

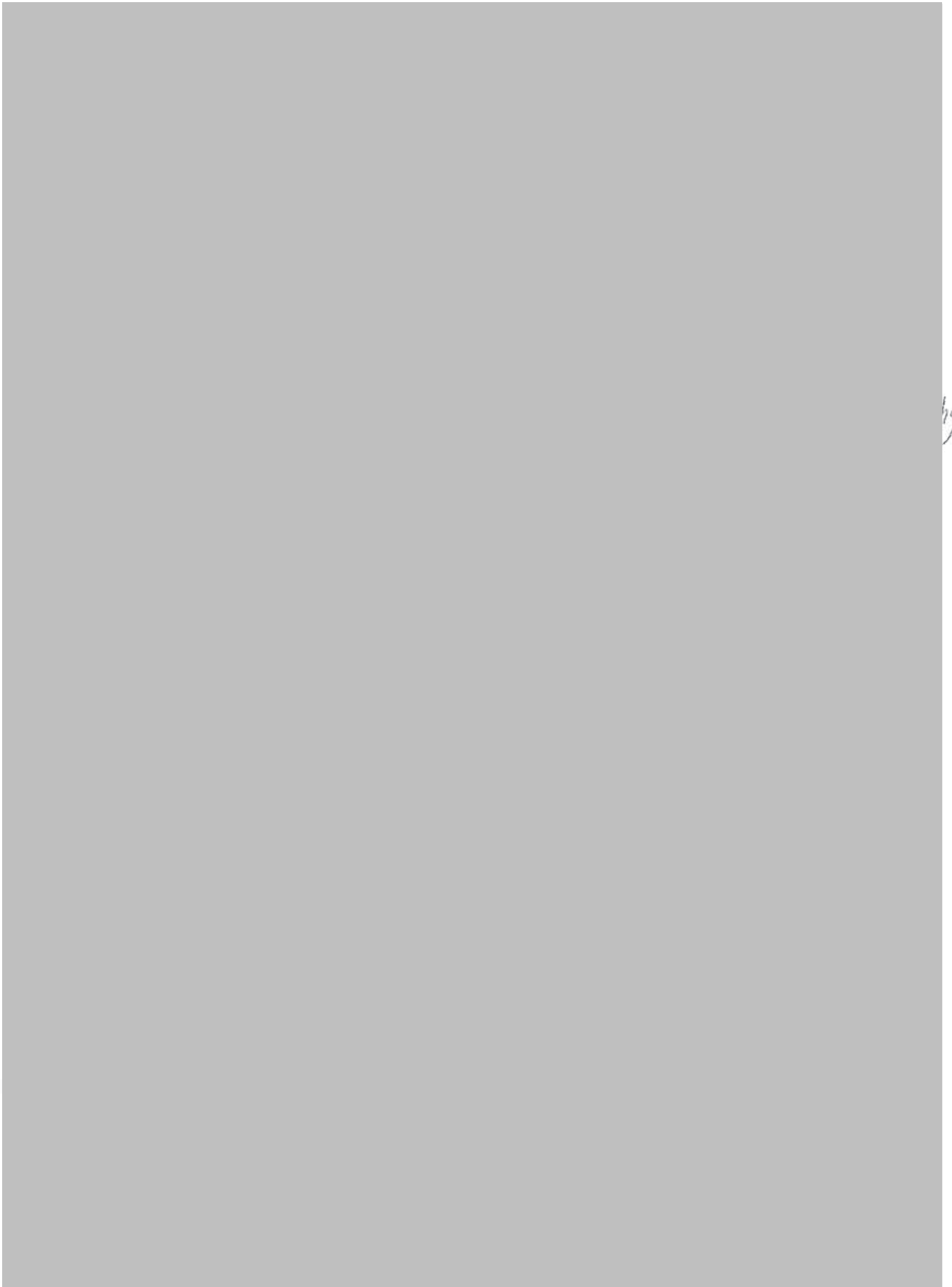


BRINDABELLA CHRISTIAN EARLY LEARNING CENTRE – CHARNWOOD

PARENT COMMUNICATION LOG

DATE	ACTION	PARENT SIGNATURE	Assistant Director
16/10/19	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
18/11/19	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
12/11/19	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
13/11/19	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19/11/19	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]









BRINDABELLA CHRISTIAN COLLEGE EARLY LEARNING CHARNWOOD

COMMUNICATION LOG

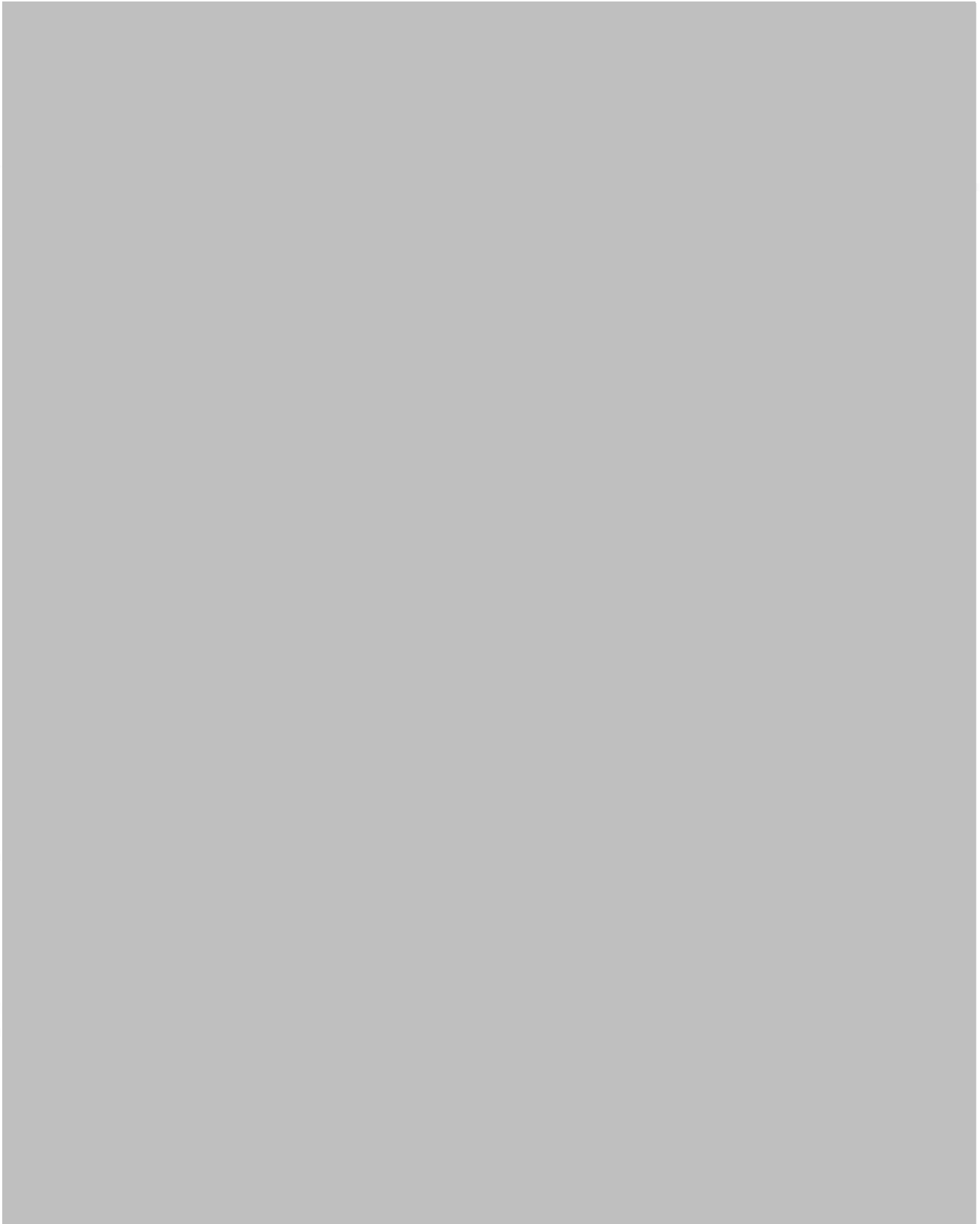


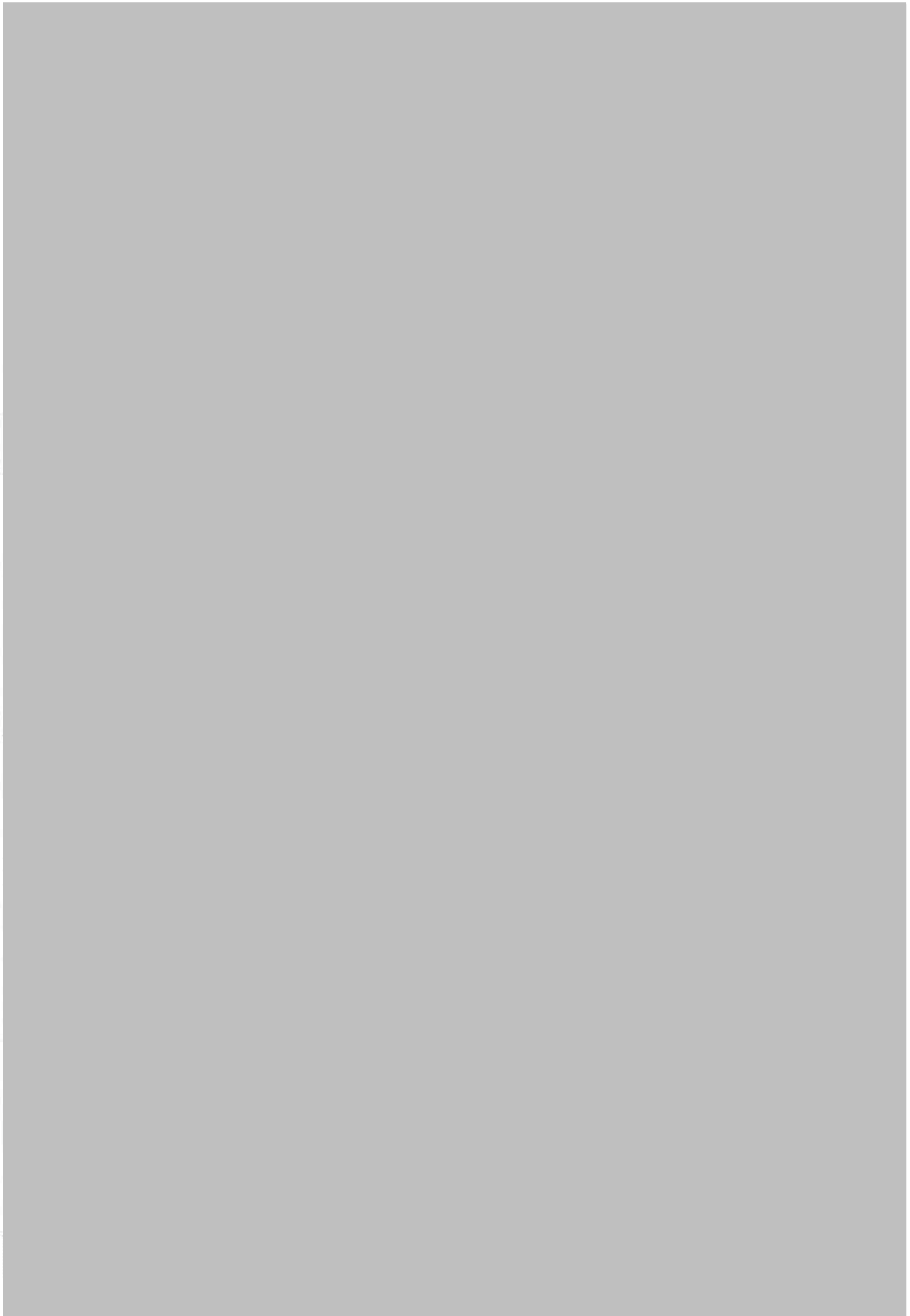
DATE	ACTION	NAME OF STAFF/ Signature	NAME OF PARENT WHO RESPONDED / Signature
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Created 27th September 2019







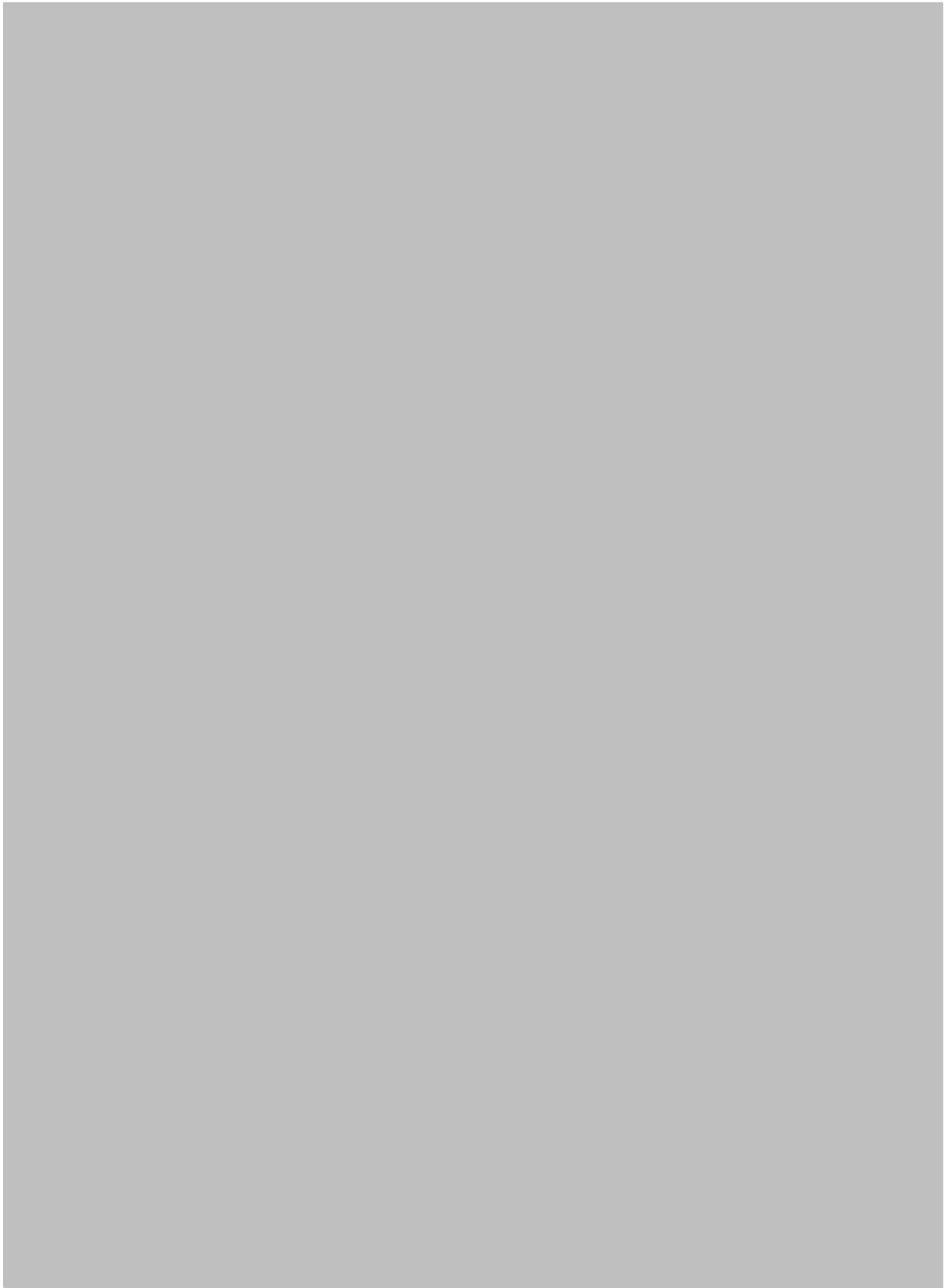


BRINDABELLA CHRISTIAN EARLY LEARNING CENTRE – CHARNWOOD

PARENT COMMUNICATION LOG

DATE	ACTION	PARENT SIGNATURE	Assistant Director	
16/10/19	[REDACTED]		[REDACTED]	
6/11/19				[REDACTED]
12/11/19				[REDACTED]
12/11/19			[REDACTED]	
18/11/19	[REDACTED]			
	[REDACTED]			





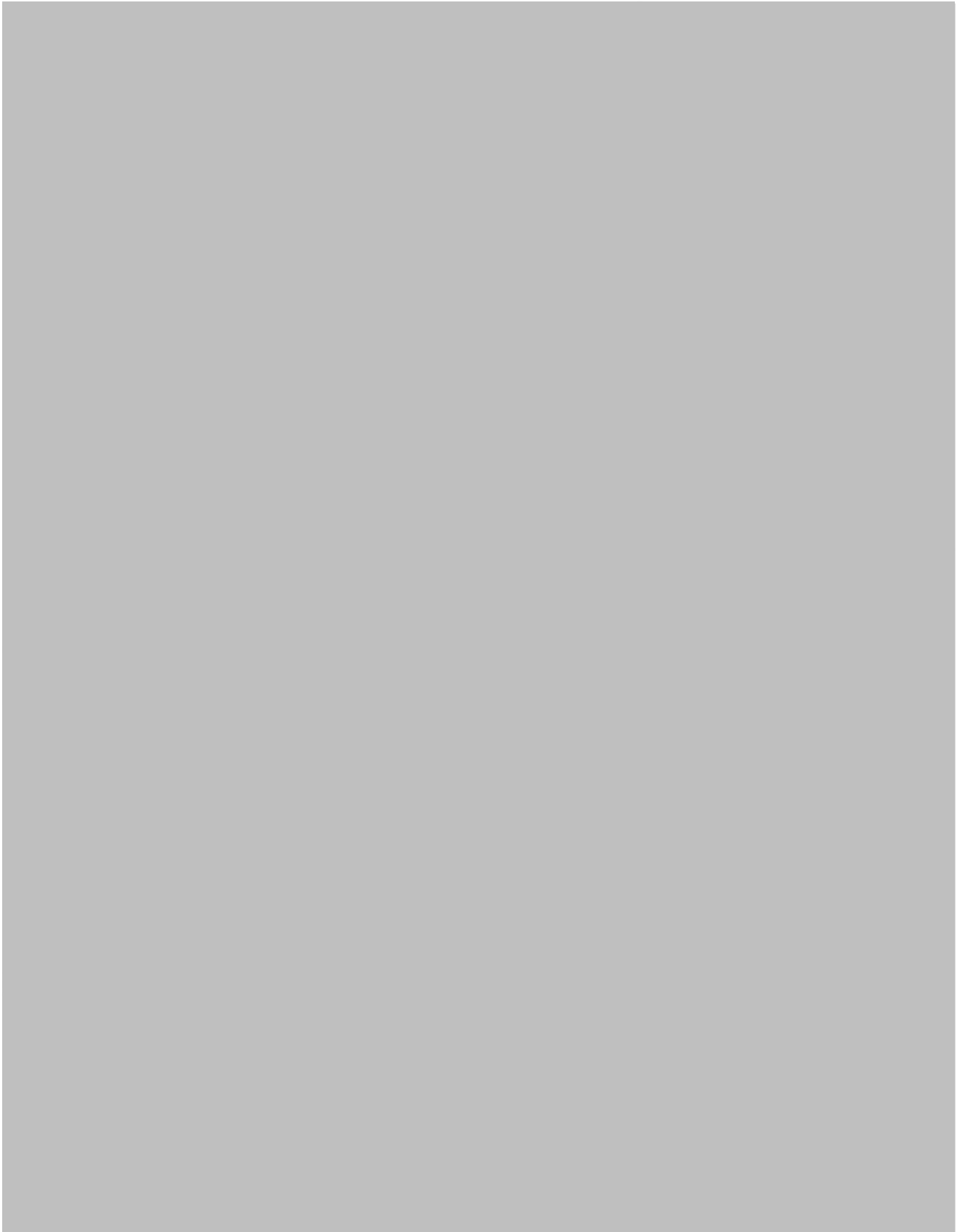


BRINDABELLA CHRISTIAN EARLY LEARNING CENTRE – CHARNWOOD

PARENT COMMUNICATION LOG

DATE	ACTION	PARENT SIGNATURE	Assistant Director
18/10	[REDACTED]	[REDACTED]	[REDACTED]
15/11/19	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
12/6	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
20/11/20	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]



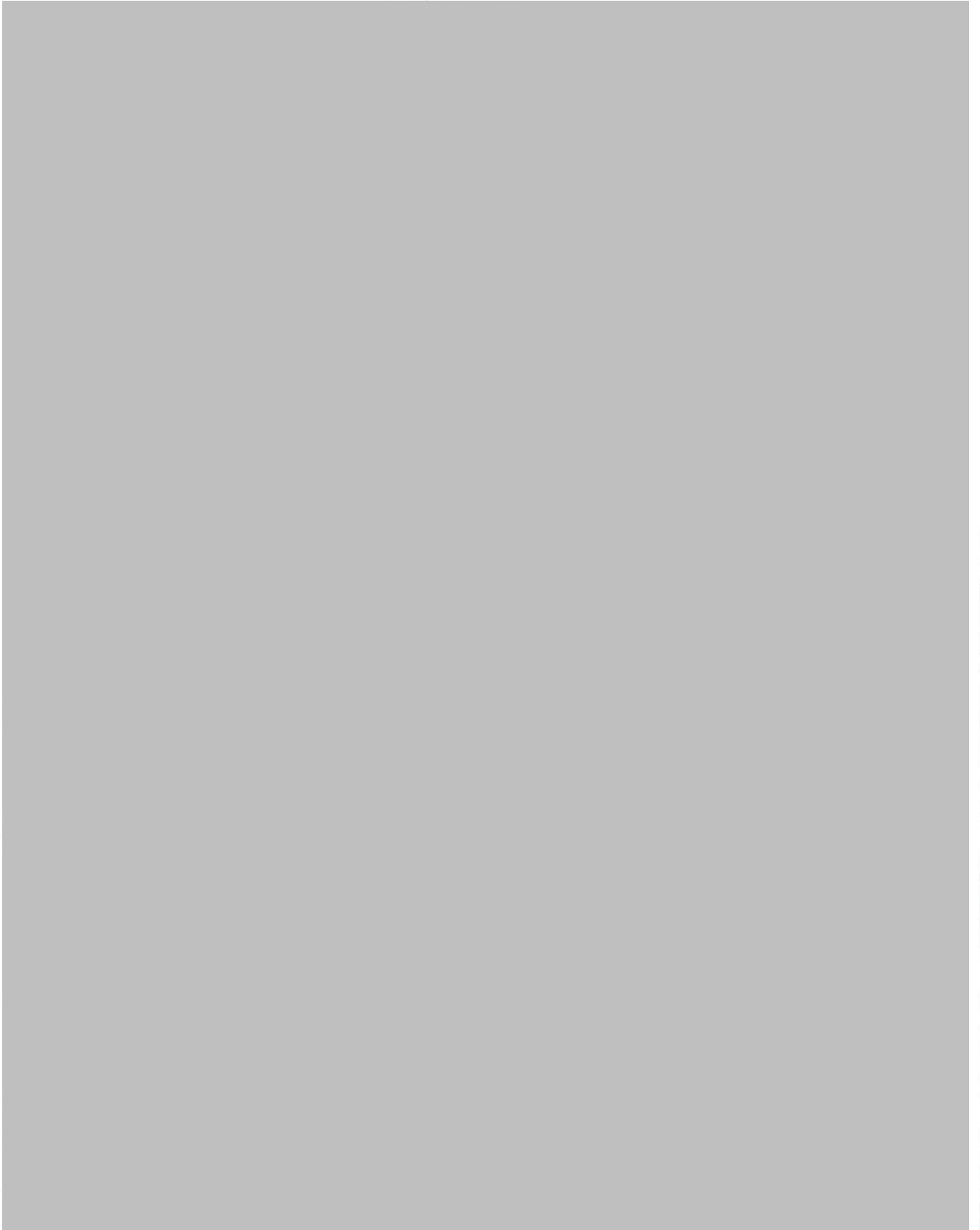


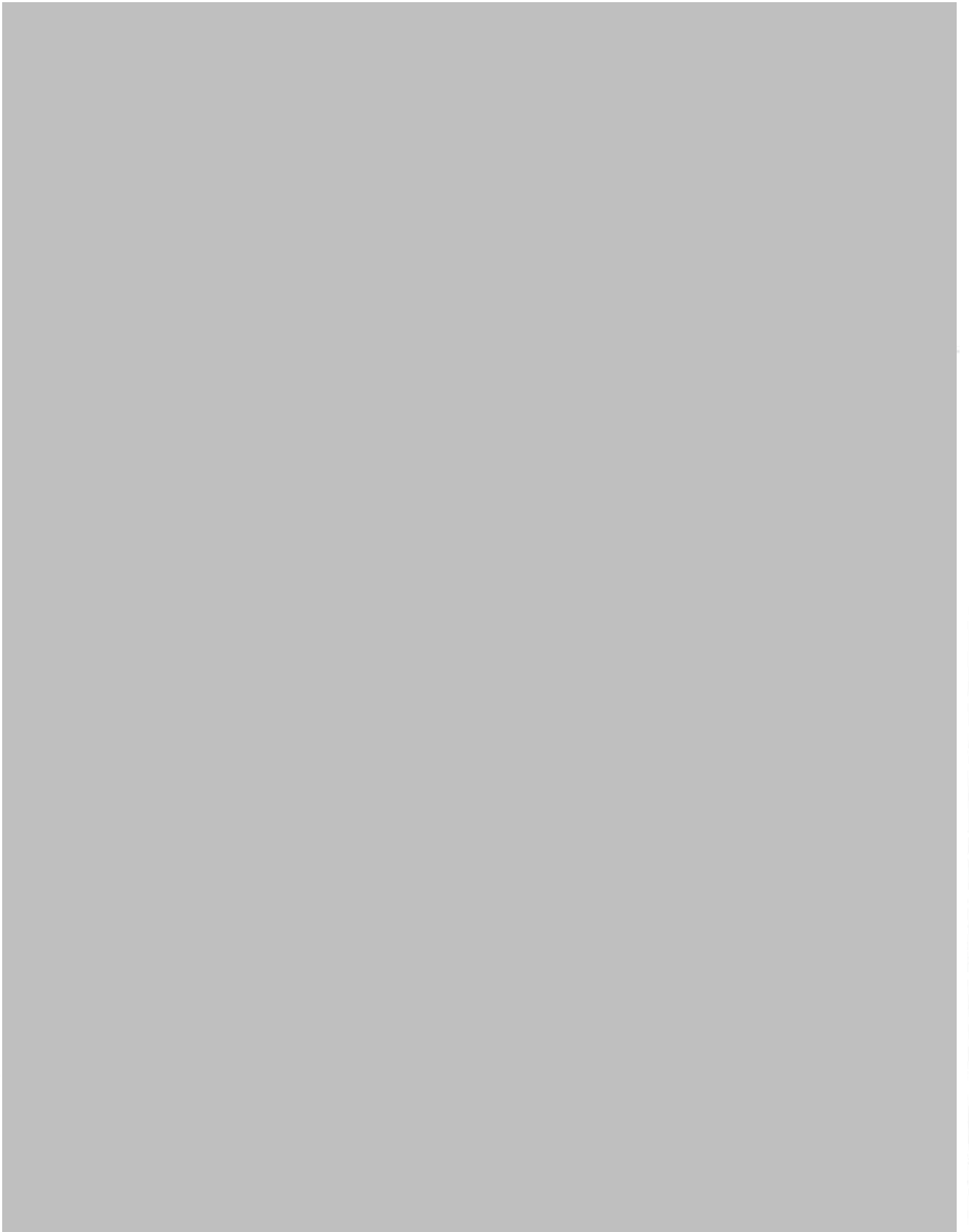


BRINDABELLA CHRISTIAN EARLY LEARNING CENTRE – CHARNWOOD

PARENT COMMUNICATION LOG

DATE	ACTION	PARENT SIGNATURE	Assistant Director
29/10/19	[REDACTED]	[REDACTED]	[REDACTED]
30/10/19	[REDACTED]	[REDACTED]	[REDACTED]







BRINDABELLA CHRISTIAN EARLY LEARNING CENTRE – CHARNWOOD

PARENT COMMUNICATION LOG

DATE	ACTION	PARENT SIGNATURE	Assistant Director
16/5/19	[REDACTED]		[REDACTED]
	[REDACTED]		
	[REDACTED]		
3/6/19	[REDACTED]		[REDACTED]
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
5/6/19	[REDACTED]		[REDACTED]
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
12/6/19	[REDACTED]		[REDACTED]
	[REDACTED]		
22/6/19	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		

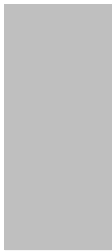
Subject: Medical conditions Policy



Dear families,

As part of our communication strategy to ensure the health and safety of all children attending Brindabella Christian ELC Chamwood is met, a copy of the Medical Conditions policy is attached for your perusal.

If you feel your child has a medical condition that we need to be aware of, please come and see me to discuss how we can support your child's medical needs when attending BC ELC Chamwood.



File Attachments

 Medical Conditions policy updated June 2019.docx

[Email a friend](#)

Fairburn, Janine

From: MacCulloch, Jane
Sent: Tuesday, 26 November 2019 1:20 PM
To: [REDACTED]@bcc.act.edu.a
Subject: Response to Compliance Notice.

UNCLASSIFIED

Good afternoon [REDACTED]

I am in receipt of your response to the Compliance Notice issued 5 November 2019. I will review your response and provide feedback as soon as possible.

Regards
Jane

Jane MacCulloch | Assistant Director Policy and Compliance
 Phone 02 6207 6249
 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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From: [REDACTED]@bcc.act.edu.au>
Sent: Tuesday, 26 November 2019 11:58 AM
To: Masterman, Tanva <Tanva.Masterman@act.gov.au>
Cc: [REDACTED]@bcc.act.edu.au>
Subject: Show Cause Notice Response

Good Afternoon Tanya,

Please find attached, the evidence required to address the show cause notice regulation 90.

Kind Regards

[REDACTED]
 Brindabella Christian ELC Charnwood.

Get Outlook for Android

From: [redacted]@bcc.act.edu.au>
Sent: Tuesday, November 26, 2019 11:07:03 AM
To: [redacted]@bcc.act.edu.au>
Subject: Fwd: Steps take to address Compliance Notice

Get Outlook for Android

From: [redacted]
Sent: Monday, November 25, 2019 5:22:59 PM
To: [redacted]@bcc.act.edu.au>
Subject: Steps take to address Compliance Notice

Hi [redacted]

I think I have completed everything required to address the compliance notice Section 51 of Law – condition of service Approval Regulation 90.

I have provided email copies of communication to families,
Copies of updated medical conditions that include risk management & Communication plans
Assistant director’s communication log
Screen shot of communication to families via Kindy Hub – of the Medical conditions form
Update of Medical Conditions form

I am hoping that it addresses the compliance notice.



Indabella Early Learning Centre Charnwood
P: Charnwood (02) 6190 7432 |
W: <http://www.bcc.act.edu.au>



Fairburn, Janine

From: [REDACTED]@bcc.act.edu.au>
Sent: Tuesday, 26 November 2019 2:11 PM
To: MacCulloch, Jane
Cc: [REDACTED]
Subject: RE: Compliance notice response incomplete
Attachments: Medical Conditions policy updated June 2019.docx

Jane,

Please find attached policy as requested this should have been in the zip folder sent earlier today from [REDACTED] must of not copied correctly.

Regards,

[REDACTED]
 Brindabella Christina College

From: "MacCulloch, Jane" <Jane.MacCulloch@act.gov.au>
Date: 26 November 2019 at 1:58:57 pm AEDT
To: [REDACTED]@bcc.act.edu.au>, [REDACTED]@bcc.act.edu.au>
Subject: Compliance notice response incomplete

UNCLASSIFIED For-Official-Use-Only

Dear [REDACTED]

I have printed the documents you have provided and note there is no medical conditions policy as required under the notice. Please send through by COB today. Please address your response to me, as the contact person on the notice.

I made a couple attempts to you by phone (no message left) without success.

Regards
Jane

Jane MacCulloch | Assistant Director Policy and Compliance
 Phone 02 6207 6249
 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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BRINDABELLA
CHRISTIAN COLLEGE

CANBERRA

BRINDABELLA

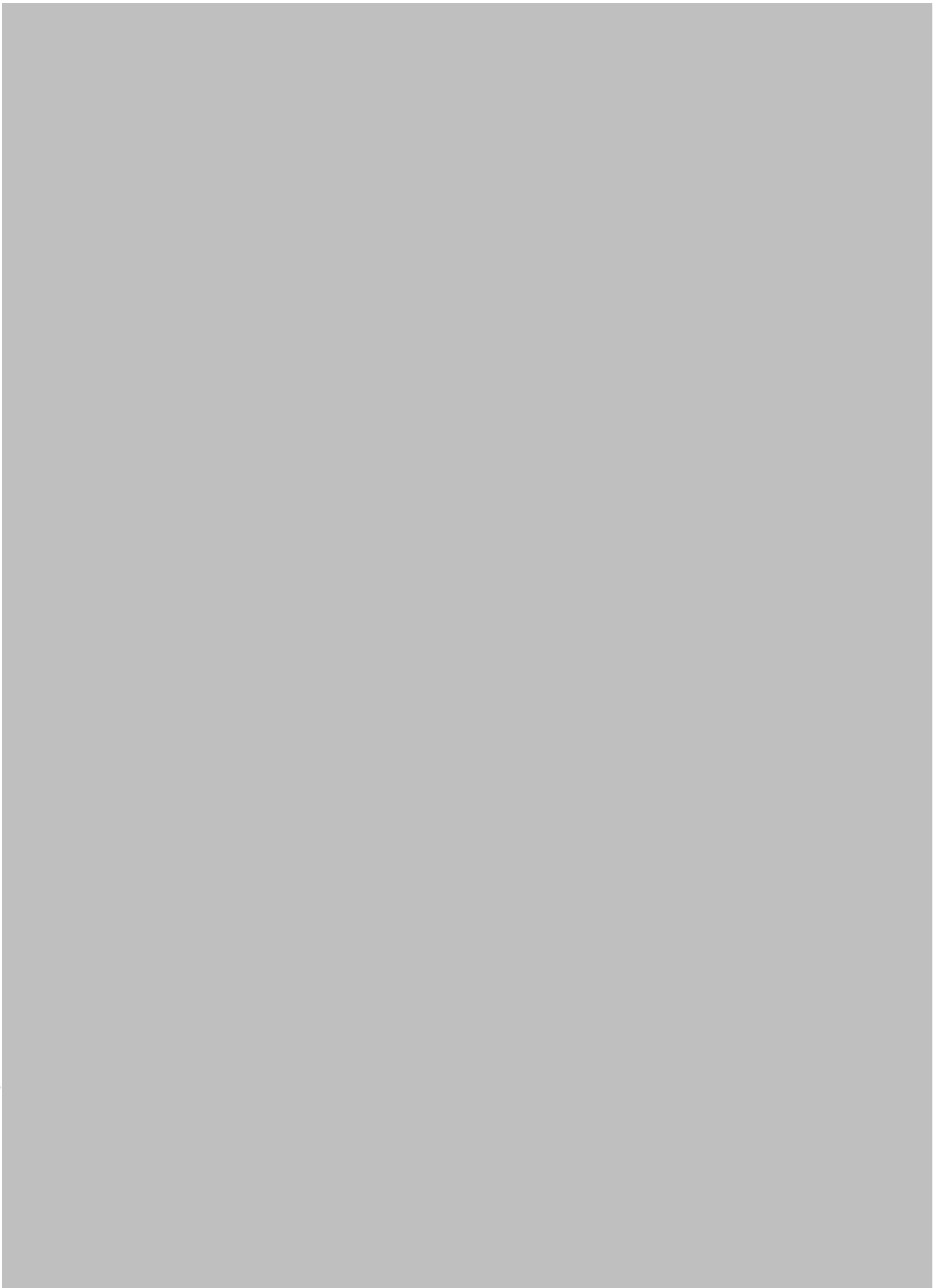
CHRISTIAN

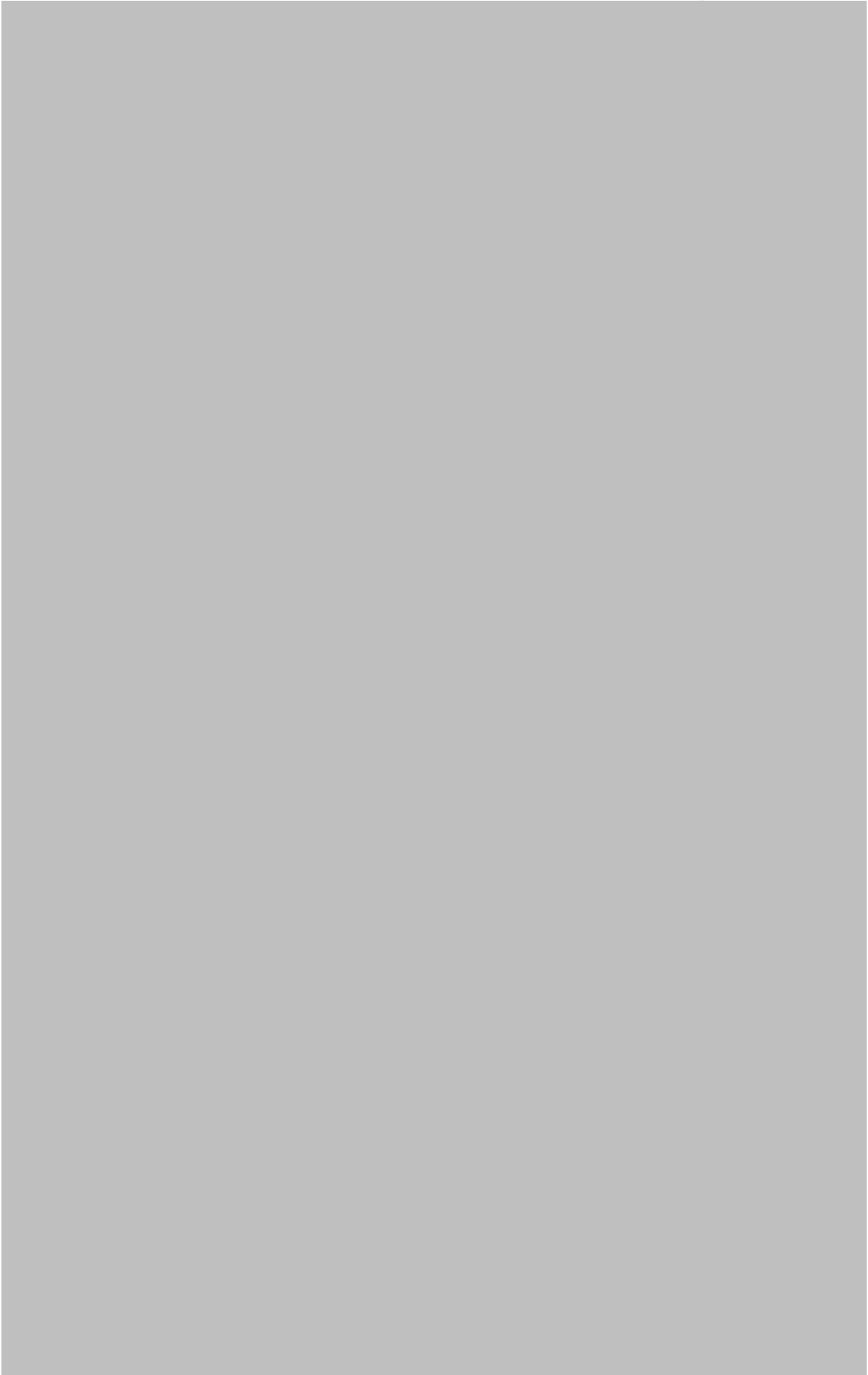
COLLEGE

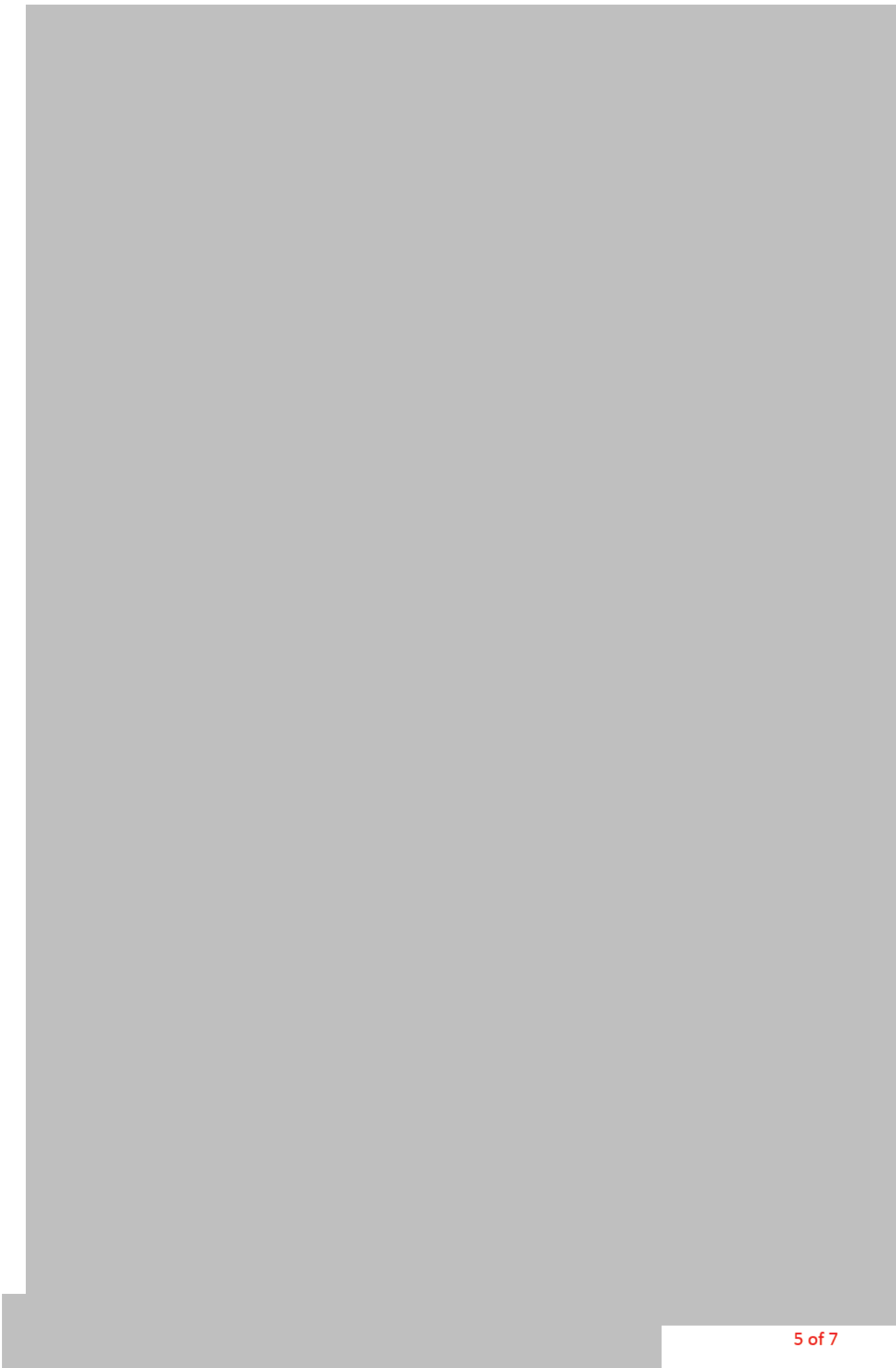
MEDICAL CONDITIONS

POLICY

Updated June 2019 | due to be revised August 2021









Fairburn, Janine

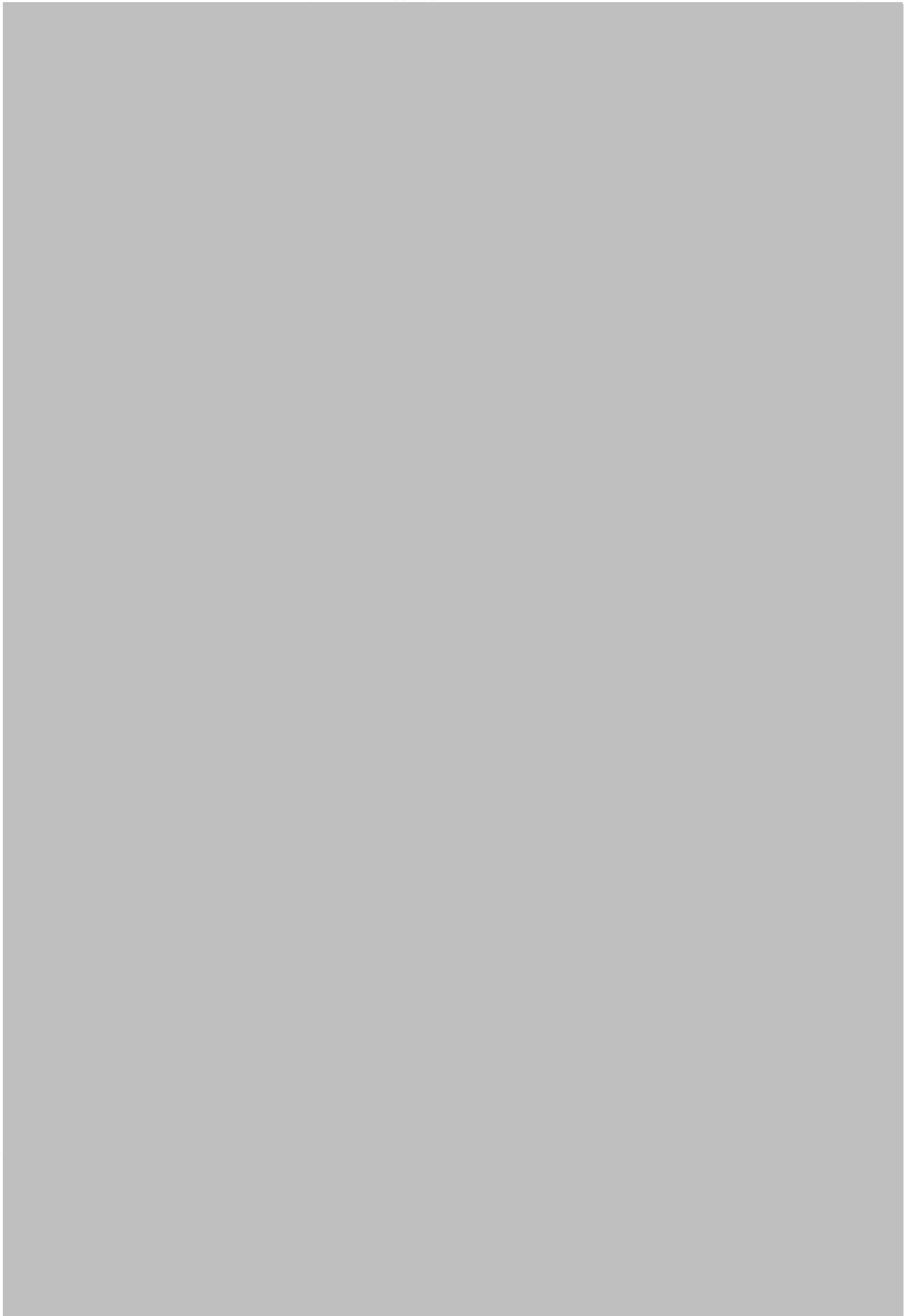
From: [REDACTED]@bcc.act.edu.au>
Sent: Tuesday, 26 November 2019 5:59 PM
To: MacCulloch, Jane
Subject: Final Medical Conditions form completed
Attachments: [REDACTED].pdf

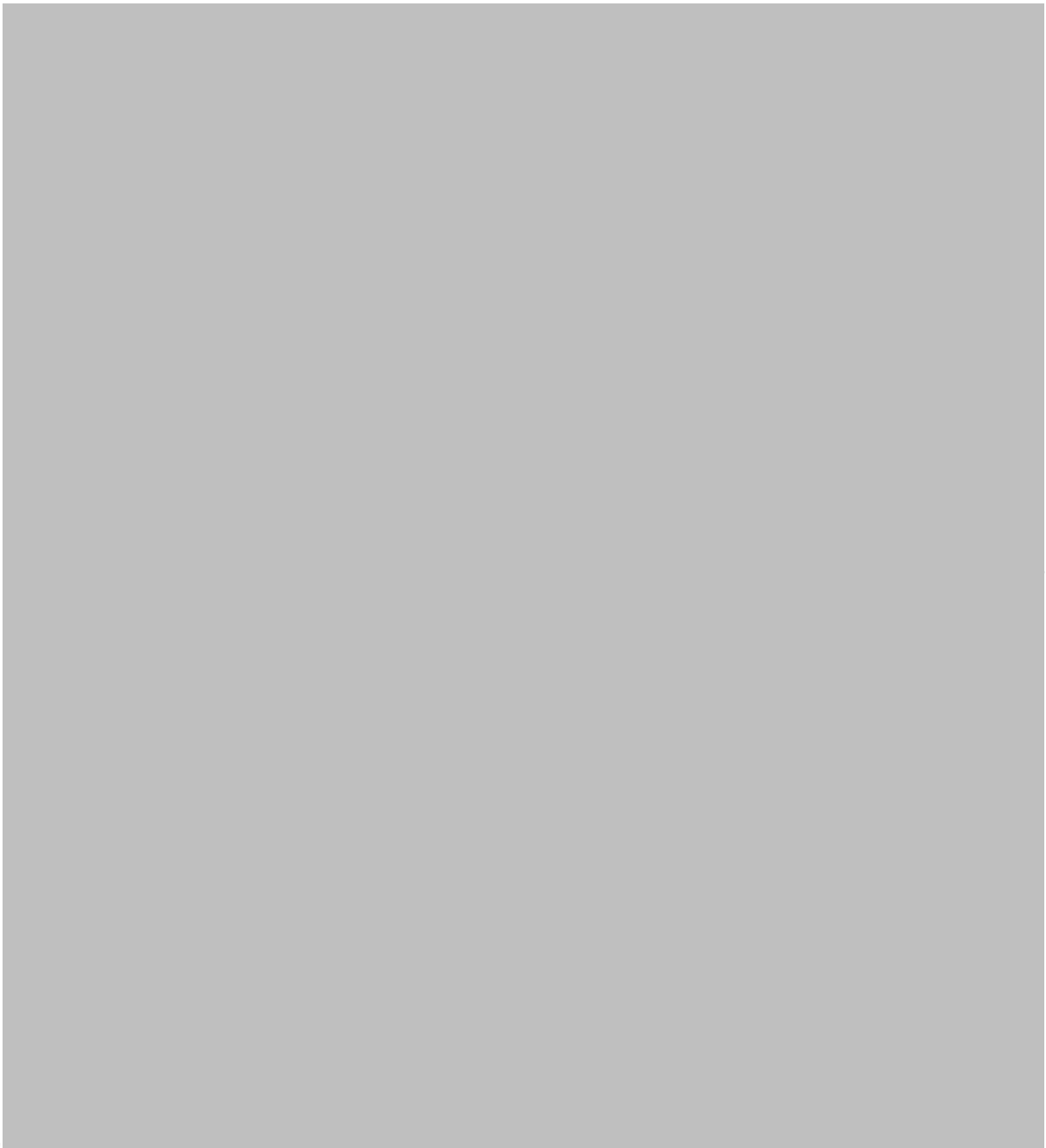
Good Afternoon Jane,

Please see attached [REDACTED] medical conditions form completed as requested for the Notice.



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BRINDABELL CHRISTIAN COLLEGE EARLY LEARNING CENTRE CHARNWOOD

PARENT COMMUNICATION LOG

NOTE: This is to be used as a communication register between families of children who have a medical condition that requires a Medical Management & risk Minimisation Plan and if required a Medical Action Plan provided by the doctor.

Table with 4 columns: DATE, ACTION, PARENT SIGNATURE, Assistant Director / Room Leader. Contains multiple rows of data, many of which are redacted with grey boxes.

Updated 15th November 2019



BRINDABELL CHRISTIAN COLLEGE EARLY LEARNING CENTRE CHARNWOOD

PARENT COMMUNICATION LOG

NOTE: This is to be used as a communication register between families of children who have a medical condition that requires a Medical Management & risk Minimisation Plan and if required a Medical Action Plan provided by the doctor.

Table with 4 columns: DATE, ACTION, PARENT SIGNATURE, Assistant Director / Room Leader. Includes handwritten dates like 11/6/19 and 25/1/19, and several rows of redacted content.

Updated 15th November 2019

Fairburn, Janine

From: MacCulloch, Jane
Sent: Monday, 2 December 2019 9:34 AM
To: elc@bcc.act.edu.au
Subject: Compliance Notice 5/11/19
Attachments: Self Assessment of Compliance - 1 Feb 2018 (002).doc

UNCLASSIFIED For-Official-Use-Only

Dear 

I have reviewed your compliance notice and have determined that you have met your requirements under the notice. The action is now closed.

Please ensure you take all reasonable steps to maintain the safety, health and wellbeing of children in your care. I encourage you to undertake the self-assessment audit regularly and to develop your knowledge more deeply of the National Law and Regulations. You may also like to access the ACECQA website which has large amounts of information to support providers and services, <https://www.acecqa.gov.au/>.

Regards
Jane

Jane MacCulloch | Assistant Director Policy and Compliance

Phone 02 6207 6249


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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Self-assessment of Compliance

Education and Care Services National Law (ACT) Act 2011 *Education and Care Services National Regulations*

The *National Law* and *National Regulations* relate to all education and care services. Services are defined as either centre-based care or family day care.

Please note centre-based care include long day care services, out of school hours care services, vacation care, independent preschools and public preschools.

Family day care services are also required to comply with additional provisions which have been shaded green.

The Education and Care Services National Law is available at:
<https://www.acecqa.gov.au/nqf/national-law-regulations/national-law>

The Education and Care Services National Regulations is available at:
<https://www.acecqa.gov.au/nqf/national-law-regulations/national-regulations>

Date completed: _____

Name of person/s completing self-assessment of compliance: _____

Signature of person/s completing self-assessment of compliance: _____

Ref. to Law (s) / Regulation (r)	QA 1 - Educational Program and Practice	Evidence and Details of Compliance
s168 r254	<p>Is either the Early Years Learning Framework or My Time Our Place used to guide the development of the program?</p> <p>Is the educational program:</p> <ul style="list-style-type: none"> • Based on the developmental needs, interests and experiences of each child; and • Designed to take into account the individual differences of each child? 	
r73	<p>Have you developed a program that contributes to each child's learning and development outcomes outlined by the learning framework?</p>	
r74	<p>If you have children who are preschool age or younger, do you document:</p> <ul style="list-style-type: none"> • An assessment of each child's development, interests and participation in the program? • An assessment of each child's progress towards the program outcomes? 	
r75	<p>If you have school age children, do you document:</p> <ul style="list-style-type: none"> • An evaluation of each child's wellbeing, development and learning? <p>Is the information about the program displayed in a place at the service that is accessible to parents?</p> <p>Is a copy of the program available for inspection on request:</p> <ul style="list-style-type: none"> • At the service for long day care, preschool or outside school hours care, or • At each educator's residence or venue for family day care? 	
r76	<p>If requested, do you provide families with:</p> <ul style="list-style-type: none"> • Information about the content of the program and service routines and how they operate in relation to their children, including their participation? • A copy of their children's assessment/evaluation documentation? 	

Ref. to Law (s) / Regulation (r)	QA2 - Children's Health and Safety	Evidence and Details of Compliance
<u>r77</u>	Are adequate health and hygiene practices implemented at the service? Is food stored, handled and served safely?	
<u>r78</u>	Do you ensure that:	
<u>r79</u>	<ul style="list-style-type: none"> • Children can access water at any time; • Children are offered food and drinks appropriate to their individual needs on a regular basis throughout the day; and • Food and beverages provided are nutritious, adequate in quantity and appropriate for the dietary requirements of individual children? 	
<u>r80</u>	If you provide food at your service do you display a menu: <ul style="list-style-type: none"> • In a place accessible to parents; and • Which accurately describes the food and beverages being supplied each day? 	
<u>r81</u>	Are children's individual needs for sleep and rest met at the service?	
<u>r82</u> <u>r83</u> <u>s167</u>	Do you ensure that the service environment is free from the use of tobacco, illicit drugs and alcohol and that staff are not affected by alcohol or drugs when educating and caring for children?	
<u>r84</u>	Do you ensure that the nominated supervisor and staff members at the service who work with children are aware of their child protection responsibilities and the current child protection law in the ACT?	
<u>r85</u>	Do you ensure that all educators follow service procedures in the event of an accident, injury or illness, including notification to parents?	
<u>r86</u>	Does the incident, injury and illness record include all the details required by <u>r87</u> ?	
<u>r87</u>	Do you ensure that all educators and families follow the service's policies and procedures for preventing and dealing with the outbreak of infectious diseases?	
<u>r88</u>	Do you have sufficient first aid kits which are easily recognised and accessible? Have you checked that they are fully stocked and removed all out-of-date items?	
<u>r89</u>	<ul style="list-style-type: none"> • Does the medical conditions policy include all the practices, including risk minimisation and communication plans set out in <u>r90</u> and developed in consultation with parents? • Is a risk-minimisation plan, including a communication plan, in place for all children who have medical management plans and included in children's enrolment records? 	
<u>r90</u>		
<u>r91</u>		
<u>r162</u>		

	<ul style="list-style-type: none"> Do you ensure that all educators and families are aware of the medical conditions policy and that families of children with medical conditions have been provided with a copy? 	
<u>r92-96</u> <u>r161</u>	<ul style="list-style-type: none"> Does the medication record include all the details set out in <u>r92(3)</u>? Do you ensure that all educators, families and, where applicable, children are aware of the procedure for administering medication and always follow it? Do you ensure that medical authorisations are kept in the enrolment record for each child enrolled at an education and care service or educated and cared for by a family day care educator? 	
<u>r97</u> <u>r98</u>	<ul style="list-style-type: none"> Has a risk assessment been conducted to identify potential emergencies that are relevant to the service? Have you ensured that plans are developed to manage emergencies and evacuations and are displayed near each exit? Is there a strategy in place to ensure all staff, including casuals, are familiar with lockdown procedures? Are emergency and evacuation procedures practised and documented at least every 3 months? Do educators have ready access to an operating telephone? 	
<u>r99</u>	Do you ensure that all educators follow service procedures about the delivery and collection of children from the service as set out in <u>r99</u> ?	
<u>r100-102</u>	Do you ensure that all educators follow service procedures in relation to excursions, including obtaining authorisations and conducting appropriate risk assessments? Do risk assessments include consideration of the points identified in <u>r101</u> ? Do authorisations include all of the details set out in <u>r102</u> ?	

Location of Principal Office		Evidence and Details of Compliance
Ref. to Law (s) / Regulation (r)		
<u>r72A</u>	If you operate a family day care service is the principal office located within the jurisdiction in which the service approval is granted?	

Ref. to Law (s) / Regulation (r)	QA 3- Physical Environment	Evidence and Details of Compliance
r103	Do you ensure that the service premises, venue or residence and all equipment and furniture are maintained to be safe, clean and in good repair?	
r104-110 r111-115 <i>Regulations 107, 108, 111, 112, 113, 114 and 115 do not apply to Family Day Care.</i>	<p>Do you ensure the services premise, venue or residence meets all regulatory requirements? For example:</p> <ul style="list-style-type: none"> • There is the required amount of unencumbered indoor and outdoor space for the number of children in attendance at the service as set out in r107 and r108. • Outdoor space allows children to explore and experience the natural environment. • Each child has access to furniture, materials and developmentally appropriate equipment that are sufficient and suitable for their education and care. • If you have children who are preschool age or younger, do you have fencing that prevents them going over, under or through it? • Are there appropriate toilet and hand washing facilities which are safe and easily accessed by children? • Are there nappy change facilities which meet the requirements of r112? • Are arrangements for dealing with soiled clothes, linen and nappies, which do not pose a risk to children, in place? • Is there space for administrative functions and consultation with families? • Is there adequate light, ventilation and shade? • Are all areas of the premises easily supervised? <p>If you have a family day care service:</p> <ul style="list-style-type: none"> • Have you ensured that all educators' residences or approved venues are safe before children are placed in care, and at least annually? • Have you ensured that glazed areas of all educators' residences or approved venues meet the required safety standard? • Do educators to inform you of any renovations or changes to the family day care residence that create a serious risk to the health, safety and wellbeing of children? 	
r116-117		

Ref. To Law (s) / Regulation (r)	Minimum requirements for persons in day to day charge, nominated supervisors and family day care educator	Evidence and Details of Compliance
<u>r117A</u> <u>r117B</u> <u>r117C</u>	Have you ensured each person placed in day-to-day charge: <ul style="list-style-type: none"> • Is placed by the approved provider or nominated supervisor and has consented to this in writing as set out in <u>r117A</u>? • Meets the minimum requirements as set out in <u>r117B</u>? Does the nominated supervisor meet the minimum requirements as set out in <u>r117C</u> ?	
<u>r143A</u>	Have you (approved provider) taken all reasonable steps to ensure that family day care educators have adequate knowledge and understanding of the provisions of education and care to children as set out in <u>r143A</u> ?	

Ref. To Law (s) / Regulation (r)	QA 4 - Staffing Arrangements	Evidence and Details of Compliance
<u>r118</u>	Have you ensured that a suitably qualified and experienced individual has been appointed as the educational leader at the service? Is this appointment designated in writing and held in the staff record?	
<u>r122-123</u> <u>S 169</u> <i>Regulations 122 and 123 do not apply to Family Day Care.</i>	Do you ensure that the educator to child ratio is maintained at all times and that only educators working directly with children are included in ratio?	

<p><u>r124</u> <u>s169</u></p>	<p>if you operate a family day care service do you ensure that the educator to child ratio is maintained at all times at a family day care residence?</p>	
<p><u>r123A</u> <u>s55</u> <u>s163</u></p>	<p>if you operate a family day care service do you ensure that qualified co-ordinator to educator ratios are maintained?</p>	
<p><u>r32A</u> <u>s51</u></p>	<p>if you operate a family day care service, do you ensure that the service does not exceed the maximum number of family day care educators determined by the Regulatory Authority in the service approval?</p>	
<p><u>r120</u> <u>r126</u> <u>r136</u> <u>r262</u> <u>r243 - 244</u> <u>s169</u> <u>r10</u> <i>Regulation 126 does not apply to Family Day Care.</i></p>	<p>If you operate a long day care, preschool or outside school hours care service,</p> <ul style="list-style-type: none"> • Do you ensure that educators who are under 18 years of age do not work alone and are adequately supervised? • Do you ensure that all educators required to meet the ratio hold, or are actively working towards, a Certificate III qualification as set out in r126(1)(b)? • If an educator is employed on a probationary basis for not more than 3 months, then qualification requirements in subregulation 126(1)(b) does not apply. • Do you ensure that 50% of educators required to meet the ratio hold, or are actively working towards, at least a diploma level qualification? • Do you ensure required qualifications in an outside school hours care service are as follows: <ul style="list-style-type: none"> ○ One educator meets the requirements for a first qualified educator published in the list of approved qualifications on the ACECQA website; or ○ is enrolled in a course towards a qualification and has an educator approval from Children's Education and Care Assurance ○ Educators meet the requirements for a second or subsequent qualified educator for each subsequent group of 33 children? 	
	<ul style="list-style-type: none"> • Do you have documentary evidence that demonstrates that educators are <i>actively working towards</i> an approved qualification? 	
	<ul style="list-style-type: none"> • Do you ensure that at all times when children are in attendance at the service, there is at least one person with a first aid qualification available, and at least one person who has completed training in the management of asthma and anaphylaxis? 	

<p><u>r260</u> <u>r261</u> <u>r262</u></p>	<p>Centre Based Care (children over preschool age) - School Age Care Are you aware and follow of the ACT specific provisions for replacement of absent qualified staff members in School Age Care?</p> <ul style="list-style-type: none"> • Do you ensure the ratio is 1 educator to 11 children? • Do you ensure that you have one qualified educator for every 33 children and meet staff qualifications under <u>r261</u>? • Do your educators qualifications meet requirements set out in <u>r262</u>? (Is your first qualified educator, who is enrolled and progressing towards qualification, approved (Educator Approval) by Children’s Education and Care Assurance?) 	
<p><u>r264</u> <u>r265</u></p>	<p>Centre Based Care (preschool age children and under) Are you aware and follow of the ACT transitional provisions for replacement of absent qualified staff members as approved until 31 December 2020? If you operate a centre based service:</p> <ul style="list-style-type: none"> • The service may meet the requirements under <u>r126(1)</u> by providing the relevant number of full-time equivalent qualified educator positions as set out in <u>r264</u>? (transitional) • In the case of an unexpected absence, do you ensure that educators meet the required qualification requirements set out in <u>r265</u>? (transitional) 	
<p><u>r119</u> <u>r127-128</u> <u>r136</u> <u>r143A-143B</u></p>	<p>If you are a family day care service,</p> <ul style="list-style-type: none"> • Do you ensure that all educators and educator assistants are at least 18 years of age as set out in <u>r119</u>? • Do you ensure that all coordinators have an approved diploma level qualification as set out in <u>r128</u>? 	
<p><u>r144</u></p>	<ul style="list-style-type: none"> • Do you ensure that all educators have, or are actively working towards, an approved certificate III level qualification as set out in <u>r127</u>? 	
<p><u>s163</u> <u>s164</u></p>	<ul style="list-style-type: none"> • Do you ensure that all educators and educator assistants hold an approved first aid qualification and have completed an approved training in the management of asthma and anaphylaxis as set out in <u>r136</u>? 	
<p><u>s164A</u></p>	<p>If you operate a family day care service, do you ensure minimum requirements for a family day care educator as set out in <u>r143A</u>?</p> <ul style="list-style-type: none"> • In regard each family day care educator’s history of compliance with relevant laws? • In regard to each family day care educator, any decisions made under the Law to, refuse to renew, suspend, or cancel a licence, approval, registration, certification or other 	

	<p>authorisation granted to the person?</p> <ul style="list-style-type: none"> • Take reasonable steps to ensure that each educator has adequate knowledge and understanding of the provision of education and care for children? 	
	<p>if you operate a family day care service do you ensure you comply with ongoing management of family day care educators as described in <u>r143B</u>?</p> <ul style="list-style-type: none"> • Each person engaged by or registered with the service maintains an adequate knowledge and understanding of the provision of education and care to children? • Any serious incident that occurs whilst children are being educated and cared for is adequately addressed? • Any complaint alleging that the Law has been contravened or serious incident has occurred is adequately addressed? 	
	<p>if you employ educator assistants,</p> <ul style="list-style-type: none"> • Do you ensure you and the educator assistant comply with the requirements of <u>r144</u>? 	
	<ul style="list-style-type: none"> • Do you ensure that any child being educated and cared for as part of the service is not educated and cared for by a person other than the family day care educator as set out in <u>s164A</u>, except in circumstance set out in <u>r144</u> relating to educator assistance? 	
	<ul style="list-style-type: none"> • Do you ensure that one of the persons described in <u>s164</u> is available to provide support to family day care educators whenever they are educating and caring for children? 	
<p><u>r129-135</u> <u>r241-242</u> <i>Regulations 129, 130, 131, 132, 133, 134 and 135 do not apply to Family Day Care.</i></p>	<p>Do you ensure access to an early childhood teacher for the amount of time required by the regulations for the number of children being educated and cared for at your service? Do you ensure that an early childhood teacher is replaced by a person who holds an approved diploma qualification or degree in primary teaching during short term illness or leave)?</p>	

<p><u>R 145 - 150</u></p> <p><i>Regulation 145 does not relate to Family Day Care.</i></p>	<p>Do you ensure that a staff record is kept which includes the information set out in regulation <u>r145</u>? And</p> <p>Do you ensure that the staff record includes:</p> <ul style="list-style-type: none"> • the prescribed information for the nominated supervisor as set out in <u>r146</u>? • all of the prescribed information for each staff member as set out in <u>r147</u>? • the name of the person designated as the educational leader as set out in <u>r148</u>? • the prescribed information for students and volunteers as set out in <u>r149</u>? • the name of the responsible person for each time children are being educated and cared at the service as set out in <u>r150</u>? 	
<p><u>r151 - 152</u></p> <p><i>Regulations 151 and 152 do not apply to Family Day Care.</i></p>	<p>Do you keep the following records in a centre-based service:</p> <ul style="list-style-type: none"> • Names of educators working directly with children and the hours they are working directly with children? • The period that an early childhood teacher is in attendance or working with the service? (Preschool age children and under) 	
<p><u>r153 - 154</u></p>	<p>If you operate a family day care service do you ensure that the register of family day care educators, coordinators and assistants includes all the information set out in <u>r153</u>?</p> <p>If you operate a family day care service do you ensure staff records are kept as set out in <u>r154</u> and include:</p> <ul style="list-style-type: none"> • The name of the person currently designated the role of educational leader in accordance with <u>r118</u>? • In relation to the nominated supervisor, the information set out in <u>r146</u>? • In relation to each other staff member the information set out in <u>r147</u>? • In relation to volunteers and students the information set out in <u>r148</u>? 	

Ref. to Law (s) / Regulation (r)	QA 5 - Relationships with Children	Evidence and Details of Compliance
s166	Do you ensure that no child is subjected to any form of corporal punishment or any discipline that is unreasonable in the circumstance?	
r155	Do you ensure that educators interact with children in a way that: <ul style="list-style-type: none"> • Encourages children to express themselves and their opinions? • Supports children to develop self-reliance and self-esteem? • Maintains the dignity and rights of each child? • Provides positive guidance and encourage acceptable behaviour? • Reflects each child's family and cultural values? • Is appropriate for the physical and intellectual development and abilities of each child? 	
r156	Do you ensure that the size and composition of each group of children provides them with the opportunity to interact and develop respectful and positive relationships with each other and with educators?	

Ref. to Law (s) / Regulation (r)	QA 6 - Collaborative Relationships with Families and Communities	Evidence and Details of Compliance
r157	Do you ensure that parents may enter the service at any time when their child is being educated and cared for other than at times when it may pose a risk to children, prevent staff from carrying out normal duties or contravene a court order?	

Ref. to Law (s) / Regulation (r)	QA 7 - Leadership and Service Management	Evidence and Details of Compliance
s161-162 s161A	Do you ensure that there is a nominated supervisor for the service at all times as set out in s161? Do you ensure that a responsible person, as defined in s162, is present at all times the service is educating and caring for children?	
s170	Do you ensure that only authorised persons (described in s170) or persons under the direct supervision of educators or other staff members of the service are present while children are being educated and cared for as prescribed in s170?	
s171	Do you ensure that inappropriate persons as described in s171 are excluded from the service premises at all times whilst children are being educated and cared for?	
r165-166	Do you ensure that all family day care educators follow service procedures about visitors to the residence or family day care venue?	
s165	Do you ensure that educators are supervising children effectively?	
r55-56 r31	Do you ensure that your Quality Improvement Plan <ul style="list-style-type: none"> • Has been developed within 3 months of the grant of the service approval? • Contains a statement of the service philosophy? • Is reviewed and revised at least annually? and • Is kept at the service premises, and available on request by an authorised officer? 	
r158-162	Do you ensure that all records relating to children at the service are maintained, including enrolment records, attendance records, health information, records of illness or accident?	
r159-160	If you are a family day care educator do you ensure that attendance records are kept? If you are a family day care provider or educator do you ensure that enrolment records are kept?	
r163 - 164	If you are a family day care service, <ul style="list-style-type: none"> • Do you ensure that records of working with vulnerable people checks are current for adults living in residences used to provide a family day care service? • Do you ensure that educators notify you of any new adults residing, or intending to reside, at the premises and any new circumstance that may affect whether a person already residing at the premises is a fit and proper person? 	

<u>r165 - 166</u>	<p>If you are a family day care service, Do you ensure that records of visitors to a family day care residence are maintained? Do you take all reasonable steps to ensure children are not left alone with visitors to a family day care residence or approved venue?</p>	
<u>r167</u>	<p>If required, does the record of the service's compliance include details of amendment of the Service Approval; including waivers, conditions and changes to services approved places, or any suspension, or compliance direction or compliance notice issued by the Regulatory Authority?</p>	
<u>r168-172</u>	<p>Do you ensure that:</p> <ul style="list-style-type: none"> • All policies required by <u>r168</u> are in place and available at the service, including sleep and rest? • Do your policies align with associated regulations, such as r90? • All policies and procedures are followed? • Copies of current policies and procedures are readily accessible to staff at the service and available for inspection at the premises? • Parents are notified at least 14 days before making any changes to a policy or procedure that impact on the education and care of a child or a family's ability to use the service? 	
<u>r169</u>	<p>If you are a family day care provider do you ensure additional policies required are in place?</p>	
<u>r173</u> <u>s172</u>	<p>Have you ensured that all of the information included in <u>r173</u> is displayed so that it is clearly visible from the main entrance to your service</p>	
<u>r173</u> <u>s172</u>	<p>Do you ensure that: all of the information included in <u>r173</u> is displayed so that it is clearly visible from the main entrance to the family day care service and that, if applicable:</p> <ul style="list-style-type: none"> • there is a notice stating that a child who has been diagnosed at risk of anaphylaxis is enrolled at the service; and attends the family day care residence • there is a notice stating that there has been an occurrence of an infectious disease at the family day care residence. 	
<u>r174-176</u> <u>s173-174</u>	<p>Do you ensure that:</p> <ul style="list-style-type: none"> • Changes to the operation of the service, serious incidents and complaints which allege a breach of Law or Regulations are reported to the Regulatory Authority within the timeframe set out in <u>r176</u>? • Information regarding circumstances which pose a risk to the health, safety, or wellbeing of a child is notified to the Regulatory Authority as prescribed in <u>r175(2)(c)</u>? • Information regarding any incident where the approved provider reasonably believes 	

	<p>that physical abuse or sexual abuse of a child, has occurred, or is occurring while the child is being educated and cared for by the service, is notified to the Regulatory Authority?</p> <ul style="list-style-type: none"> Allegations that physical or sexual abuse of a child, has occurred, or is occurring while the child is being educated and cared for by the service (other than an allegation that has been notified under <u>s174(2)(b)</u> of the Law). 	
<u>s174A</u>	<p>Do you ensure that family day care educators notify the approved provider of:</p> <ul style="list-style-type: none"> any serious incident that occurs while a child is being educated and cared for by the educator as part of the service; or any complaints alleging that a serious incident has occurred, or is occurring, while a child is being educated and cared for by the educator? 	
<u>r177</u> <u>s175</u>	<p>Do you ensure that documentation set out in <u>r177</u> is kept at the service premises, is accurate, available for inspection by an authorised officer and available to a parent on request?</p>	
<u>r178</u> <u>s175</u>	<p>Do you ensure that family day care educators keep documentation, accurate and available for inspection by an authorised officer and available to a parent on request?</p>	
<u>r179</u> <u>s178</u>	<p>Do you ensure that a family day educator provides all required documentation to the family day care service on ceasing to be registered by the service?</p>	
<u>r29</u> <u>r180</u>	<p>Do you keep information about public liability insurance for your service on the premises, except if the prescribed insurance for the education and care service is a policy of insurance or an indemnity provided by the Government of a State or Territory?</p>	
<u>r30</u>	<p>If you are a family day care service, do you ensure that each family day care educator engaged by or registered with the service holds insurance against public liability with a minimum cover of \$10 000 000.</p>	
<u>r181-184</u>	<p>Do you ensure that records are stored appropriately to ensure confidentiality and are retained for the period indicated in <u>r183</u>?</p>	
<u>r182</u>	<p>If you are a family day care educator do you ensure the confidentiality of records?</p>	
<u>r185</u>	<p>Do you ensure that a copy of the Law and Regulations can be accessed by educators, staff, volunteers and families, including those seeking to enrol their child at the service?</p>	

Fairburn, Janine

From: Masterman, Tanya
Sent: Tuesday, 3 December 2019 9:12 AM
To: King, Meg
Subject: Brindabella Assessment/Reassessment

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Details as discussed:

Compliance Notice sent 20/9/19

Evidence of required training to be provided by 20/12/19

Assessment/Reassessment within one month of completion of training - 20/1/20

All PMCs to be assessed/reassessed:

[REDACTED]
[REDACTED] @bcc.act.edu.au [REDACTED] after the events subject to investigation, but before the compliance notice was sent out)

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
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Fairburn, Janine

From: Fairburn, Janine
Sent: Wednesday, 15 January 2020 10:12 AM
To: Brookes, Clare
Subject: FW: Brindabella Christian College: Reassessment of fitness and propriety [REDACTED]
Attachments: 20200115 - FINAL - Letter to Meg King regarding reassessment of fitness and propriety.pdf

UNCLASSIFIED

Hi Clare,

May we please discuss and get some direction on how to respond ?

Kind Regards,

Janine

From: King, Meg <Meg.King@act.gov.au>
Sent: Wednesday, 15 January 2020 8:50 AM
To: Fairburn, Janine <Janine.Fairburn@act.gov.au>; Masterman, Tanya <Tanya.Masterman@act.gov.au>
Subject: FW: Brindabella Christian College: Reassessment of fitness and propriety [REDACTED]

UNCLASSIFIED

From: [REDACTED]
Sent: Wednesday, 15 January 2020 7:43 AM
To: King, Meg <Meg.King@act.gov.au>
Subject: Brindabella Christian College: Reassessment of fitness and propriety [REDACTED]

Dear Ms King

Please find **attached** correspondence in this matter.

Kind regards

15 January 2020

Meg King
Business Manager / Scholarships
Coordinator
Children's Education and Care Assurance
Directorate of Education
Level 3, Hedley Beare Centre for Teaching &
Learning
51 Fremantle Drive
Stirling ACT 2611

Email: meg.king@act.gov.au

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Dear Ms King

Reassessment of fitness and propriety

We act for Brindabella Christian Education Ltd in relation to this matter.

We refer to your letter to [REDACTED] which was attached to your email of 16 December 2019. Your letter invites [REDACTED] to attend an interview, and sit a written assessment, in respect of their knowledge of the National Quality Framework (**Framework**). The suggestion appears to be that the interview and written assessment constitutes an assessment of their fitness and propriety under the *Education and Care Services National Law 2010* (**National Law**).

Acceptance of the invitation

Unfortunately, due to personal circumstances, Friday, 17 January 2020 is not a convenient time to attend the assessment.

Action regarding fitness and propriety

Be that as it may, our client was surprised to have received your letter.

On 2 December 2019, our client received an email from Jane McCulloch, Assistant Director Policy and Compliance. That email related to a compliance noticed issued on 5 November 2019. No issue with the fitness and propriety of [REDACTED] were raised, despite it being issued later than the compliance notice on 20 September 2019.

Accordingly, our client understood from that email that no further action was being taken by the Directorate in relation to our client. That does not appear to be the case, and our client would like to know why this action is being required following the later decision that took no issue in relation to anyone's fitness or propriety.

Conduct of assessment

Before accepting the invitation regarding the assessment of [REDACTED] fitness and propriety, our client would like to understand more in relation to the Directorate's proposed decision-making process.

In particular, we note the following:

1. Our client does not understand the process for assessing fitness and propriety, as no process that referable to the National Law has been identified. For example, the National Law does not prescribe the test that you are proposing be administered as a means of determining fitness and propriety?
2. What factors does the Directorate propose to take into account when assessing fitness and propriety? For example, at section 13, the National Law prescribes that a number of relevant considerations be taken into account. All these factors appear to weigh in favour of [REDACTED] fitness and propriety, yet it does not appear that:
 - (a) those considerations will considered as part of this process and, if this is the case, why not given that they are prescribed by the National Law as being relevant?
 - (b) [REDACTED] will be afforded a process that complies with the principles of procedural fairness.
3. To what extent will the conclusions in the compliance notice issued on 20 September 2019 be considered relevant to the assess? In our client's view, the consideration of the evidence supporting those findings is problematic such that the conclusions in that notice should not be relied upon in relation to any separate assessment of fitness and propriety. For example:
 - (a) The assessment of Witness A's credibility as a witness relies on considerations that are not probative of a person's credibility as a witness. Accordingly, in our view, such considerations would not be relied upon by a court to make conclusions as to a witnesses credit: see paragraph 27 of the compliance notice.

For example:

- (i) the promptness in which Witness A made complaints - this factor does not go to the veracity of the evidence;
- (ii) the corroboration of Witness A's evidence. Generally speaking, the corroboration of evidence occurs in relation to particular facts - that is, a particular fact alleged by a witness may be corroborated by the evidence of another witness in relation to that particular fact. Yet, the decision maker, while appearing to ignore parts of Witness A's evidence that are contradicted by other witnesses (and at times, multiple witnesses), impermissibly extrapolates that Witness A's evidence is generally of credit; and
- (iii) the level of Witness A's distress after observing the incidents. This factor is not relevant to whether a person's recollection of events is accurate. In fact, a person's heightened distress tends to make their recollection of facts less reliable.

This problematic assessment of Witness A's credibility appears to taint the factual conclusions made where there conflict in the evidence. Accordingly, the factual conclusions in the compliance notice tend to lack the rigour that one might expect of a regulator when making a conclusion that a person has breached the law. That is, Witness A's credibility, and not the actual evidence related to a particular factual event, is given undue priority in resolving conflict in the evidence: as an example, see paragraph (d) below.

- (b) At paragraph 37, the decision-maker challenges a 'false' assumption that [REDACTED] *children are unable to comprehend and have no idea what it [the word 'feral'] means*'. The assumption may or may not be correct. Be that as it may, there is no evidence cited by the decision-maker that such children do in fact understand the meaning of the word 'feral'. Further, there is no expert 'opinion' evidence relied upon to base a conclusion that, as a result of the one-off utterance of the word 'feral', there is a psychological risk to children that could be used to base the relevant finding regarding the alleged breach of the National Law. In short, the conclusion has been made without evidence.
- (c) At paragraph 40, the conclusions made in that paragraph are so broad that they lack clear reference to the evidence, suggesting that it would not be safe to rely upon them.
- (d) At paragraph 42, Witness A's evidence appears to be accepted by decision-maker, despite the fact that it contradicts the clear and uncontested evidence of a number of other witnesses. The credit of those other witnesses is not called into question and their evidence appears to be accepted by decision-maker. The evidence of those other witnesses should be preferred to Witness A (which has implications for the conclusions in relation to Witness A's credibility at paragraph 27).

These matters are not minor issues. They are factors that cast significant doubt on the conclusions made in the compliance notice and suggest that any decision-maker

appointed under section 21 of the National Law should not simply adopt those conclusions.

4. How is the Directorate, as part of the assessment, proposing to take into account that our client employs competent staff to assist it ensure compliance with National Law, and relies on the implementation of procedures to ensure day-to-day compliance with the National Law? This appears relevant to section 13(2)(c) of the National Law, which prescribes that a person's management capability is to be taken into account when assessing their fitness and propriety. In this respect, it is noted that the Framework is detailed and complex.
5. What will be the nature of the questions that are proposed to be asked at the interview?
6. Who is the decision maker under section 21 of the National Law?
7. What will be the process for ensuring that [REDACTED] will be afforded procedural fairness?

Of course, an assessment as to the fitness and propriety of [REDACTED] is not insignificant. Any adverse finding is likely to have significant consequences for them. Accordingly, it is appropriate that the Director provides responses to the questions raised in this letter, and that the process is fully outlined to them, in advance of any reassessment.

If you would like to discuss the matters raised in this letter, please do not hesitate to call me.

Yours faithfully

[REDACTED]

[REDACTED]

[REDACTED]

Fairburn, Janine

From: King, Meg
Sent: Thursday, 16 January 2020 1:20 PM
To: Masterman, Tanya
Subject: FW: Assessment of fitness and propriety
Attachments: Reassess fitness and propriety letter.doc

UNCLASSIFIED

From: King, Meg
Sent: Monday, 16 December 2019 3:31 PM
To: [REDACTED]@bcc.act.edu.au
Subject: Assessment of fitness and propriety

UNCLASSIFIED

Good Afternoon [REDACTED]

I have attached a letter requesting your attendance at the office of the Regulatory Authority to Reassess Fitness and Propriety.

Please respond via email to meg.king@act.gov.au

Regards,

Meg King | Business Manager /Scholarships Coordinator

Phone: 6207 1114 | Email: meg.king@act.gov.au

Children's Education and Care Assurance

Early Childhood Policy and Regulation | Education | **ACT Government**

Level 3 Hedley Beare Centre for Teaching & Learning | 51 Fremantle Drive, Stirling ACT 2611

P.O. BOX 158 CANBERRA ACT 2601 |

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[REDACTED]
Persons with Management or Control
Brindabella Christian Education Ltd
PO Box 5103
LYNEHAM ACT 2602

Email: elc@bcc.act.edu.au

Dear [REDACTED]

Reassessment Fitness and Propriety

I am writing to invite [REDACTED] to attend the office of the ACT Regulatory Authority, Children's Education and Care Assurance on Friday 17 January 2020 at 10:30am. The office is located at Level 3, Hedley Beare Centre, 51 Fremantle Drive, Stirling.

I am also writing to confirm that the purpose of this meeting is to reassess the fitness and propriety of the Persons with Management or Control of Brindabella Christian Education Ltd, being [REDACTED]. The assessment will involve an interview and a written assessment concerning knowledge of the National Quality Framework. The assessment comprises a multiple-choice component and scenario-based component, and a score of at least 80% in each component must be achieved.

A copy of the Education and Care Services National Law and National Regulations will be provided to each person at the assessment. No one is permitted to bring a mobile phone or other electronic device into the written test.

Please respond via return email as soon as possible to confirm that you will all be available to attend.

Regards

Meg King | Business Manager /Scholarships Coordinator
Phone: 6207 1114 | Email: meg.king@act.gov.au
Children's Education and Care Assurance
Early Childhood Policy and Regulation | Education | **ACT Government**

Level 3 Hedley Beare Centre for Teaching & Learning | 51 Fremantle Drive, Stirling
ACT 2611

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Fairburn, Janine

From: Masterman, Tanya
Sent: Friday, 24 January 2020 11:18 AM
To: Brookes, Clare
Subject: Link for Brindabella letter to [REDACTED]

Follow Up Flag: Follow up
Flag Status: Flagged

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Hi Clare

Here is a link to the hard copy letter I just gave you, in case you need to edit.

G:\Regulation and Compliance\CECA\SERVICES AND PROVIDERS\NQF Services\Brindabella Christian College ELC
arnwood\Compliance Actions\Investigations Compliance Actions\ING-00067181 - Inappropriate Discipline
(M)\Provider\Letter to [REDACTED].docx

Kind regards

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
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Fairburn, Janine

From: Masterman, Tanya
Sent: Thursday, 30 January 2020 12:03 PM
To: King, Meg
Subject: Brindabella

UNCLASSIFIED

Hi Meg

Here's the scanned letter and attachments to the solicitor. Thought it would be a bit weird having correspondence coming from all different people. If you BCC me in on your email I'll print it off and put it on the file with the original letter.

G:\Regulation and Compliance\CECA\SERVICES AND PROVIDERS\NQF Services\Brindabella Christian College ELC Charnwood\Compliance Actions\Investigations Compliance Actions\ING-00067181 - Inappropriate Discipline TM)\Provider\Letter to [REDACTED] 30-01-20.pdf

Kind regards

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
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Fairburn, Janine

From: King, Meg
Sent: Thursday, 30 January 2020 1:38 PM
To: [REDACTED]
Subject: FW: Brindabella Christian College: Reassessment of fitness and propriety [REDACTED]
Attachments: Letter to [REDACTED] 30-01-20.pdf

UNCLASSIFIED

Good Afternoon [REDACTED]

Please find attached further correspondence in this matter.

Kind regards,

Meg King | Business Manager /Scholarships Coordinator
Phone: 6207 1114 | Email: meg.king@act.gov.au
Children's Education and Care Assurance
Early Childhood Policy and Regulation | Education | **ACT Government**
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From: King, Meg
Sent: Thursday, 16 January 2020 1:28 PM
To: [REDACTED]
Cc: Masterman, Tanya <Tanya.Masterman@act.gov.au>
Subject: RE: Brindabella Christian College: Reassessment of fitness and propriety [REDACTED]

UNCLASSIFIED

Good Afternoon [REDACTED]

Thank you for your correspondence.

The appointment scheduled for Friday 17 January to re-assess the fitness and propriety of [REDACTED] will be re-scheduled as requested.

We will respond to your correspondence more substantively at a later date.

Kind regards,

Meg King | Business Manager /Scholarships Coordinator
Phone: 6207 1114 | Email: meg.king@act.gov.au
Children's Education and Care Assurance
Early Childhood Policy and Regulation | Education | **ACT Government**
Level 3 Hedley Beare Centre for Teaching & Learning | 51 Fremantle Drive, Stirling ACT 2611
GPO BOX 158 CANBERRA ACT 2601 |
www.education.act.gov.au | [Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#) | [CECA Facebook](#)

From: [REDACTED]
Sent: Wednesday, 15 January 2020 7:43 AM
To: King, Meg <Meg.King@act.gov.au>
Subject: Brindabella Christian College: Reassessment of fitness and propriety [REDACTED]

Dear Ms King

Please find **attached** correspondence in this matter.

Kind regards



[REDACTED]

Email: [REDACTED]

Dear [REDACTED]

Brindabella Christian College Early Learning Centre – Charnwood

1. I refer to your letter of 15 January 2020 in relation to Brindabella Christian College Early Learning Centre – Charnwood (SE-00011290) (the Service) operated by Brindabella Christian Education Ltd (PR-00005809) (the Provider).
2. I note that Meg King advised you by email on Thursday 16 January 2020 that the appointment with the Provider's persons with management or control, which was scheduled for Friday 17 January 2020, has been postponed as requested, due to the unfortunate circumstances faced by [REDACTED]. The Authority sympathises with [REDACTED] position and hopes that the situation has improved.

Compliance Notice of 5 November 2019

3. The compliance notice issued on 5 November 2019 (the November Notice) under cover of a decision letter of the same date (November Decision), resulted from a compliance audit conducted by the Authorised Officers at the Service on 24 October 2019. The Authority regularly carries out scheduled compliance audits at services as part of its monitoring and enforcement function under section 260(c) of the *Education and Care Services National Law 2010*¹ (the *National Law*).
4. Authorised Officers observed various non-compliances during the audit and the November Notice was issued regarding specific identified contraventions of the *National Law* surrounding medical conditions. After various follow up emails, the requirements of the November Notice were deemed to be satisfied, as advised by the email of 2 December 2019, which contained as the subject line "Compliance Notice 5/11/19". Refer **Attachment A** for a copy of that email, November Decision and November Notice.
5. The routine audit and consequent November Notice are separate from the investigation into suspected offences (and consequent show cause and compliance action), which resulted from a complaint received.

Compliance Notice of 20 September 2019

6. It is a further function of the Authority under section 260(d) of the *National Law* to receive and investigate complaints arising under the *National Law*.
7. By way of contrast to the November Notice, the compliance notice issued on 20 September 2019 (the September Notice) resulted from non-compliances identified during the course of an investigation into a complaint that provisions of the *National Law* had been contravened.

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


8. A show cause notice was issued to the Provider on 17 July 2019 (Show Cause Notice) and was responded to by the Provider on 2 August 2019 (SCN Response). The decision to issue the September Notice and reassess (or assess, as the case may be) the fitness and propriety of the persons with management or control was sent to the Provider on 20 September 2019 (September Decision).
9. The offences identified during the investigation and subsequent show cause process centred on the appropriateness of discipline of and interactions with children.
10. The SCN Response raised further concerns about the Provider's level of knowledge of the National Quality Framework, in particular National Quality Area 5.1, dealing with relationships with children.
11. Under section 19 of the *National Law*, it is a statutory condition of every provider approval that, as an operator of any education and care service, it must comply with the *National Law*. Further, under section 51 of the *National Law* it is a statutory condition of every service approval that it be operated in a way that ensures the safety, health and wellbeing of children and meets the educational and developmental needs of children.
12. Section 21 of the *National Law* empowers the Authority to reassess fitness and propriety of persons with management or control at any time.
13. You will note that the September Notice required further training of all persons with management or control, nominated supervisors and educators in specific areas, focussing on National Quality Area 5.1.

Conduct of Assessment

14. With regard to your queries in paragraphs 1, 2, and 4 of your letter, the process of assessment of fitness and propriety involves the following considerations:
 - a. the mandatory factors set out in section 13 of the *National Law*;
 - b. any further information required by the Authority in order to determine whether a person is fit and proper to be involved in the provision of an education and care service. Section 14 of the *National Law* permits the Authority to seek further information from the person and undertake inquiries in relation to the person.
15. As you have stated, there appears to be no concern regarding the factors in subsections 13(1) and (2), although [REDACTED] has never been subject to assessment by the Authority. Accordingly, those matters will be addressed briefly during a short interview prior to sitting the written assessment.
16. When assessing fitness and propriety, in addition to the mandatory considerations, the Authority also takes into account the provider's level of knowledge of the National Quality Framework. That level of knowledge is assessed via a multiple choice test and scenario-based component. Both components have a pass mark of 80%. Whilst the assessment result is not the sole factor considered by the Authority in determining fitness and propriety, it does carry substantial weight.
17. Your comments in paragraph 3(a) to (d) of your letter are noted, however, on page 11 of the September Decision, it was advised that a decision to issue a compliance notice is an internally reviewable decision under section 190 of the *National Law* and instructions were given for where to find an application for internal review of reviewable decision. No application for review was lodged and the Provider has produced material to the Authority in response to that notice.

18. A person's compliance history is merely one factor that is taken into account in assessing fitness and propriety, and the Authority sees no justification for revisiting the September Compliance Notice.
19. The Authority's concern regarding fitness and propriety arises principally from the Provider's demonstrated lack of understanding of appropriate interactions between educators and children. Paragraph 64 of the September Decision refers to the Provider's position in minimising and justifying the conduct alleged and relying on it apparently being sanctioned by parents and reflective of daily routines in the Service. From a fitness and propriety perspective, the Provider's lack of understanding of the reasons the educators' conduct was inappropriate is substantially more concerning than the conduct itself.
20. Regarding paragraph 5 of your letter, questions to be asked at interview will be centred on the mandatory considerations in section 13 of the *Law* and the National Quality Framework. The questions in the written test are based on the *National Law and Regulations*, copies of which are provided for the purpose of the assessment. The assessment includes multiple choice questions and four scenario questions, based on situations which may arise at a Service.
21. Regarding your queries in paragraphs 6 and 7, the information gathered in the assessment process will be considered by a panel of senior managers and the final decision will be made by a senior manager of the Authority.
22. No action consequent upon the reassessment will be taken without the Provider having ample opportunity to engage with the Authority to demonstrate fitness and propriety. Additionally, before any substantive decisions are made regarding approvals, a show cause process is undertaken to afford further opportunity to respond to and engage with the Authority.
23. The Authority appreciates that reassessment of fitness and propriety is a significant action to undertake. Accordingly, your client was granted in excess of three months' notice of the impending reassessment involving demonstration (through interview and/or written assessment) of an adequate understanding of an approved provider's obligations under the National Quality Framework (see paragraph 67 of the Decision).
24. If the Authority does determine that further compliance action is required following the assessment of fitness and propriety, details of avenues of review will be provided.
25. I trust this addresses your queries but please do not hesitate to contact me with any further concerns.

Yours Sincerely



Susan Sullivan
Director
Quality Assurance and Audit
Children's Education and Care Assurance
Early Childhood Policy and Regulation
ACT Education Directorate

30 January 2020

Masterman, Tanya

From: MacCulloch, Jane
Sent: Monday, 2 December 2019 9:34 AM
To: elc@bcc.act.edu.au
Subject: Compliance Notice 5/11/19
Attachments: Self Assessment of Compliance - 1 Feb 2018 (002).doc

UNCLASSIFIED For-Official-Use-Only

Dear 

I have reviewed your compliance notice and have determined that you have met your requirements under the notice. The action is now closed.

Please ensure you take all reasonable steps to maintain the safety, health and wellbeing of children in your care. I encourage you to undertake the self-assessment audit regularly and to develop your knowledge more deeply of the National Law and Regulations. You may also like to access the ACECQA website which has large amounts of information to support providers and services, <https://www.acecqa.gov.au/>.

Regards
Jane

Jane MacCulloch | Assistant Director Policy and Compliance

Phone 02 6207 6249

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

Fairburn, Janine

From: Fairburn, Janine on behalf of CECA
Sent: Monday, 23 March 2020 10:42 AM
To: Williams, Jo; Sullivan, Susan
Cc: Brookes, Clare
Subject: FW: Question regarding school closure and the possibility of opening Vacation Care services earlier

UNCLASSIFIED

From: [REDACTED]@bcc.act.edu.au>
Sent: Monday, 23 March 2020 10:11 AM
To: CECA <CECA@act.gov.au>
Cc: [REDACTED]@bcc.act.edu.au>; [REDACTED]@bcc.act.edu.au>
Subject: Question regarding school closure and the possibility of opening Vacation Care services earlier

To whom it may concern,

The Question we have at present is around what options we have as a provider in being able to start our Vacation Care Services from Wednesday the 25th of March, this is to accommodate the following changes and support teachers and other essential workers in our school community. This would be due to closure of schools/remote learning options and the need for teachers to be onsite teaching and so on.
I did call through earlier and the phone connection dropped out 2 times.

[REDACTED]



Fairburn, Janine

From: Moysey, Sean
Sent: Tuesday, 14 April 2020 12:04 PM
To: Foster, Kristen; Brookes, Clare
Subject: RE: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

UNCLASSIFIED Sensitive: Legal

Dear Kristen

BCC have rights of review and appeal if they don't agree with the outcome. They can also seek a review by the ombudsman.

Clare and I will review and provide appropriate words.

Regards
Sean

Sean Moysey
Executive Branch Manager, Early Childhood Policy and Regulation
Education | ACT Government
P 02 6207 2143 M 0478 301 650

Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive Stirling 2611 |
GPO Box 158 Canberra ACT 2601
www.det.act.gov.au

From: Foster, Kristen <Kristen.Foster@act.gov.au>
Sent: Tuesday, 14 April 2020 11:23 AM
To: Moysey, Sean <Sean.Moysey@act.gov.au>
Subject: FW: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

UNCLASSIFIED Sensitive: Legal

Dear Sean:

[REDACTED] I am forwarding to you, largely because I don't have any background on the issues raised on regulatory compliance by the CECA. Would it be easier for us to discuss by phone.

Lynda Tooth is preparing the response regarding Inquiries for NG schools. Would your team provide a response regarding the CECA?

Warm regards

Kristen

Kristen Foster GAICD CISM CISA
Executive Branch Manager, Governance and Community Liaison | ACT Education | ACT Government
Senior Executive for Business Integrity Risk (SERBIR)
T: 02 6205 6749 | M: 0466 588 990

E: kristen.foster@act.gov.au

From: Laurent, Kristen <Kristen.Laurent@act.gov.au> **On Behalf Of** DGEDUoffice
Sent: Thursday, 9 April 2020 6:08 PM
To: Foster, Kristen <Kristen.Foster@act.gov.au>; Carroll, Camille <Camille.Carroll@act.gov.au>
Subject: FW: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

UNCLASSIFIED Sensitive: Legal

For appropriate action please. I have flagged this with Katy.
Kristen

From: [REDACTED]
Sent: Thursday, 9 April 2020 5:48 PM
To: DGEDUoffice <DGEDUoffice@act.gov.au>
Cc: BERRY <BERRY@act.gov.au>
Subject: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

Dear Director General

We act for Brindabella Christian Education Limited.

Attached is correspondence in relation to various matters that continue to be outstanding in relation to the College.

Minister Berry has been copied into this email as, in the letter, an offer has been extended to the Minister to view the College's online learning platforms.

Kind regards

Fairburn, Janine

From: Foster, Kristen
Sent: Tuesday, 14 April 2020 12:39 PM
To: DGEDUoffice
Cc: Moysey, Sean; Tooth, Lynda; Carroll, Camille
Subject: RE: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

UNCLASSIFIED Sensitive: Legal

Hi Kristen L:

We can coordinate the response.

Warm regards

Kristen

Kristen Foster GAICD CISM CISA
 Executive Branch Manager, Governance and Community Liaison | ACT Education | ACT Government
 Senior Executive for Business Integrity Risk (SERBIR)
 T: 02 6205 6749 | M: 0466 588 990
 E: kristen.foster@act.gov.au

From: Laurent, Kristen <Kristen.Laurent@act.gov.au> **On Behalf Of** DGEDUoffice
Sent: Tuesday, 14 April 2020 11:48 AM
To: Carroll, Camille <Camille.Carroll@act.gov.au>; Foster, Kristen <Kristen.Foster@act.gov.au>; DGEDUoffice <DGEDUoffice@act.gov.au>
Cc: Moysey, Sean <Sean.Moysey@act.gov.au>
Subject: RE: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

UNCLASSIFIED Sensitive: Legal

Noted, thanks Camille.

Kristen, can I leave it to your branch (Lynda) to lead in consultation with Sean's Branch? Otherwise , we can TRIM to Sean's area.

Ta

Kristen

From: Carroll, Camille <Camille.Carroll@act.gov.au>
Sent: Tuesday, 14 April 2020 9:45 AM
To: Foster, Kristen <Kristen.Foster@act.gov.au>; DGEDUoffice <DGEDUoffice@act.gov.au>
Subject: Re: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

Hello,

This looks to be a matter for Lynda Tooth and Sean Moysey given the regulatory issues. Once they've considered let me know if they require legal advice on their roles in regulatory systems.

Thanks
Camille

From: Foster, Kristen <Kristen.Foster@act.gov.au>
Sent: Thursday, April 9, 2020 7:11:03 PM
To: DGEDUoffice <DGEDUoffice@act.gov.au>; Carroll, Camille <Camille.Carroll@act.gov.au>
Subject: Re: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

Thank you!

Warm regards
Kristen
Kristen Foster GAICD CISM CISA
Executive Branch Manager (Chief Information Officer)
Digital Strategy, Services and Transformation
ACT Education Directorate
T: 02 6205 6749 | M: 0466 588 990
E: kristen.foster@act.gov.au

From: Laurent, Kristen <Kristen.Laurent@act.gov.au> on behalf of DGEDUoffice <DGEDUoffice@act.gov.au>
Sent: Thursday, April 9, 2020 6:07:36 PM
To: Foster, Kristen <Kristen.Foster@act.gov.au>; Carroll, Camille <Camille.Carroll@act.gov.au>
Subject: FW: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

UNCLASSIFIED Sensitive: Legal

For appropriate action please. I have flagged this with Katy.
Kristen

From: [REDACTED]
Sent: Thursday, 9 April 2020 5:48 PM
To: DGEDUoffice <DGEDUoffice@act.gov.au>
Cc: BERRY <BERRY@act.gov.au>
Subject: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

Dear Director General

We act for Brindabella Christian Education Limited.

Attached is correspondence in relation to various matters that continue to be outstanding in relation to the College.

Minister Berry has been copied into this email as, in the letter, an offer has been extended to the Minister to view the College's online learning platforms.

Kind regards

[REDACTED]



Brookes, Clare

From: Foster, Kristen
Sent: Wednesday, 15 April 2020 3:22 PM
To: Brookes, Clare
Subject: RE: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]
Attachments: FW: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

UNCLASSIFIED Sensitive: Legal

Hi Clare: is attached to this email.

Warm regards

Kristen

Kristen Foster GAICD CISM CISA
 Executive Branch Manager, Governance and Community Liaison | ACT Education | ACT Government
 Senior Executive for Business Integrity Risk (SERBIR)
 T: 02 6205 6749 | M: 0466 588 990
 E: kristen.foster@act.gov.au

From: Brookes, Clare <Clare.Brookes@act.gov.au>
Sent: Wednesday, 15 April 2020 8:48 AM
To: Foster, Kristen <Kristen.Foster@act.gov.au>
Subject: RE: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

UNCLASSIFIED Sensitive: Legal

Hi Kristen

Could you please send me the attachment.

Kind Regards

Clare Brookes
 Senior Director, Early Childhood Regulation, Early Childhood Policy and Regulation | Education | ACT Government
 P 02 6205 0615 M 0481 003 833

Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive Stirling 2611 |
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From: Moysey, Sean <Sean.Moysey@act.gov.au>
Sent: Tuesday, 14 April 2020 12:04 PM
To: Foster, Kristen <Kristen.Foster@act.gov.au>; Brookes, Clare <Clare.Brookes@act.gov.au>
Subject: RE: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

UNCLASSIFIED Sensitive: Legal

Dear Kristen

BCC have rights of review and appeal if they don't agree with the outcome. They can also seek a review by the ombudsman.

Clare and I will review and provide appropriate words.

Regards
Sean

Sean Moysey

Executive Branch Manager, Early Childhood Policy and Regulation
Education | ACT Government
P 02 6207 2143 M 0478 301 650

Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive Stirling 2611 |
GPO Box 158 Canberra ACT 2601
www.det.act.gov.au

From: Foster, Kristen <Kristen.Foster@act.gov.au>
Sent: Tuesday, 14 April 2020 11:23 AM
To: Moysey, Sean <Sean.Moysey@act.gov.au>
Subject: FW: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

UNCLASSIFIED Sensitive: Legal

Dear Sean:

[REDACTED] I am forwarding to you, largely because I don't have any background on the issues raised on regulatory compliance by the CECA. Would it be easier for us to discuss by phone.

Lynda Tooth is preparing the response regarding Inquiries for NG schools. Would your team provide a response regarding the CECA?

Warm regards

Kristen

Kristen Foster GAICD CISM CISA
Executive Branch Manager, Governance and Community Liaison | ACT Education | ACT Government
Senior Executive for Business Integrity Risk (SERBIR)
T: 02 6205 6749 | M: 0466 588 990
E: kristen.foster@act.gov.au

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Sent: Thursday, 9 April 2020 6:08 PM
To: Foster, Kristen <Kristen.Foster@act.gov.au>; Carroll, Camille <Camille.Carroll@act.gov.au>
Subject: FW: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

UNCLASSIFIED Sensitive: Legal

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Kristen

From: [REDACTED]
Sent: Thursday, 9 April 2020 5:48 PM
To: DGEDUoffice <DGEDUoffice@act.gov.au>
Cc: BERRY <BERRY@act.gov.au>
Subject: Brindabella Christian College: Letter regarding outstanding matters [REDACTED]

Dear Director General

We act for Brindabella Christian Education Limited.

Attached is correspondence in relation to various matters that continue to be outstanding in relation to the College.

Minister Berry has been copied into this email as, in the letter, an offer has been extended to the Minister to view the College's online learning platforms.

Kind regards





9 April 2020

Katy Haire
Director-General
ACT Education Directorate
220 Northbourne Avenue
Braddon ACT 2612

Email: DGEDUoffice@act.gov.au



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Dear Ms Haire

Regulatory notices issued to Brindabella Christian Education Limited

The purpose of this letter is to seek to bring to a close various outstanding matters that have been the subject of action by the ACT Education Directorate (**Directorate**). The basis for this request is set out below.

1. Background

- 1.1 Since mid-last year, Brindabella Christian Education Limited (**BCC** or the **College**) has been the subject of various enquiries from regulatory authorities relating to the management of its school. In many cases, the inquiries have been prompted (according to correspondence from the relevant authorities) by the authority becoming aware of complaints being made about the College. None of these complaints have ever been detailed to the College.
- 1.2 As explained in previous correspondence with the Directorate, BCC continues to be the subject of a concerted campaign against the College. In BCC's view, this campaign is being driven by a small number of disaffected parents and former staff of the school, who are also using social and traditional media to amplify their concerns.
- 1.3 The concerns appear to relate to:
- (a) the governance of the College;
 - (b) personal grievances with the Board of BCC; and
 - (c) employment-related disputes.
- 
- 

1.4 The public campaign has resulted in significant misreporting in the traditional media and continues to cause unwarranted reputational and financial damage to the College.

1.5 The reality of the situation is that BCC has been undergoing a period of change, in which it is seeking to continuously improve and strengthen its executive leadership team. This period of change in the workplace followed the long tenure of [REDACTED]. It is understandable that the school community might feel uncomfortable with change. Be that as it may, it appears that disgruntled members of the school community are choosing to criticise the Board for matters that are confidential and in respect of which they do not have knowledge of the full set of factual circumstances (in the case of, for example, the employment-related disputes).

1.6 The concerns being expressed have been developed into a public narrative that is damaging to the College's reputation. The public narrative lacks specifics. Moreover, in the circumstances, the College is not in a position to respond to and address those concerns publicly because the College respects its obligations regarding privacy and confidentiality that relate to these matters.

2. Concerns with conduct of regulatory authorities

2.1 The College has, in effect, been asked to respond to the narrative by various regulatory authorities. In all cases, the regulatory authorities have expressly stated that their actions are motivated by the complaints, and others deny that this is the case (even though their actions relate to the subject matter of the complaints).

2.2 In her letter dated 8 October 2019, Danielle Krajina (Registrar, ACT Non-Government Schools) specifically identified that her inquiries were motivated by the public complaints. In Ms Krajina's letter, the College was also requested to provide responses in onerous detail to inferences that were drawn about the College's financial viability, even though there was no evidence that its financial viability was at risk.

2.3 In no case has any regulatory authority explained in detail what are the complaints that have motivated their actions.

2.4 In effect, the regulatory authorities have stated that BCC does not need the details of the complaints to respond to the issues at hand. With respect, this approach is not consistent with the fundamental principles of administrative decision making. That is, those people whose interests are affected by an administrative decision should be provided with all relevant information that is adverse to their interests. This has not occurred.

2.5 In this respect, our client reserves its rights in relation to any future action taken by regulatory authorities that has been conducted in a less than transparent manner.

3. The outstanding matters with the Directorate

3.1 Presently, there are two outstanding matters with the Directorate.

Inquiries made by the Registrar of ACT Non-Government Schools

3.2 Two letters were sent on behalf of BCC in response to Ms Krajina's letter of 8 October 2019. These were sent on 24 October 2019 and 20 December 2019.

3.3 Our client considers that the approach taken by Ms Krajina was unnecessary. A more collaborative approach would have been preferred. Be that as it may, the BCC's letter of 20 December 2019 provided a substantive response to the issues raised in the letter of 8 October 2019. The College has not received any further correspondence in relation to this matter, despite the implication in Ms Krajina's letter that the concerns raised were being taken seriously.

3.4 Given the passing of time, is BCC able to treat the matter as now being resolved?

Outcome of regulatory compliance action by Children's Education and Care Assurance

3.5 On 20 September 2019, a compliance notice was issued to BCC in relation to suspected contraventions of the *Education and Care Services National Law Act 2010* (the **Law**) in relation to events that occurred at the BCCs early childhood centre at Charwood. BCC has taken steps to ensure compliance with the Law.

3.6 In addition, on 16 December 2019, [REDACTED] were invited to attend an assessment as to their fitness and propriety as people with management and control of the College. According to a letter received from Susan Sullivan, Director, Quality Assurance and Audit, on 30 January 2020, the assessment was to be conducted for the following reasons:

The Authority's concern regarding fitness and propriety arises principally from the Provider's [BCC's] demonstrated lack of understanding of appropriate interactions between educators and children. Paragraph 64 of the September Decision [the letter of 20 September 2019] refers to the Provider's position in minimising and justifying the conduct alleged and relying on it apparently being sanctioned by parents and reflective of daily routines in the Service. From a fitness and propriety perspective, the Provider's lack of understanding of the reason the educators conduct was inappropriate is substantially more concerning than the conduct itself.

(See paragraph 19)

3.7 With respect to Ms Sullivan, BCC believe that she has mischaracterised BCC's position in relation to these matters. BCC did **not** minimise or justify any alleged conduct. Rather, the situation was as follows.

3.8 The College was provided with a 'show cause notice' on 17 July 2019. It took all allegations in the notice seriously, and conducted an investigation of the allegations. Full transcripts of interviews with witnesses were provided to the Directorate, along with details of the actions taken to address the alleged concerns. Some of these

actions were significant and included training, the direct supervision of staff and recruitment activities.

- 3.9 The investigation revealed evidence that was contrary to the allegations. We note that Ms Sullivan did not make any conclusion as to the credibility of any witness, but she merely preferred the evidence of the anonymous witness. In this respect, the College notes that there were limitations on its ability to fully assess the allegations, as it was unable to test the evidence provided by the complainant. For example, the identity of the complainant was not revealed to the College and, as a result, the complainant could not be positively identified and interviewed.
- 3.10 A response was prepared by the College based on the evidence collected as part of the investigation, and promptly provided to the Directorate on 2 August 2019. In the response, the College in no way minimised or justified any unacceptable behaviour, and explained the allegations by reference to and in a way that was consistent with the evidence obtained as part of the investigation. Accordingly, quite appropriately, the response was based on the evidence available to BCC at the time.
- 3.11 A key contention appears to be around BCC's position in relation to two issues. The first was the use of the word 'feral' by an educator to describe a child's conduct. The second was, according to the decision maker, the use of inappropriate discipline techniques that were said to be sanctioned by parents and reflective of routines at the centre.
- 3.12 The conclusion that BCC justified or minimised these issues is at odds with the information provided by BCC.
- 3.13 In relation to the use of the word 'feral', the College's response (quite appropriately) was directed towards whether the conduct constituted a breach of the Law. It did not in any way suggest that the language disrespecting the dignity and rights of children was tolerated and condoned.
- 3.14 Instead, the College explained the use of the word *in the context of the evidence that had been obtained by the College during its investigation*. The evidence provided by person who engaged in the conduct was that [REDACTED] was not speaking to the child when [REDACTED] used the word to describe the child's behaviour. This is the basis of the College's observations about the use of the word by the educator.
- 3.15 We also note Ms Sullivan's observations at paragraph 37 of her letter in which she states that it would be false to assume that a [REDACTED] would not be able to comprehend the meaning of the word 'feral'. Our client would be interested in understanding the evidence on which this assertion is based, particularly if one is to assume that the comment was not being made to the child but to other educators (which was the evidence available to the College).
- 3.16 Further, and more importantly, BCC stated in its response:

The incident itself can (and has) provided a focal point to discuss the meaning of section 167 and 155 with our staff (especially as it inter-relates with our policies)

- 3.17 Accordingly, BCC's response was to take proactive and positive steps to address any concerns with the manner in which educators addressed children, even before any compliance notice was issued. The actions taken by BCC, therefore, were not consistent with the conclusion that the College justified or minimised any inappropriate language used towards children.
- 3.18 Accordingly, the assertion that the College justified or minimised the use of inappropriate language used towards children should be withdrawn.
- 3.19 In relation to the use of discipline techniques, the evidence provided by the College in response to the allegations did not suggest that inappropriate disciplinary techniques were condoned by the College. Rather, the evidence obtained by the College was that the disciplinary techniques complained of either did not occur at the centre or had been banned.
- 3.20 The evidence was, however, that certain *sleep and eating routines* were discussed with parents, and that those routines were reflective of the daily practices of the centre. Again, this position was advanced by BCC on the basis of the evidence obtained as part of the investigation. The evidence available to BCC from its interviews with those involved in the alleged incidents was that the incidents did not involve the application of strategies for the discipline of children.
- 3.21 It is unfair for Ms Sullivan to make conclusions about the seriousness with which the College treats its legal obligations, and the College's understanding of those obligations, when she appears to have taken a fundamentally different view of the facts. In effect, what appears to have occurred is that Ms Sullivan has judged the BCC's response by reference to her own conclusions in relation to the facts, and not by reference to the evidence available to BCC when it provided its response to the allegations.
- 3.22 Accordingly, the bases cited by Ms Sullivan for the invitation to [REDACTED] to attend the fitness and propriety assessment is without foundation.
- 3.23 Our client requests that this matter be now resolved and that no further action be taken, other than to withdraw the assertion that the College justified or minimised the use of inappropriate discipline strategies.

4. Ongoing impacts on BCC

- 4.1 The impacts of the approach by regulatory authorities have been significant. By way of example, in the case of WorkSafe ACT, it conducted a 'review' of the Collège's policies and procedures for dealing with complaints because, as it was reported in the media, it was 'tipped off' by various public complaints. Like the Directorate, WorkSafe ACT declined to outline what those complaints were.
- 4.2 It is difficult for administrators of the College to address the issues underpinning complaints when the complaints are never identified. This is the case whether it be in relation to action by the Directorate or any other regulator.
- 4.3 Further, WorkSafe ACT made a statement to the media about the issuing of improvement notices regarding relatively minor defects with the College's policies

and procedures for managing complaints. To be clear, there was no evidence that a complaint had been poorly managed and, in fact, our client submits that complaints are being actively managed by BCC. Rather, *in one part of the College*, the College did not have in place certain policies and procedures that WorkSafe ACT believed should be in place. Other parts of the college were considered fully compliant. BCC believes that it is now fully compliant.

- 4.4 What is remarkable, however, is the fact that the improvement notices were the subject of their own media release. This was an unusual step for WorkSafe ACT to take in relation to such a matter given that (as far as we are aware) media statements are only occasionally made in relation to improvement notices issued by work health and safety regulators. The media statement was released by WorkSafe ACT before the notices were in fact received by the College.
- 4.5 BCC was assured by inspectors that it was not being 'investigated' by WorkSafe ACT, but that the inspectors were conducting a 'review'. This was not the narrative that was being presented to the media by the Commissioner of WorkSafe ACT or public spokespersons, who repeated mentioned an investigation.
- 4.6 The action being taken by regulators, and its lack of a timely resolution, merely serves to give weight to the unsubstantiated public narrative being perpetuated by disaffected individuals.
- 4.7 It appears to the College that individuals outside the Directorate are aware of the regulatory action that is being taken by the Directorate. Based on information provided to BCC, in the instances mentioned above, it appears that the [REDACTED] was provided information by the Directorate in relation to regulatory compliance matters well before official notices had been issued to the College. There appear to be confidentiality issues with the regulatory processes, which were notified to the Directorate in an email of 12 October 2019 and which are of concern to the College.
- 4.8 The relevance of this is the similarity of the conduct by regulatory authorities, its inappropriateness, and its impact on the College and its staff. The reputational and financial impacts are obvious. Moreover, our client reports that the mental health of senior staff is being adversely impacted by the fact that:
- (a) the College is being repeatedly asked to respond to enquiries from regulatory authorities;
 - (b) the complaints that are motivating those enquiries have never been particularised to the College, and none has been substantiated;
 - (c) the complaints are being treated by regulatory authorities as though they have veracity, although none has been substantiated;
 - (d) the regulatory action is not being concluded in a timely manner; and
 - (e) the actions required to respond to the enquiries by BCC involves unreasonable and substantial work by the senior management team.

- 4.9 This adverse impact on the health of staff is a primary reason for our client requesting that the outstanding matters with the Directorate now be closed (in addition to the concerns raised above about the action).
5. **Recent progress made by BCC**
- 5.1 Despite the challenges caused by the recent period of workplace change, our client believes that the College is continuing to demonstrate its effectiveness as an organisation. A significant contributing factor has been the stability experienced by the school under the leadership of its Principal, [REDACTED] and [REDACTED] senior management team.
- 5.2 Over the last 12 years, the College has been an education industry leader on modernising its education programs and the implementation of significant support IT infrastructure. In particular, this has been achieved by the introduction of technology into day-to-day learning activities enhanced during the Digital Education Revolution initiatives of 2008 and becoming the first school in the ACT to achieve a 1:1 ratio across all year levels. BCC has also continued to be a leader in the ACT with additionally introducing a "bring your own device" platform for senior years and supporting electronic interactive live-boards in every classroom a number of years ago; and remains a leader in the field of electronic education.
- 5.3 BCC believes that the recent disruption to the provision of education caused by COVID-19 has served to underline how effective recent efforts have been to embed technology in the day-to-day learning activities of its students. Once it was recommended that schools in the ACT be pupil free, BCC was able to commence online "connected" real-time remote learning almost immediately. Specifically:
- (a) on the 24 March 2020, within two days after the pupil free days were announced, the College had 450 students transfer to 'connected classrooms';
 - (b) in the connected classrooms, students were able to interact with, and ask questions of, their teachers during classes timetabled as usual;
 - (c) children of essential workers are attending the College, and their ongoing learning continues to be appropriately catered for; and
 - (d) following further isolation measures announced by the Prime Minister, all teachers have been transferred to working from home arrangements, with no adverse impact on their ability to facilitate the 'connected classroom' experience for student.
- 5.4 Were it not for a technical issue, [REDACTED] had developed a news story that was to air on its [REDACTED] news program on Thursday, 26 March 2020, in relation to the success of the transition to online learning platforms.
- 5.5 The feedback from parents and teachers has been extremely positive. The **Attachment** contains a sample of the unsolicited positive feedback received from both parents and teachers in relation to BCC's response to the disruption caused by COVID-19. Our client considers that it could not have achieved such great outcomes in such challenging times without the College being a harmonious and

well-operated environment. The public narrative does not reflect the general feeling of staff and parents at the school. The past grievance of those disgruntled parents and former staff do not reflect the current reality of the school environment.

5.6 The College invites you (and Minister Berry, if available) to the College to see how education services in the ACT are being effectively delivered to its students in these challenging times.

5.7 Our client considers that this recent experience serves to demonstrate that the College is moving beyond its recent difficult period of workplace change. Our client encourages the Directorate to take a similar view.

6. Next steps

6.1 In terms of the next steps, please confirm that:

- (a) The Directorate does not propose to take any further action in relation to Ms Krajina's letter of 8 October 2019;
- (b) The Directorate no longer requires [REDACTED] to attend an assessment as to their fitness and propriety as people with management and control of the College, now that the concerns expressed in Ms Sullivan's letter of 20 September 2019 have been addressed (see above);
- (c) the assertion that the College justified or minimised the use of inappropriate language used towards children is withdrawn;
- (d) the assertion that the College justified or minimised the use of inappropriate discipline strategies is withdrawn; and
- (e) no employee of the Directorate who is involved in matters related to BCC has a personal relationship, or has had a previous work relationship, with any of those individuals engaged in disputes with the College.

We look forward to hearing from you.

Yours faithfully

[REDACTED]

Attachment: Unsolicited feedback regarding the College

Example 1 (31 March 2020)

Dear Teachers,

We (all of senior school) would like to say a very big thank you for all your support and help during this time of online learning. You have all been really kind by giving us breaks between our classes and always standing by ready to support anyone who asks for help. You've been very patient waiting for classes to start and for all you students and you have also been kind.

While we may not be able to fully comprehend how much you are doing to help run our classes as smoothly as they go but we know that you do put in a lot of effort for all our your classes and we want to say a very big thank you for everything. We hope God will continue to bless you and give you wisdom and strength in the days to come.

Lots of Love,

Example 2 (30 March 2020)

Good morning [REDACTED]

I thought it appropriate to share the following feedback from one of our [REDACTED] parents. Another encouraging response!

"I'm speaking up on behalf of all [REDACTED] parents today to say a HUGE THANKYOU to [REDACTED] and the whole BCC [REDACTED] leadership team and other teachers for the tremendous amount

of hard work that gone into this week and further weeks to come. So much preparation has gone into setting up the online learning platform, the take home packs of paperwork, the daily videos and ZOOM conference calls. This in itself is a huge task for the teachers to complete, but [REDACTED] you are doing it so well with kids at home yourself. You should be really proud of yourself for the quality teaching you are providing to our kids even when they are not at school. My child is thriving this week because of your guidance and support so again, a HUGE THANKYOU! Keep up the great work. We as parents understand the pressures that have been placed upon you the past few weeks! You are a wonderful teacher [REDACTED] and we are grateful that [REDACTED] has you as his teacher! Happy Friday everyone!"

Example 3 (30 March 2020)

Hi [REDACTED] and leadership team,

In these crazy times I wanted to take the time to say a virtual thank you for your ongoing leadership and communication. With an unknown environment that changes by the hour the flow of information and advice has been amazing. It is especially welcome at a time where we have not been able to have [REDACTED] lead us. I am thankful for the [REDACTED] team and they work we were able to do in a short space of time to prepare ourselves.

Hearing the stories from my teaching friends and colleagues in [REDACTED] makes me appreciate how lucky we are but also how prepared and far ahead of so many other schools we are. I am thankful for the College and opportunity I have had to join it. My former colleagues [REDACTED] are suffering hard through these times and it is most likely that I would not have had a job if I decided to stay there. We all know that God has a plan for us and I am thankful now more than ever that he directed me to Brindabella as there is nowhere else I would rather be during these times.

In these times it is always easy to ponder on what we could be doing better rather than acknowledging what we have done well, so again thank you for your leadership and communication during what is a difficult and stressful time for us all. I wish nothing but peace and clarity for everyone as we navigate the situation together.

Thank you!!

Fairburn, Janine

From: Masterman, Tanya
Sent: Thursday, 16 April 2020 7:58 AM
To: King, Meg
Subject: Brindabella

UNCLASSIFIED

Hi Meg

I'm sure you remember that letter to Brindabella's solicitors that was signed by Susan on 30 January 2020? Did anything at all happen after that? Last time we spoke you had no reply – I assume Susan didn't either?

Tanya Masterman | Senior Investigator
Phone 02 6205 2012 | Email tanya.masterman@act.gov.au
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Fairburn, Janine

From: Masterman, Tanya
Sent: Thursday, 16 April 2020 2:41 PM
To: Brookes, Clare
Subject: RE: Brindabella

UNCLASSIFIED

If you need any other documents, such as Susan's letter of 30 January 2020, Decision of 20 September 2019 etc, they are all in the same folder.

Enjoy 😊

Tanya Masterman | Senior Investigator
 Phone 02 6205 2012 | Email tanya.masterman@act.gov.au
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From: Brookes, Clare <Clare.Brookes@act.gov.au>
Sent: Thursday, 16 April 2020 2:38 PM
To: Masterman, Tanya <Tanya.Masterman@act.gov.au>
Cc: Fairburn, Janine <Janine.Fairburn@act.gov.au>
Subject: RE: Brindabella

UNCLASSIFIED

Dear Tanya

Thank you for such a speedy response. I'll have a read through tonight. 😊

Kind Regards

Clare Brookes
 Senior Director, Early Childhood Regulation, Early Childhood Policy and Regulation | Education | ACT Government
 P 02 6205 0615 M 0481 003 833

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From: Masterman, Tanya <Tanya.Masterman@act.gov.au>
Sent: Thursday, 16 April 2020 2:28 PM
To: Brookes, Clare <Clare.Brookes@act.gov.au>
Cc: Fairburn, Janine <Janine.Fairburn@act.gov.au>
Subject: Brindabella

UNCLASSIFIED

Hi Clare

Here is a link to the draft insertion regarding [REDACTED] letter to the D-G of 9 April 2020 so you can amend it as you wish.

G:\Regulation and Compliance\CECA\SERVICES AND PROVIDERS\NQF Services\Brindabella Christian College ELC Charnwood\Compliance Actions\Investigations Compliance Actions\ING-00067181 - Inappropriate Discipline (TM)\Provider\DRAFT RESPONSE TO [REDACTED].docx

Hope that is okay.

Kind regards

Tanya Masterman | Senior Investigator

Phone 02 6205 2012 | Email tanya.masterman@act.gov.au

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