Right of response

16. You have a right to respond to the allegations set out in this notice. You may, within 14 days of receiving this letter, make a written submission for the Authority's consideration in deciding if a compliance action should be taken.
17. At Attachment B to this Notice is a '4 Step Guide to Responding to a Show Cause Notice' to assist in the development of your submission.
18. Please direct your written submission via email to Senior Investigator Tanya Masterman at tanya.masterman@act.gov.au or by post to:

Tanya Masterman
 Senior Investigator
 Children's Education and Care Assurance
 GPO Box 158
 CANBERRA ACT 2601

Caution

19. Please be aware that it is an offence under section 295 of the *Law* to provide the Authority with false or misleading information or documents.

Legislation

20. The *Education and Care Services National Law Act 2010* (the *Law*) applies to you as an educator and to any service you may be employed at.
21. 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>.
22. The *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>
23. Should you have any questions about this Show Cause Notice please contact Tanya Masterman by telephone on (02) 6205 2012 or email to tanya.masterman@act.gov.au.

Yours sincerely



Clare Brookes
Senior Director
Children's Education and Care Assurance
Early Childhood Regulation
Education Directorate

17 July 2019



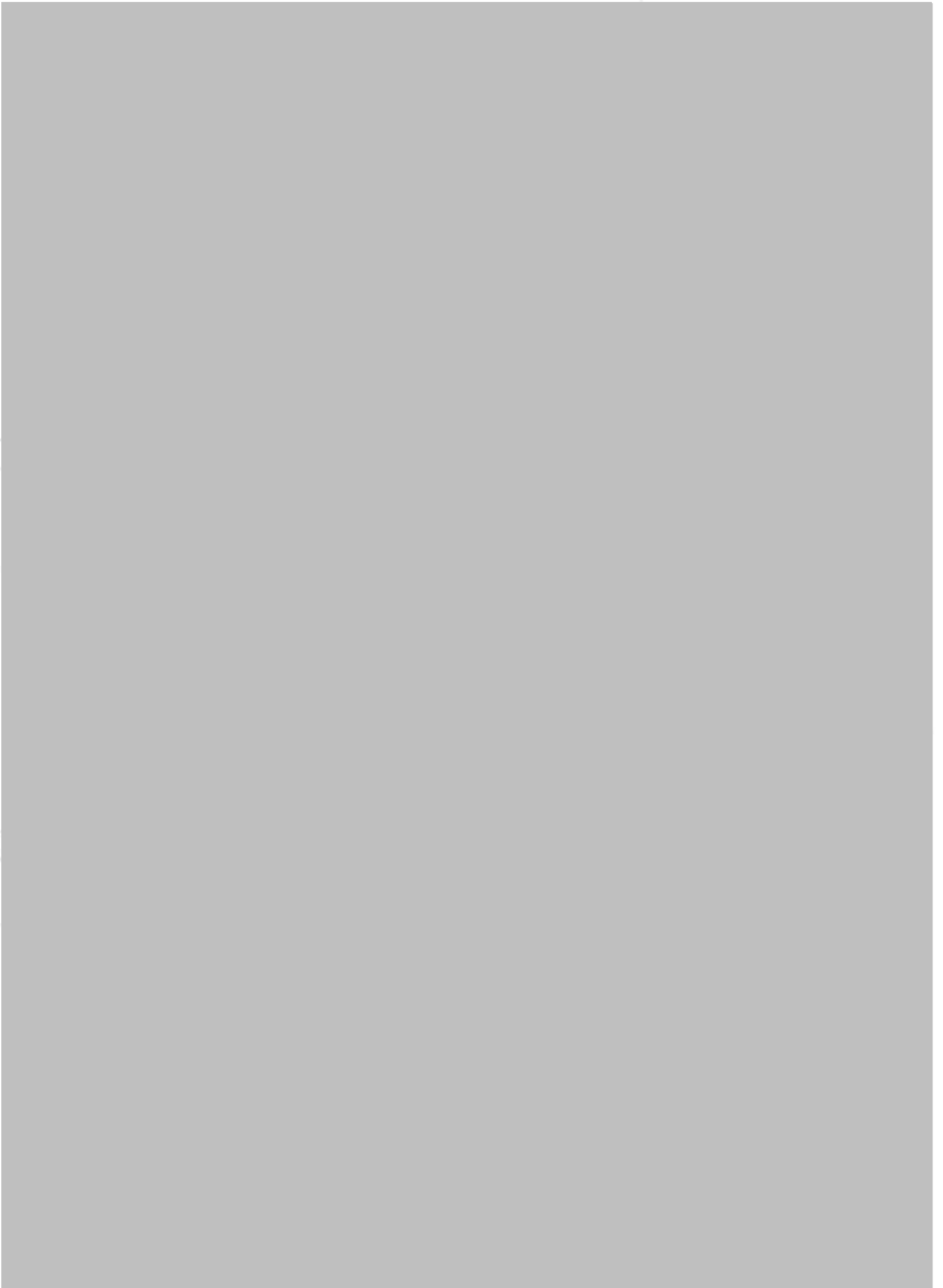
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CHRISTIAN COLLEGE

CANBERRA

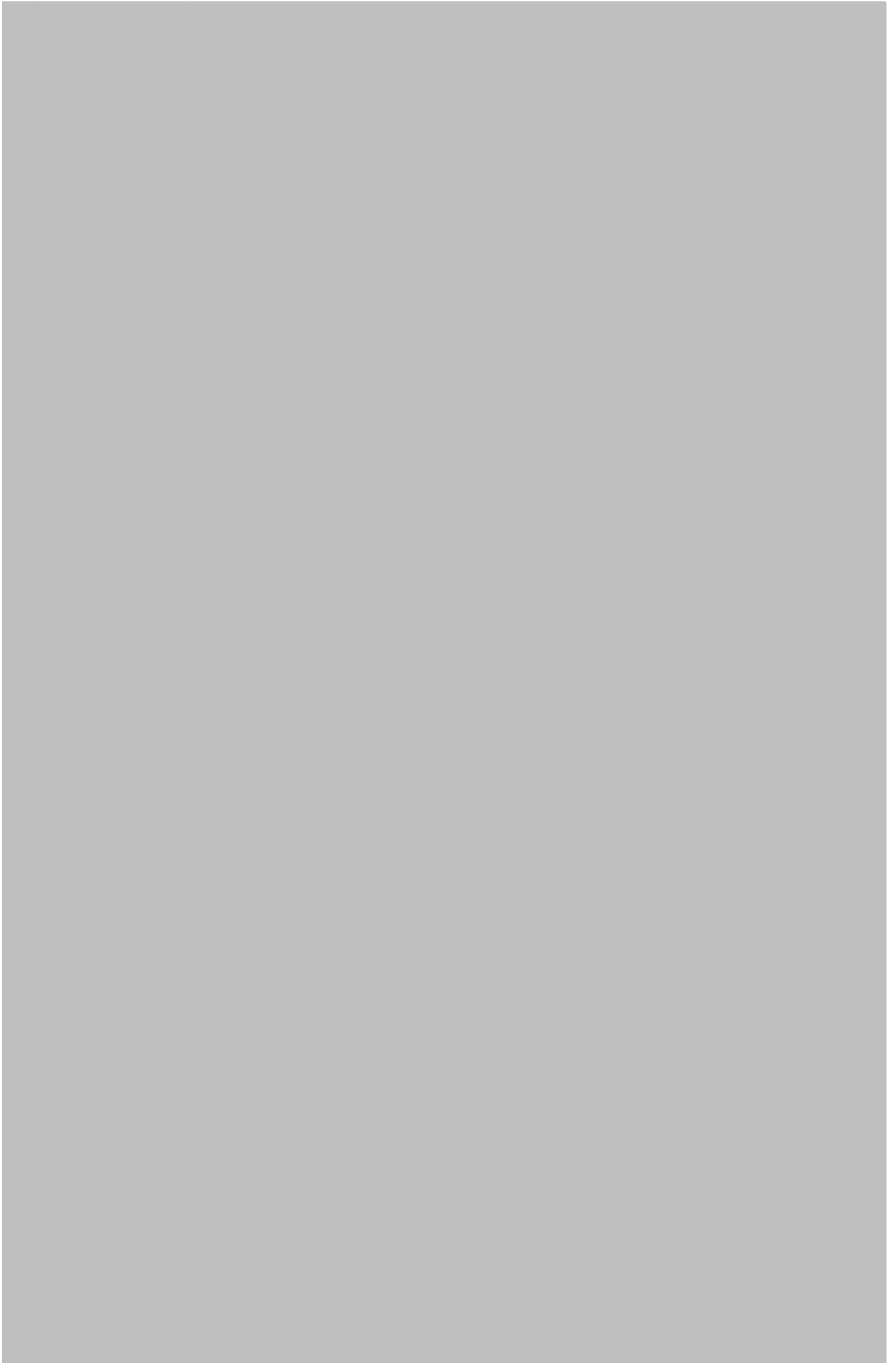
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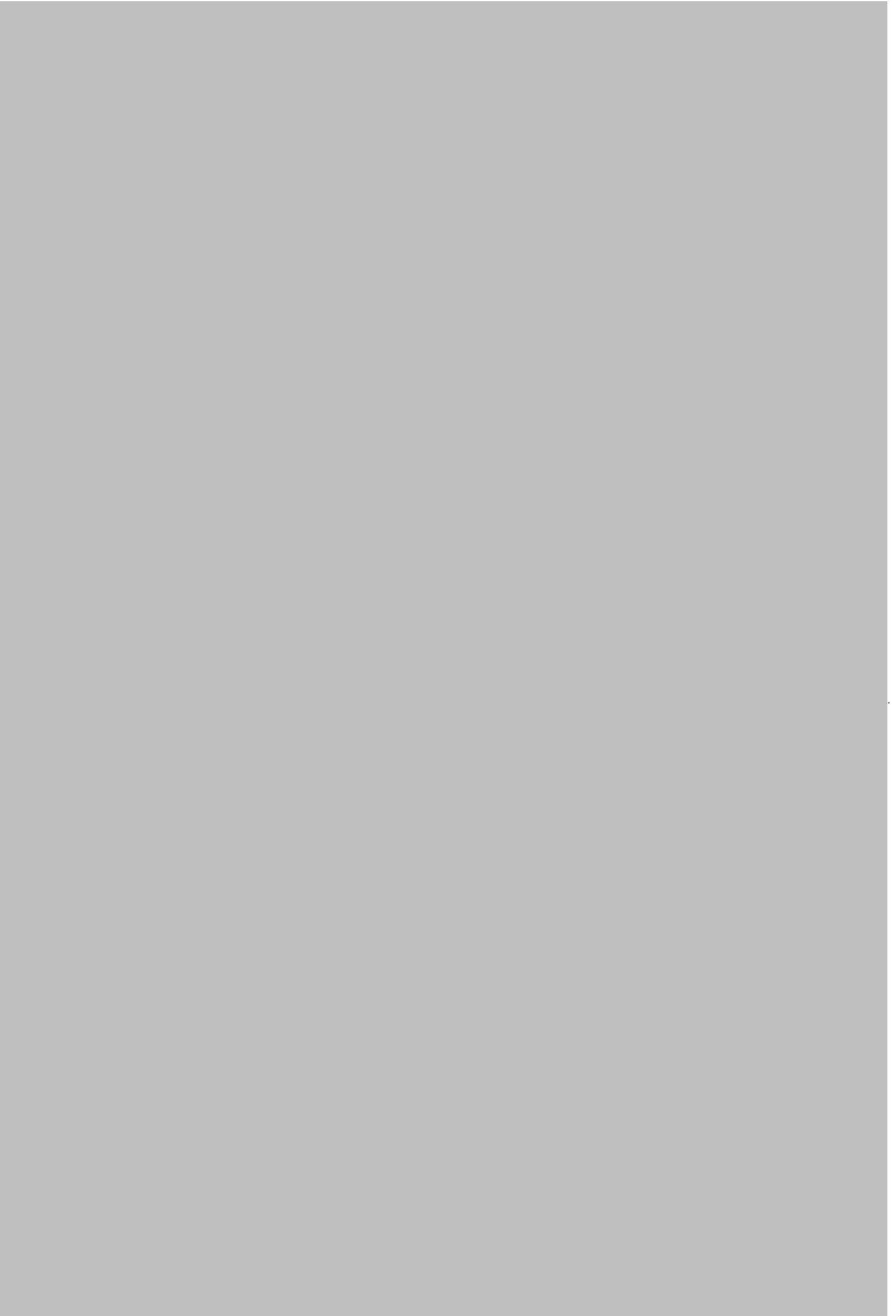
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Policy

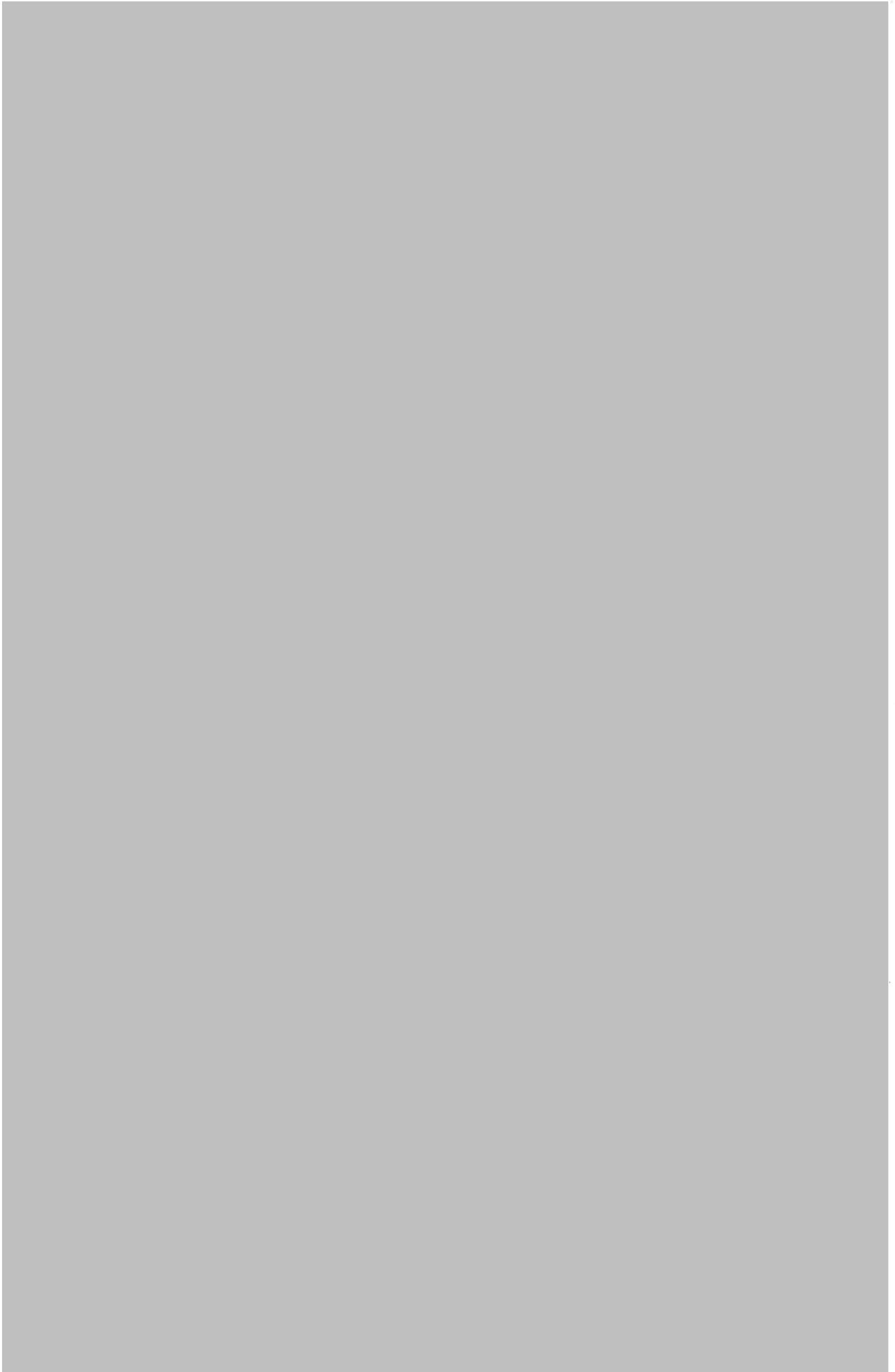
Updated August 2018 | due to be revised August 2021

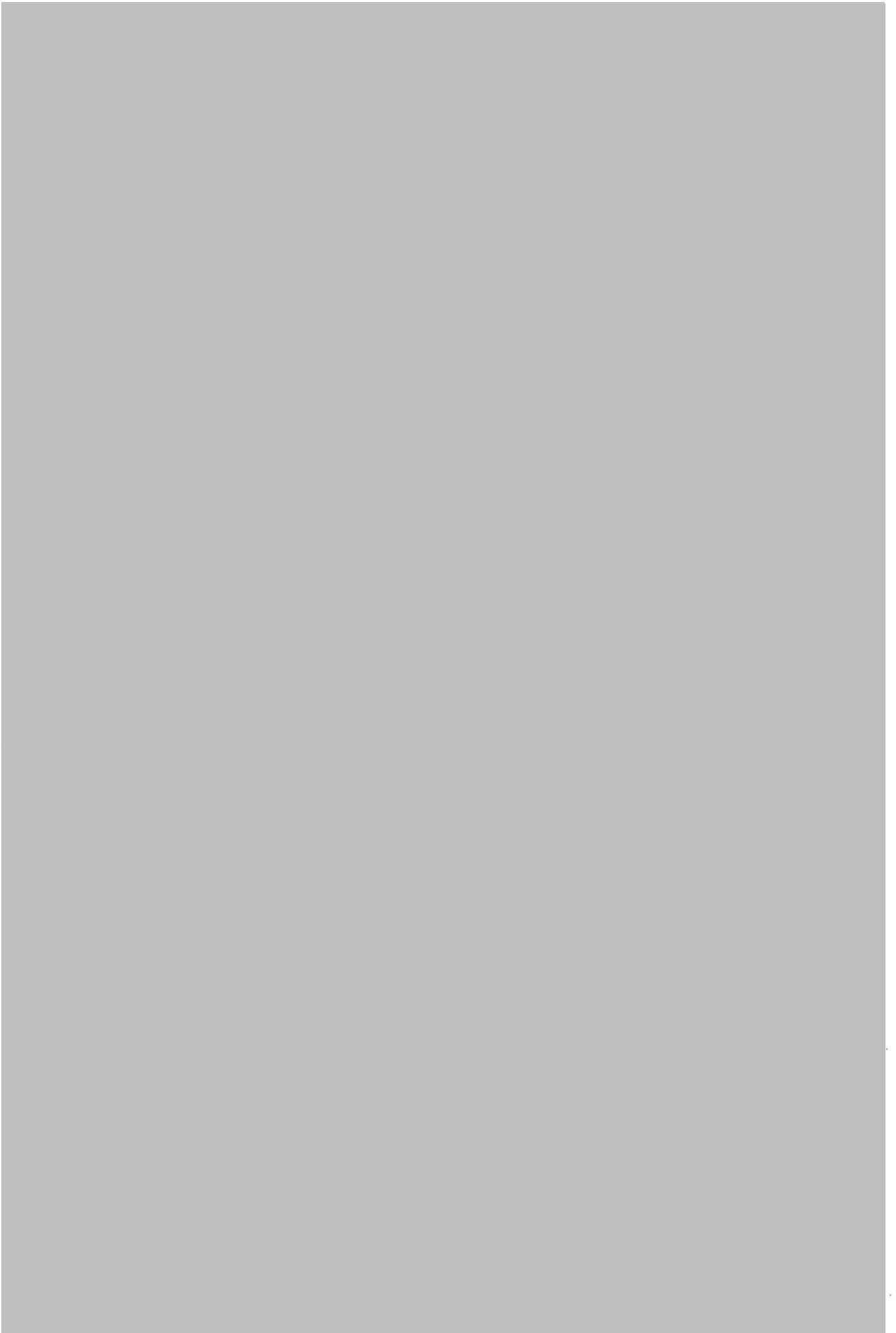


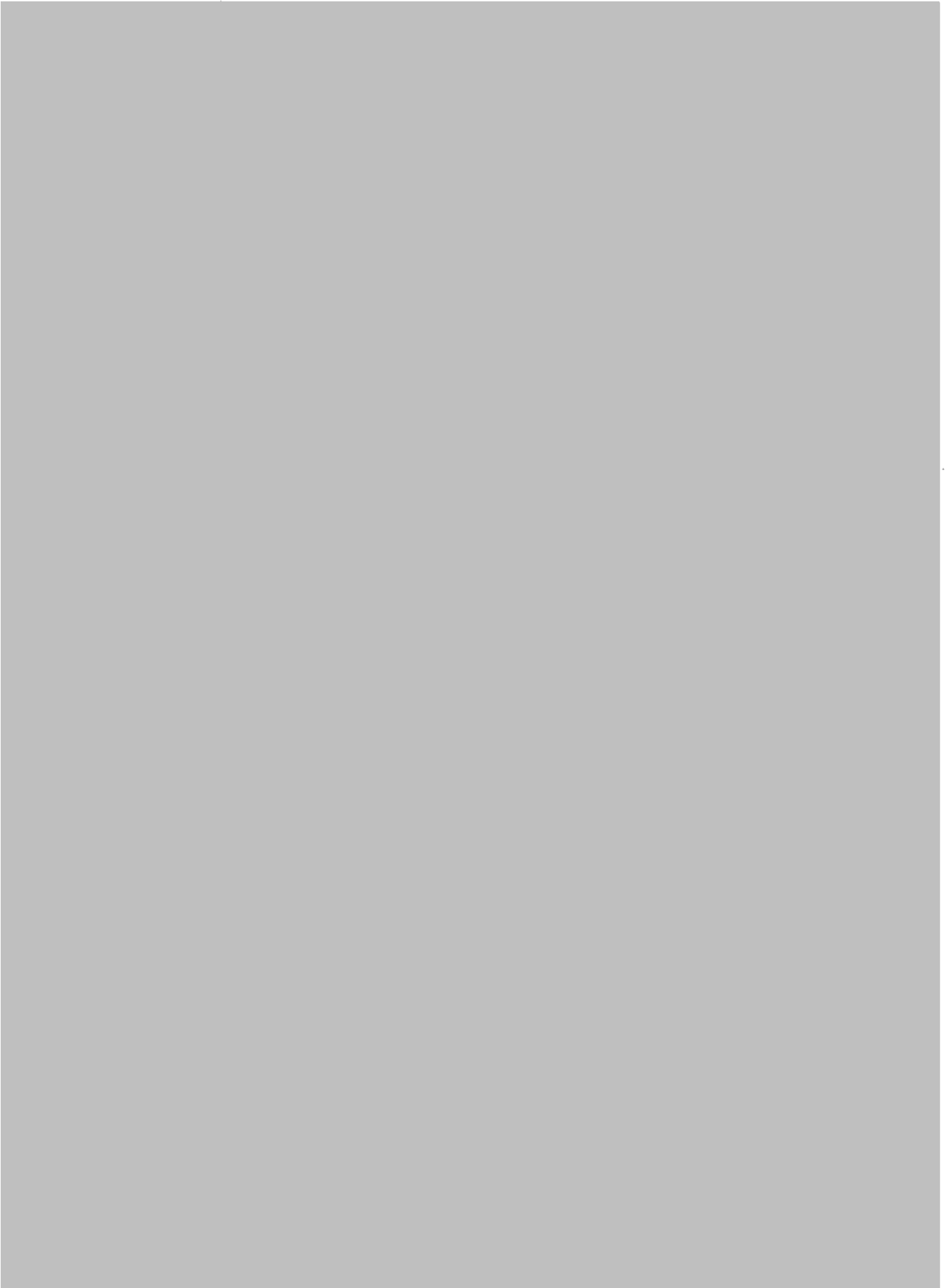














4 Step Guide to Responding to a Show Cause Notice

This resource has been developed to assist you in responding to a Show Cause Notice.

Step 1: Read your Show Cause Notice and Identify the reasons that you have been required to show cause

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If you are sent a Show Cause Notice, it is your opportunity to formally respond to the Authority to the allegations discussed in the notice. If you don't respond to the notice at all, or within the allowed timeframe, the Authority can only take into account what it already knows when deciding if any compliance action should be taken.

You should read your Show Cause Notice carefully, make note of the prescribed timeframe to respond (generally within 14 days) and the specific alleged contraventions of *Law* or *Regulation* that has resulted in you receiving a Show Cause Notice.

You may choose to consult a legal practitioner to assist you to understand your rights and responsibilities. Legal Aid ACT helps people in the ACT with their legal problems. You can call the Legal Aid Helpline on 1300654314 or visit <http://www.legalaidact.org.au/>

Step 2: Commence drafting your show cause response

It is important to note that:

- Your show cause response should be formal and formatted as an official business letter.
- Your show cause response must address each allegation set out in the notice.
- If your response is refuting allegations of non-compliance, then your response must clearly explain how, and why, the allegations are incorrect. Include any evidence to support your explanation.
- If your response is agreeing to non-compliance, then your response could explain the context within which the non-compliance occurred including what has led to the non-compliance.
- Your response could also set out any steps you have taken, or will take, and the strategies you have implemented to ensure future compliance.
- It is strongly recommended that you include any documentation or evidence supporting your response. Supporting documentation will be used as evidence by the Authority in

considering an outcome. Depending on your circumstances, your supporting documentation may differ. Some examples of supporting documentation include employment records, attendance rosters, policy and procedure, photographs, records of communication and incident reports.

- Please note that it is a criminal offence to supply false and misleading information. Any documents, or evidence, must be genuine.

Step 3: Analyse and reflect on your show cause response

Remember, responding to a show cause notice is your opportunity to address allegations put to you in relation to a specific incident or circumstance.

Generally Part 6 of the *Law* sets out the majority of the specific offences related to operating an education and care service. Read through your response to the Show Cause Notice and confirm that all allegations have been addressed. Each separate alleged offence will be clearly outlined in the Show Cause Notice under a bold heading starting with the relevant section of *Law* or *Regulation*. Your response should also address allegations in the same way with clear references given for any attachment of supportive documentation/evidence.

Part 7 sets out the majority of the compliance actions that may be taken by the Authority in circumstances where offences have been found with the *Law*. The Show Cause Notice will indicate if the range of actions or a specific action is being considered by the Authority. In circumstances where your response is agreeing to any non-compliances, you may wish to suggest a compliance action that you feel is fair and appropriate in the circumstances.

Have you attached all relevant supportive evidence? Ensure that documentation you attach to your response is evidence to support any claims or statements you have made in regard to your compliance.

If you feel you haven't been afforded enough time to respond, contact the Authorised Officer identified in the Show Cause Notice as soon as you identify that you may need more time – extension for response is allowable dependant on the circumstances.

You can also contact an Authorised Officer if you have any questions about the Show Cause Notice or need some clarity in regards to specific requirements for response. Be aware that an Authorised Officer will not be able to assist you in how to word your response.

Step 4: Submit your show cause response

It is suggested that you should always make two copies of your show cause response and ensure you obtain proof of your submission.

If sending your response by email, request a read receipt. If sending by post, send via registered post to confirm receipt or request that the Authorised Officer who receives your submission notify you.

Fairburn, Janine

From: Masterman, Tanya
Sent: Wednesday, 17 July 2019 3:04 PM
To: [REDACTED]
Subject: Brindabella Christian College ELC - Charnwood - Show Cause Notice from ACT Regulatory Authority
Attachments: Show Cause Notice [REDACTED].pdf

UNCLASSIFIED

Dear [REDACTED]

I am an Authorised Officer under the *Education and Care Services Law (ACT)*. The Regulatory Authority recently received a complaint regarding the conduct of educators towards children at the above service and carried out a formal investigation.

It has been determined by the Authority's Case Management Committee that there is sufficient evidence to warrant a show cause notice being issued to you as [REDACTED] to provide you with an opportunity to respond to the allegations made.

The notice is attached, together with a guide to responding to a show cause notice. Please advise if you would like a hard copy sent by post.

You will see that any response you wish to submit is due 14 days from the date of receipt of the notice.

Yours sincerely

Tanya Masterman | Senior Investigator
Phone 02 6205 2012 | Email tanya.masterman@act.gov.au
Early Childhood Policy and Regulation | Education | ACT Government
Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive, Stirling 2611
PO Box 158 Canberra ACT 2601
www.education.act.gov.au | [Facebook](#) | [Twitter](#) | [Instagram](#) | [LinkedIn](#) | [CECA Facebook](#)

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- you should not copy or use it for any purpose, nor disclose its contents to any other person.



[REDACTED]
 Brindabella Christian College Early Learning Centre – Charnwood

Email: [REDACTED]

Dear [REDACTED]

Show Cause Notice – Proposed Compliance Action

1. Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, have recently investigated allegations of inappropriate discipline and inappropriate interactions by educators at Brindabella Christian College Early Learning Centre Charnwood SE-00011290 (the Service), operated by [REDACTED] PR-00005809 (the Provider).
2. Records confirm that you were the [REDACTED] at the relevant time.
3. Electronic links to the *Education and Care Services National Law* (the Law), and the *Education and Care Services National Regulations* (the Regulations) are provided for your convenience at the end of this notice.
4. I am considering compliance action based on suspected contraventions of the Law indicated by evidence gathered during the investigation. Potential compliance actions include, but are not limited to, an Enforceable Undertaking under section 179A.
5. The grounds for issuing this show cause notice arise from a direct complaint received by the Authority and subsequent investigation regarding the conduct of educators on 14 May 2019 whilst employed at the Service.

Background

6. On 14 May 2019, a direct complaint was received by the Authority regarding the conduct of [REDACTED] educators, being [REDACTED] in the [REDACTED] at the Service that day.
7. On 23 May 2019, a notice allowable under section 215 of the Law was sent to the Provider to obtain relevant documents, including:
 - a. Working Directly with Children records;
 - b. Child attendance records;
 - c. Staff records; and

- d. Relevant policies and procedures.
8. Evidence gathered supports three allegations of inappropriate discipline which engage offence provisions under the *Law*.

Allegation One

9. It is alleged that, on 14 May 2019 [REDACTED] told a child, [REDACTED]
- a. words to the effect of *"if you don't stop being naughty I'll send you somewhere else and you won't be able to come back here or see your mummy or daddy again"*; and
 - b. words to the effect of *"if you don't go to sleep right now, I'll call your mummy and daddy and tell them to not come and get you today"*

Evidence relevant to Allegation One

10. Documents produced from the Provider identified that:
- a. [REDACTED] was an educator employed by the Provider working at the Service on 14 May 2019;
 - b. [REDACTED] was working directly with children in the [REDACTED] on 14 May 2019 from 9:25 to 10:30am, from 10:45am to 1:30pm and from 2:30pm to 6:00pm;
 - c. [REDACTED] was a child enrolled in the [REDACTED] and present on 14 May 2019 from 8:41am to 4:38pm.
11. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
12. Relevant excerpts from Witness A's statement are:
- a. *I was concerned about the way the staff were yelling at and threatening children as a way to manage behaviour.*

b.

c. ...

d.

Contravention Supported by Allegation One

13. The evidence obtained by the Authority relevant to Allegation One supports a contravention of the following section of the *Law*, being an offence of strict liability:

Section 166 – Offence to Use Inappropriate Discipline

- (2) A nominated supervisor of an education and care service must ensure that no child being educated and cared for by the service is subjected to-
- (a) any form of corporal punishment; or
 - (b) any discipline that is unreasonable in the circumstances.

Allegation Two

14. It is alleged that, on 14 May 2019, when lunch was being served in the [redacted] room and [redacted] had put [redacted] to bed, [redacted]
- a. Removed [redacted] from [redacted] bed and pulled [redacted] by the arm to the table, while [redacted] was crying and yelling that [redacted] wanted to go to bed; and
 - b. When [redacted] went back to [redacted] bed, [redacted] again removed [redacted] from [redacted] bed and dragged [redacted] to the table, while [redacted] was crying and yelling that [redacted] wanted to go to bed.

Evidence relevant to Allegation Two

15. Documents produced by the Provider identified that:
- a. [redacted] was an educator employed by the Provider working at the Service on 14 May 2019;
 - b. [redacted] was working directly with children in the [redacted] room on 14 May 2019 from 7:10-10:00am, from 10:15am to 12:30pm, and from 1:30 to 3:45pm;
 - c. [redacted] was a child enrolled in the [redacted] room and present on 14 May 2019 from 7:37am to 5:12pm.

16. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
17. Relevant excerpts from Witness A's statement are:

- a.
- b.
- c.
- d.
- e.
- f.



Contravention Supported by Allegation Two

18. The evidence obtained by the Authority relevant to Allegation Two supports a contravention of section 166 of the *Law*, as appears in paragraph 13 of this notice.

Allegation Three

19. It is alleged that, on 14 May 2019, when [redacted] was at the lunch table and crying about wanting to go to bed [redacted] took a spoonful of [redacted] lunch and put it in [redacted] mouth when [redacted] was yelling, held [redacted] chin to close [redacted] mouth and held [redacted] arms down when [redacted] tried to push [redacted] hands away.

Evidence relevant to Allegation Three

20. On 23 May 2019, a notice allowable under section 215 of the *Law* was sent to the Provider to obtain relevant documents. Documents obtained identified that:

- a. [REDACTED] was an educator employed by the Provider working at the Service on 14 May 2019;
 - b. [REDACTED] was working directly with children in the [REDACTED] room on 14 May 2019 from 9:25 to 10:30am, from 10:45am to 1:30pm and from 2:30pm to 6:00pm;
 - c. [REDACTED] was a child enrolled in the [REDACTED] room and present on 14 May 2019 from 7:37am to 5:12pm.
21. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
22. Relevant excerpts from Witness A's statement are:

- a.
- b.
- c.
- d.
- e.
- f.



Contravention Supported by Allegation Three

23. The evidence obtained by the Authority supports a contravention of section 166 of the Law, as appears in paragraph 13 of this notice.

Potential Compliance Actions

24. Should the allegations (or any of them) be substantiated, the statutory actions available to the Authority to consider include, but are not limited to, an Enforceable Undertaking under section 179A of the Law as set out below:

Section 179A of the Law – Enforceable undertaking

- (1) This section applies-
 - a) if a person has contravened, or if the Regulatory Authority alleges a person has contravened, a provision of this Law; or
 - b) in the circumstances set out in section 27(a), 72(a) or 184(3).
- (2) If subsection (1) (a) applies the Regulatory Authority may accept a written undertaking from the person under which the person undertakes to take certain actions, or refrain from taking certain actions, to comply with this Law.
- (4) If subsection (1)(b) applies in relation to a person other than the approved provider of an education and care service, the Regulatory Authority may accept a written undertaking from the person, under which the person undertakes to take certain actions, or refrain from taking certain actions in relation to an education and care service.

Right of response

25. You have a right to respond to the allegations set out in this notice. You may, within 14 days of receiving this letter, make a written submission for the Authority's consideration in deciding if a compliance action should be taken.
26. At Attachment A to this Notice is a '4 Step Guide to Responding to a Show Cause Notice' to assist in the development of your submission.
27. Please direct your written submission via email to Senior Investigator Tanya Masterman at tanya.masterman@act.gov.au or by post to:

Tanya Masterman
 Senior Investigator
 Children's Education and Care Assurance
 GPO Box 158
 CANBERRA ACT 2601

Caution

28. Please be aware that it is an offence under section 295 of the *Law* to provide the Authority with false or misleading information or documents.

Legislation

29. The *Education and Care Services National Law Act 2010* (the *Law*) applies to you as a Nominated Supervisor.
30. 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* 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>
32. Should you have any questions about this Show Cause Notice please contact Tanya Masterman by telephone on (02) 6205 2012 or email to tanya.masterman@act.gov.au.

Yours sincerely,



Clare Brookes
Senior Director
Children's Education and Care Assurance
Early Childhood Regulation
Education Directorate

17 July 2019



4 Step Guide to Responding to a Show Cause Notice

This resource has been developed to assist you in responding to a Show Cause Notice.

Step 1: Read your Show Cause Notice and Identify the reasons that you have been required to show cause

The ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, has a function to monitor and enforce compliance in respect to Education and Care Services operating in the ACT. You can access the complete *Education and Care Services National Law Act (ACT) 2011* (the Law) and the *Education and Care Services National Regulation* (the Regulation) at <http://www.acecqa.gov.au/national-law>.

If you are sent a Show Cause Notice, it is your opportunity to formally respond to the Authority to the allegations discussed in the notice. If you don't respond to the notice at all, or within the allowed timeframe, the Authority can only take into account what it already knows when deciding if any compliance action should be taken.

You should read your Show Cause Notice carefully, make note of the prescribed timeframe to respond (generally within 14 days) and the specific alleged contraventions of *Law* or *Regulation* that has resulted in you receiving a Show Cause Notice.

You may choose to consult a legal practitioner to assist you to understand your rights and responsibilities. Legal Aid ACT helps people in the ACT with their legal problems. You can call the Legal Aid Helpline on 1300654314 or visit <http://www.legalaidact.org.au/>

Step 2: Commence drafting your show cause response

It is important to note that:

- Your show cause response should be formal and formatted as an official business letter.
- Your show cause response must address each allegation set out in the notice.
- If your response is refuting allegations of non-compliance, then your response must clearly explain how, and why, the allegations are incorrect. Include any evidence to support your explanation.
- If your response is agreeing to non-compliance, then your response could explain the context within which the non-compliance occurred including what has led to the non-compliance.
- Your response could also set out any steps you have taken, or will take, and the strategies you have implemented to ensure future compliance.
- It is strongly recommended that you include any documentation or evidence supporting your response. Supporting documentation will be used as evidence by the Authority in

considering an outcome. Depending on your circumstances, your supporting documentation may differ. Some examples of supporting documentation include employment records, attendance rosters, policy and procedure, photographs, records of communication and incident reports.

- Please note that it is a criminal offence to supply false and misleading information. Any documents, or evidence, must be genuine.

Step 3: Analyse and reflect on your show cause response

Remember, responding to a show cause notice is your opportunity to address allegations put to you in relation to a specific incident or circumstance.

Generally Part 6 of the *Law* sets out the majority of the specific offences related to operating an education and care service. Read through your response to the Show Cause Notice and confirm that all allegations have been addressed. Each separate alleged offence will be clearly outlined in the Show Cause Notice under a bold heading starting with the relevant section of *Law* or *Regulation*. Your response should also address allegations in the same way with clear references given for any attachment of supportive documentation/evidence.

Part 7 sets out the majority of the compliance actions that may be taken by the Authority in circumstances where offences have been found with the Law. The Show Cause Notice will indicate if the range of actions or a specific action is being considered by the Authority. In circumstances where your response is agreeing to any non-compliances, you may wish to suggest a compliance action that you feel is fair and appropriate in the circumstances.

Have you attached all relevant supportive evidence? Ensure that documentation you attach to your response is evidence to support any claims or statements you have made in regard to your compliance.

If you feel you haven't been afforded enough time to respond, contact the Authorised Officer identified in the Show Cause Notice as soon as you identify that you may need more time – extension for response is allowable dependant on the circumstances.

You can also contact an Authorised Officer if you have any questions about the Show Cause Notice or need some clarity in regards to specific requirements for response. Be aware that an Authorised Officer will not be able to assist you in how to word your response.

Step 4: Submit your show cause response

It is suggested that you should always make two copies of your show cause response and ensure you obtain proof of your submission.

If sending your response by email, request a read receipt. If sending by post, send via registered post to confirm receipt or request that the Authorised Officer who receives your submission notify you.

Fairburn, Janine

From: Masterman, Tanya
Sent: Wednesday, 17 July 2019 3:05 PM
To: [REDACTED]
Subject: Brindabella Christian College ELC - Charnwood - Show Cause Notice from ACT Regulatory Authority
Attachments: Show Cause Notice - Provider.pdf

UNCLASSIFIED

Dear [REDACTED]

I am an Authorised Officer under the *Education and Care Services Law (ACT)*. The Regulatory Authority recently received a complaint regarding the conduct of educators towards children at the above service and carried out a formal investigation.

It has been determined by the Authority's Case Management Committee that there is sufficient evidence to warrant a show cause notice being issued to the Provider, to afford an opportunity to respond to the allegations made.

The notice is attached, together with a guide to responding to a show cause notice. Please advise if you would like a hard copy sent by post.

You will see that any response the Provider wishes to submit is due 14 days from the date of receipt of the notice.

Yours sincerely

Tanya Masterman | Senior Investigator
Phone 02 6205 2012 | Email tanya.masterman@act.gov.au
Early Childhood Policy and Regulation | Education | ACT Government
Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive, Stirling 2611
GPO Box 158 Canberra ACT 2601
www.education.act.gov.au | [Facebook](#) | [Twitter](#) | [Instagram](#) | [LinkedIn](#) | [CECA Facebook](#)

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- you should not copy or use it for any purpose, nor disclose its contents to any other person.



[REDACTED]
 Person with Management or Control
 Brindabella Christian Education Ltd
 T/A Brindabella Christian College Early Learning Centre – Charnwood
 PO Box 5103
 LYNEHAM ACT 2602

Email: [REDACTED]

Dear [REDACTED]

Show Cause Notice – Proposed Compliance Action

1. Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, have recently investigated allegations of inappropriate discipline and inappropriate interactions by educators at Brindabella Christian College Early Learning Centre Charnwood SE-00011290 (the Service), operated by Brindabella Christian Education Ltd PR-00005809 (the Provider).
2. Electronic links to the *Education and Care Services National Law* (the Law), and the *Education and Care Services National Regulations* (the Regulations) are provided for your convenience at the end of this notice.
3. I am considering compliance action based on suspected contraventions of the Law indicated by evidence gathered during the investigation. Potential compliance actions include, but are not limited to, a Compliance Notice or conditions on Service Approval, authorised by sections 177 and 55 of the Law respectively.
4. The grounds for issuing this show cause notice arise from a direct complaint received by the Authority and subsequent investigation regarding the conduct of educators on 14 May 2019 whilst employed at the Service. There are four grounds, being:
 - a. Inappropriate discipline (Allegations One, Two and Three);
 - b. Inappropriate interactions (Allegation Four);
 - c. Failure to ensure staff members follow policies and procedures (Allegation Five); and
 - d. Inaccuracy of prescribed records (Allegation Six).

Background

5. On 14 May 2019, a direct complaint was received by the Authority regarding the conduct of [REDACTED] educators, being [REDACTED] in the [REDACTED] room at the Service that day.

6. On 23 May 2019, a notice allowable under section 215 of the *Law* was sent to the Provider to obtain relevant documents, including:
- Working Directly with Children records;
 - Child attendance records;
 - Staff records; and
 - Relevant policies and procedures.
7. Evidence gathered supports three allegations of inappropriate discipline and one allegation of failing to protect children from harm and from hazards likely to cause injury, each of which engages offence provisions under the *Law*. Evidence gathered further supports an allegation of failing to ensure policies and procedures are followed and failing to ensure prescribed records are accurate, in breach of the Regulations.

First Set of Grounds – Inappropriate Discipline

Allegation One

8. It is alleged that, on 14 May 2019, [REDACTED] told a child, [REDACTED]
- words to the effect of *“if you don’t stop being naughty I’ll send you somewhere else and you won’t be able to come back here or see your mummy or daddy again”*; and
 - words to the effect of *“if you don’t go to sleep right now, I’ll call your mummy and daddy and tell them to not come and get you today”*

Evidence relevant to Allegation One

9. Documents produced from the Provider identified that:
- [REDACTED] was an educator employed by the Provider working at the Service on 14 May 2019;
 - [REDACTED] was working directly with children in the [REDACTED] room on 14 May 2019 from 9:25 to 10:30am, from 10:45am to 1:30pm and from 2:30pm to 6:00pm;
 - [REDACTED] was a child enrolled in the [REDACTED] room and present on 14 May 2019 from 8:41am to 4:38pm.
10. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
11. Relevant excerpts from Witness A’s statement are:

a.

b.

- c.
- d.



Contravention Supported by Allegation One

- 12. The evidence obtained by the Authority relevant to Allegation One supports a contravention of the following section of the *Law*:

Section 166 – Offence to Use Inappropriate Discipline

- (1) The approved provider of an education and care service must ensure that no child being educated and cared for by the service is subjected to-
 - (a) any form of corporal punishment; or
 - (b) any discipline that is unreasonable in the circumstances.

Penalty: \$10,000, in the case of an individual

\$50,000, in any other case

Allegation Two

- 13. It is alleged that, on 14 May 2019, when lunch was being served in the [redacted] room and [redacted] had put [redacted] to bed, [redacted]
 - a. Removed [redacted] from [redacted] bed and pulled [redacted] by the arm to the table, while [redacted] was crying and yelling that [redacted] wanted to go to bed; and
 - b. When [redacted] went back to [redacted] bed [redacted] again removed [redacted] from [redacted] bed and dragged [redacted] to the table, while [redacted] was crying and yelling that [redacted] wanted to go to bed.

Evidence relevant to Allegation Two

14. Documents produced by the Provider identified that:
 - a. [REDACTED] was an educator employed by the Provider working at the Service on 14 May 2019;
 - b. [REDACTED] was working directly with children in the [REDACTED] room on 14 May 2019 from 7:10-10:00am, from 10:15am to 12:30pm, and from 1:30 to 3:45pm;
 - c. [REDACTED] was a child enrolled in the [REDACTED] room and present on 14 May 2019 from 7:37am to 5:12pm.
15. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
16. Relevant excerpts from Witness A's statement are:

a.

b.

c.

d.

e.

f.

Contravention Supported by Allegation Two

17. The evidence obtained by the Authority relevant to Allegation Two supports a contravention of section 166 of the *Law*, as appears in paragraph 12 of this notice.

Allegation Three

18. It is alleged that, on 14 May 2019, when [redacted] was at the lunch table and crying about wanting to go to bed, [redacted] took a spoonful of [redacted] lunch and put it in [redacted] mouth when [redacted] was yelling, held [redacted] chin to close [redacted] mouth and held [redacted] arms down when [redacted] tried to push [redacted] hands away.

Evidence relevant to Allegation Three

19. On 23 May 2019, a notice allowable under section 215 of the *Law* was sent to the Provider to obtain relevant documents. Documents obtained identified that:
- a. [redacted] was an educator employed by the Provider working at the Service on 14 May 2019;
 - b. [redacted] was working directly with children in the [redacted] room on 14 May 2019 from 9:25 to 10:30am, from 10:45am to 1:30pm and from 2:30pm to 6:00pm;
 - c. [redacted] was a child enrolled in the [redacted] room and present on 14 May 2019 from 7:37am to 5:12pm.
20. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
21. Relevant excerpts from Witness A's statement are:

- a.
- b.
- c.
- d.
- e.
- f.



Contravention Supported by Allegation Three

22. The evidence obtained by the Authority supports a contravention of section 166 of the Law, as appears in paragraph 12 of this notice.

Second Set of Grounds – Inappropriate Interactions**Allegation Four**

23. It is alleged that, on 14 May 2019, [REDACTED] told a child, [REDACTED], “you’ve been feral today” when [REDACTED] was rolling around during library time.

Evidence Relevant to Allegation Four

24. On 23 May 2019, a notice allowable under section 215 of the *Law* was sent to the Provider to obtain relevant documents. Documents obtained identified that:
- a. [REDACTED] was an educator employed by the Provider working at the Service on 14 May 2019;
 - b. [REDACTED] was working directly with children in the [REDACTED] room on 14 May 2019 from 9:25 to 10:30am, from 10:45am to 1:30pm and from 2:30pm to 6:00pm;
 - c. [REDACTED] was a child enrolled in the [REDACTED] room and present on 14 May 2019 from 7:37am to 5:12pm.
25. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
26. Relevant excerpts from Witness A’s statement are:

a.

b.

27. Relevant excerpts from Witness B’s statement are:

a.

b.

Legislation Relevant to Allegation Four**Section 167 – 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 any hazard likely to cause injury.

Section 155 Interactions with children

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—

- (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
- (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.

Contravention Supported by Allegation Four

28. The evidence obtained by the Authority supports a contravention of Regulation 155, which automatically engages a contravention of section 167 in that failure to ensure appropriate interactions is a failure to take reasonable precautions to protect children from emotional harm.

Third Set of Grounds – Failure to Ensure Policies and Procedures are Followed by Staff Members**Allegation Five**

29. It is alleged that the Provider has failed to take reasonable steps to ensure that the staff members have followed the following policies and procedures:
- a. Sleep and Rest Policy; and
 - b. Interactions with children policy.

Evidence relevant to Allegation Five

30. On 23 May 2019, a notice allowable under section 215 of the *Law* was sent to the Provider to obtain relevant documents. Documents obtained identified that:
- a. The Sleep and Rest Policy states that Educators will:
 - i. ensure that there are appropriate opportunities to meet each child's need for sleep, rest and relaxation;
 - ii. ensure that children who do not wish to sleep are provided with alternative quiet activities and experiences, while those children who do wish to sleep are allowed

to do so, without being disrupted. If a child requests a rest, or if they are showing clear signs of tiredness, regardless of the time of day, there should be a comfortable, safe area available for them to rest (if required);

- iii. respond to children's individual cues for sleep (yawning, rubbing eyes, disengagement from activities, crying etc.
 - iv. develop positive relationships with children to assist in settling children confidently when sleeping and resting
- b. The Interactions with Children Policy states that Management and Educators will:
- i. create a welcoming and relaxed atmosphere in which children experience equitable, friendly and genuine interactions with all Educators;
 - ii. use appropriate language and behaviour will be role modelled by educators;
 - iii. guide children's behaviour positively;
 - iv. respect the rights of children;
 - v. speak to children in a positive manner at all times, promoting respect, tolerance and empathy;
 - vi. show empathy to children;
 - vii. no child is ever isolated for any reason other than illness, accident or pre-arranged appointment with parental consent. During this time they will be under adult supervision
- c. [REDACTED] were educators employed by the Provider and working in the [REDACTED] room at the relevant times.

31. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.

32. Relevant excerpts from Witness A's statement are:

a.

b.

c.

d.

e.

f.

g.

h.

i.

j.

k.

l.

m.

i.

33. Relevant excerpts from Witness B's statement are:

a.

b.

c.

d.

e.

34. Relevant excerpts from Witness C's statement are:

a.

35. Relevant excerpts from Witness D's statement are:

a.

36. Relevant excerpts from Witness E's statement are:

a. 

Contraventions Engaged by Allegation Five

37. The evidence obtained by the Authority supports a contravention of Regulation 170, which states:

Regulation 170 – Policies and procedures to be followed:

- (1) The approved provider of a centre-based service must take reasonable steps to ensure that nominated supervisors and staff members of, and volunteers at, the service follow the policies and procedures required under regulation 168.

Fourth Set of Grounds – Inaccurate Prescribed Records






Allegation Six





38. It is alleged that the Provider has not taken reasonable steps to ensure that prescribed records, being working directly with children records, are accurate.

Evidence Relevant to Allegation Six

39. On 23 May 2019, a notice allowable under section 215 of the *Law* was sent to the Provider to obtain relevant documents. Documents obtained included working directly with children records for the week commencing Monday 13 May 2019. Refer Attachment A – working directly with children records.

40. The following inaccuracies were noted:

- a. No-one was signed in as covering breaks in  on 14 or 16 May 2019;
- b. On 16 May 2019,  was signed in to both  at the same time;
- c. On Friday 17 May 2019,  signed in to  at 8:25am and did not sign out.

41. On 29 May 2019 it was confirmed by email from  that  was covering breaks in  on 14 May 2019. Refer Attachment B – email 

Contravention engaged by Allegation Six

42. The evidence obtained by the Authority supports a contravention of Regulation 177(2), as set out below:

Regulation 177 – Prescribed enrolment and other documents to be kept by approved provider

- (1) For the purposes of section 175(1) of the *Law*, the following documents are prescribed in relation to each education and care service operated by the approved provider –

- (h) in the case of a centre-based service, a record of educators working directly with children as set out in regulation 151.
- (2) The approved provider of the education and care service must take reasonable steps to ensure the documents referred to in subregulation (1) are accurate.

Potential Compliance Actions

43. Should the allegations (or any of them) be substantiated, the statutory actions available to the Authority to consider under Parts 3 and 7 include, but are not limited to, conditions on Service Approval or a Compliance Notice under sections 55 or 177 of the *Law*, respectively, as set out below:

Section 55– Amendment of service approval by Regulatory Authority

- (1) The Regulatory Authority may amend a service approval at any time without an application from the approved provider.
- (2) Without limiting subsection (1), an amendment may vary a condition of the service approval or impose a new condition on the service approval.
- (3) The Regulatory Authority must give written notice of the amendment to the approved provider.
- (4) An amendment under this section has effect-
 - (a) 14 days after the Regulatory Authority gives notice of the amendment under subsection (3); or
 - (b) if another period is specified by the Regulatory Authority, at the end of that period.

Section 177 – Compliance notices

- (1) This section applies if the Regulatory Authority is satisfied that an education and care service is not complying with any provision of this Law.
- (2) The Regulatory Authority may give the approved provider a notice (a ***compliance notice***) requiring the approved provider to take the steps specified in the notice to comply with that provision.
- (3) An approved provider must comply with a compliance notice under subsection (2) within the period (being not less than 14 days) specified in the notice.

Right of response

- 44. You have a right to respond to the allegations set out in this notice. You may, within 14 days of receiving this letter, make a written submission for the Authority's consideration in deciding if a compliance action should be taken.
- 45. At Attachment C to this Notice is a '4 Step Guide to Responding to a Show Cause Notice' to assist in the development of your submission.

46. Please direct your written submission via email to Senior Investigator Tanya Masterman at tanya.masterman@act.gov.au or by post to:

Tanya Masterman
Senior Investigator
Children's Education and Care Assurance
GPO Box 158
CANBERRA ACT 2601

Caution

47. Please be aware that it is an offence under section 295 of the *Law* to provide the Authority with false or misleading information or documents.

Legislation

48. The *Education and Care Services National Law Act 2010* (the *Law*) applies to you as a Provider and to any service you may operate.
49. 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>.
50. The *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>
51. Should you have any questions about this Show Cause Notice please contact Tanya Masterman by telephone on (02) 6205 2012 or email to tanya.masterman@act.gov.au.

Yours sincerely


Clare Brookes
Senior Director
Children's Education and Care Assurance
Early Childhood Regulation
Education Directorate

17 July 2019

Charmwood ELC Team Room Sign On

Room: [Redacted] Week Start: 13/5/19 Week End: 17/5/19



Name:	In	Out	Qualifications:	In	Out	Signature:	Out	Comments
[Redacted]	7:10					[Redacted]		
Monday	10:00	10:15	12:00	1:00	3:45	[Redacted]		
Tuesday	10:00	10:15	12:30	1:30	3:45	[Redacted]		
Wednesday	10:00	10:15	12:30	1:30	3:45	[Redacted]		
Thursday	10:00	10:15	12:30	1:30	3:45	[Redacted]		
Friday	10:00	10:15	12:30	1:30	3:45	[Redacted]		

Name:	In	Out	Qualifications:	In	Out	Signature:	Out	Comments
[Redacted]						[Redacted]		
Monday	9:30	10:45	1:30	7:30	6:00	[Redacted]		
Tuesday	9:35	10:30	1:20	7:30	6:00	[Redacted]		
Wednesday	9:50	10:30	1:20	7:30	6:00	[Redacted]		
Thursday	9:15	10:45	1:35	7:35	6:00	[Redacted]		
Friday	7:20		1:30	2:00	2:45	[Redacted]		

Name:	In	Out	Qualifications:	In	Out	Signature:	Out	Comments
[Redacted]						[Redacted]		
Monday						[Redacted]		
Tuesday						[Redacted]		
Wednesday						[Redacted]		
Thursday						[Redacted]		
Friday						[Redacted]		

Name:	In	Out	Qualifications:	In	Out	Signature:	Out	Comments
[Redacted]						[Redacted]		
Monday	9:00	10:20	11:30	1:30	5:30	[Redacted]		
Tuesday						[Redacted]		
Wednesday	9:00	10:20	11:30	1:30	5:30	[Redacted]		
Thursday						[Redacted]		
Friday	8:30	10:15	12:30	1:30	5:30	[Redacted]		



Charmwood ELC Team Room Sign on

Rooms: [Redacted]

Week Start: 13/5/19

Week End: 17/5/19

Name:	In	Out	Qualifications:	In	Out	Signature:	In	Out	Comments
[Redacted]									
Monday	8:00	10:10	10:25	11:55	12:55	[Redacted]	4:30		
Tuesday	8:00	10:00	10:15	12:10	1:10	[Redacted]	4:30		
Wednesday	8:00	10:15	10:30	12:00	1:00	[Redacted]	4:30		
Thursday	8:00	10:30	10:40	12:00	1:00	[Redacted]	4:30		
Friday	8:00	11:45	12:45	4:30		[Redacted]			

Name:	In	Out	Qualifications:	In	Out	Signature:	In	Out	Comments
[Redacted]									
Monday	9:00	11:55	11:10	1:05	1:35	[Redacted]	3:00		
Tuesday	8:55	10:45	11:00	1:10	1:40	[Redacted]	3:00		
Wednesday	Away on	Career Leave				[Redacted]			
Thursday	Away on	Career Leave				[Redacted]			
Friday	Away on	Career Leave				[Redacted]			

Name:	In	Out	Qualifications:	In	Out	Signature:	In	Out	Comments
[Redacted]									
Monday	9:00	10:30	10:45	1:45	2:45	[Redacted]	5:00		
Tuesday	8:45	10:30	10:45	1:30	2:30	[Redacted]	5:30	5:30	
Wednesday	9:00	10:45	11:00	2:00	3:00	[Redacted]	6:00		
Thursday	9:00	11:00	11:15	1:45	2:45	[Redacted]	5:30		
Friday	8:40	10:45	11:00	1:55	2:55	[Redacted]	5:30		

Name:	In	Out	Qualifications:	In	Out	Signature:	In	Out	Comments
[Redacted]									
Monday						[Redacted]			
Tuesday						[Redacted]			
Wednesday						[Redacted]			
Thursday						[Redacted]			
Friday						[Redacted]			

Charnwood ELC Team Room Sign on

Room: [Redacted] Week Start: 13/05/19 Week End: 17/05/19

Name:	In	Out	Qualifications:	In	Out	Signature:	Comments
[Redacted]							
Monday	8:15	2:00	2:30	4:30			
Tuesday	8:20	1:40	2:20	4:40			
Wednesday	8:20	1:45	2:15	4:30			
Thursday	8:15	1:20	1:55	4:30			
Friday	8:25						

Name:	In	Out	Qualifications:	In	Out	Signature:	Comments
[Redacted]							
Monday							
Tuesday							
Wednesday							
Thursday	9:07	1:00	1:43	4:35			
Friday	8:28	1:45	1:15	4:35			

Name:	In	Out	Qualifications:	In	Out	Signature:	Comments
[Redacted]							
Monday							
Tuesday							
Wednesday							
Thursday							
Friday							

Name:	In	Out	Qualifications:	In	Out	Signature:	Comments
[Redacted]							
Monday							
Tuesday							
Wednesday							
Thursday							
Friday							

Charnwood ELC Team Room Sign on

Room: [Redacted] Week Start: 13/5/19. Week End: 17/5/19



Name:	Qualifications:		Signature:		Comments
	In	Out	In	Out	
Monday	7:30	10:40	[Redacted]	11:05	
Tuesday	7:28	10:43	[Redacted]	11:00	
Wednesday	7:22	10:25	[Redacted]	11:00	
Thursday	7:20	10:15	[Redacted]	11:00	
Friday	7:20	10:00	[Redacted]	11:00	

Name:	Qualifications:		Signature:		Comments
	In	Out	In	Out	
Monday	9:40	11:05	[Redacted]	11:00	
Tuesday	9:40	10:15	[Redacted]	11:00	
Wednesday	9:40	10:40	[Redacted]	11:00	
Thursday	9:27	10:46	[Redacted]	11:15	
Friday			[Redacted]	11:00	

Name:	Qualifications:		Signature:		Comments
	In	Out	In	Out	
Monday	9:30	11:15	[Redacted]	11:00	
Tuesday	9:30	11:00	[Redacted]	11:00	
Wednesday	9:40	11:15	[Redacted]	11:00	
Thursday	9:40	11:00	[Redacted]	11:00	
Friday	9:30	10:45	[Redacted]	11:00	

Name:	Qualifications:		Signature:		Comments
	In	Out	In	Out	
Monday	8:58	11:20	[Redacted]	11:00	
Tuesday	4:00	10:35	[Redacted]	11:00	
Wednesday	4:00	10:35	[Redacted]	11:00	
Thursday	4:00	10:35	[Redacted]	11:00	
Friday		11:47	[Redacted]	11:00	

Masterman, Tanya

From: [redacted]@bcc.act.edu.au>
Sent: Wednesday, 29 May 2019 10:45 AM
To: Masterman, Tanya
Cc: [redacted]
Subject: RE: Brindabella Christian College ELC Charnwood Campus 25 Notice

Dear Tanya,

I have clarified with [redacted] and the team and we have determined that [redacted] was called upon to cover breaks in [redacted] as there were only [redacted] infants in [redacted] however [redacted] has forgotten to sign out of [redacted] and into [redacted]. Please be assured that all staff and ratios were maintained at all times [redacted] has since reminded all staff in their diligence of signing in and out of rooms. Up until 9:30am children are family grouped [redacted] then transition into their own space. Throughout the day [redacted] combine in shared experiences.

Regards



From: Masterman, Tanya <Tanya.Masterman@act.gov.au>
Sent: Wednesday, 29 May 2019 10:07 AM
To: [redacted]@bcc.act.edu.au>
Subject: RE: Brindabella Christian College ELC Charnwood Campus 25 Notice

UNCLASSIFIED

Dear [redacted]

Thank you for your response. I note that there were [redacted] children in [redacted] on 14 May 2019 (all having arrived by 8:45) and working directly with children records provided do not indicate anyone providing break cover.

Could you please clarify?

Yours sincerely

Tanya Masterman | Senior Investigator
Phone 02 6205 2012 | Email tanya.masterman@act.gov.au
Early Childhood Policy and Regulation | Education | ACT Government
Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive, Stirling 2611



4 Step Guide to Responding to a Show Cause Notice

This resource has been developed to assist you in responding to a Show Cause Notice.

Step 1: Read your Show Cause Notice and identify the reasons that you have been required to show cause

The ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, has a function to monitor and enforce compliance in respect to Education and Care Services operating in the ACT. You can access the complete *Education and Care Services National Law Act (ACT) 2011* (the Law) and the *Education and Care Services National Regulation* (the Regulation) at <http://www.acecqa.gov.au/national-law>.

If you are sent a Show Cause Notice, it is your opportunity to formally respond to the Authority to the allegations discussed in the notice. If you don't respond to the notice at all, or within the allowed timeframe, the Authority can only take into account what it already knows when deciding if any compliance action should be taken.

You should read your Show Cause Notice carefully, make note of the prescribed timeframe to respond (generally within 14 days) and the specific alleged contraventions of *Law* or *Regulation* that has resulted in you receiving a Show Cause Notice.

You may choose to consult a legal practitioner to assist you to understand your rights and responsibilities. Legal Aid ACT helps people in the ACT with their legal problems. You can call the Legal Aid Helpline on 1300654314 or visit <http://www.legallaidact.org.au/>

Step 2: Commence drafting your show cause response

It is important to note that:

- Your show cause response should be formal and formatted as an official business letter.
- Your show cause response must address each allegation set out in the notice.
- If your response is refuting allegations of non-compliance, then your response must clearly explain how, and why, the allegations are incorrect. Include any evidence to support your explanation.
- If your response is agreeing to non-compliance, then your response could explain the context within which the non-compliance occurred including what has led to the non-compliance.
- Your response could also set out any steps you have taken, or will take, and the strategies you have implemented to ensure future compliance.
- It is strongly recommended that you include any documentation or evidence supporting your response. Supporting documentation will be used as evidence by the Authority in

considering an outcome. Depending on your circumstances, your supporting documentation may differ. Some examples of supporting documentation include employment records, attendance rosters, policy and procedure, photographs, records of communication and incident reports.

- Please note that it is a criminal offence to supply false and misleading information. Any documents, or evidence, must be genuine.

Step 3: Analyse and reflect on your show cause response

Remember, responding to a show cause notice is your opportunity to address allegations put to you in relation to a specific incident or circumstance.

Generally Part 6 of the *Law* sets out the majority of the specific offences related to operating an education and care service. Read through your response to the Show Cause Notice and confirm that all allegations have been addressed. Each separate alleged offence will be clearly outlined in the Show Cause Notice under a bold heading starting with the relevant section of *Law* or *Regulation*. Your response should also address allegations in the same way with clear references given for any attachment of supportive documentation/evidence.

Part 7 sets out the majority of the compliance actions that may be taken by the Authority in circumstances where offences have been found with the Law. The Show Cause Notice will indicate if the range of actions or a specific action is being considered by the Authority. In circumstances where your response is agreeing to any non-compliances, you may wish to suggest a compliance action that you feel is fair and appropriate in the circumstances.

Have you attached all relevant supportive evidence? Ensure that documentation you attach to your response is evidence to support any claims or statements you have made in regard to your compliance.

If you feel you haven't been afforded enough time to respond, contact the Authorised Officer identified in the Show Cause Notice as soon as you identify that you may need more time – extension for response is allowable dependant on the circumstances.

You can also contact an Authorised Officer if you have any questions about the Show Cause Notice or need some clarity in regards to specific requirements for response. Be aware that an Authorised Officer will not be able to assist you in how to word your response.

Step 4: Submit your show cause response

It is suggested that you should always make two copies of your show cause response and ensure you obtain proof of your submission.

If sending your response by email, request a read receipt. If sending by post, send via registered post to confirm receipt or request that the Authorised Officer who receives your submission notify you.

Triage Assessment Record – Notification and Direct Complaint

Background:

Triage meeting date:	29 July 2019
Triage team members present at assessment:	Clare Brookes, Sybilla Meeth, Jo Williams, Lee Newlyn, Jeff Beaver, Sadib Dowla.
Provider (Name and Number):	Brindabella Christian Education Ltd PR – 00005809
Service (Name and Number):	
Date of incident/ receipt of complaint:	25 July 2019 (media article)
Date of Notification to CECA:	
Date of Direct Complaint:	
NQA ITS Reference:	N/A

Statement of Allegation or Incident:

The recent articles published on the media and potential governance failings to be brought to the attention of the committee as any failings of governance can impact the Preschool / ELC.

Do we suspect an offence has or may be committed: Yes No

Offence that may have been engaged and information relied on to determine:
(Information re determining factors)

Action required:

Action	Yes/No	Factors considered in deciding action and key points for enquiries.
Risk Audit	No	
Investigation	No	Triage committee noted. Services and Provider continued to be monitored.

Referral to other agencies: N/A

	CYPS	AFP	WWVP
Factors considered in referral			

Assessment of risk: N/A

Risk Rating	High	Medium	Low
Factors considered in determining the risk rating			

Risk Factors:

Risk Factors	Harms		Hazards		Governance	
	Educator (individual) – intentional neglect, harm or incompetence		Health, safety and wellbeing -health -hygiene -risk assessment and management		Policies and procedures	
	Supervision		Safe premises and equipment -maintenance -Access to chemicals and medication		Recruitment and induction processes Staff management	
	Staffing levels/ ratios		Incident, injury, trauma and illness -notification to parents -Record		Maintain Documentation -Child assessment -Incident, injury and trauma -Medication -child attendance -Child enrolment	
	Staffing qualifications/ first aid		Fencing and security		Risk assessment/ Management	

Investigation use only:

Allocated to Lead Investigator:	
Lead Investigator's acceptance including reasonable suspicion that offence may have been or may be being committed against the Law to enable investigation powers.	(Note acceptance and information relied on to form suspicion)