



Minister for Education



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Ms Lidia Lo Guisto
Coroners Registrar
Coroners Court of Victoria
Level 11, 222 Exhibition Street
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Dear Ms Lo Guisto

Investigation into the death of NATHAN FRANCIS

I write in response to the Inquest findings and recommendations made on 1 June 2012 by the Coroners Court of Victoria in relation to the death of Nathan Francis.

Relevant background

Legislative context

Section 4.3.1(6)(c) of the *Education and Training Reform Act 2006* (Vic) (the Act) states that the Victorian Registration and Qualifications Authority (VRQA) must not register a school unless it is satisfied that if the school has enrolled a student which it knows or ought to know has been diagnosed or as being at risk of anaphylaxis, the school has developed an anaphylaxis management policy containing matters required by a Ministerial Order to be included in the policy.

Ministerial Order No. 90 – Anaphylaxis Management in Schools was made on 23 May 2008 (Ministerial Order 90). It currently imposes the following requirements on all Victorian schools:

- development of a School Anaphylaxis Management Policy
- development of Individual Anaphylaxis Management Plans
- implementation of a School Communication Plan
- provision of regular staff training, and
- development of an emergency response.

Relevant stakeholders

The VRQA is a statutory authority governed by Part 4.2 of the Act. One of its roles is to register and regulate Victorian schools. As part of its role, it has oversight in relation to whether all Victorian schools are compliant with the Act and Ministerial Order 90.

The Department of Education and Early Childhood Development is responsible for the operation and management of Victorian government schools. Victorian government schools are required to comply with the Act and the Ministerial Order. In addition, they are also required to comply with the *Anaphylaxis Guidelines – A Resource for Victorian Government Schools* (the Guidelines).

The Catholic Education Office Melbourne (CEOM) is responsible for the operation and management of Catholic schools in Victoria (among other things). Catholic schools are currently required to comply with the Act and the Ministerial Order.

Independent Schools Victoria (ISV) provides information, advice and services to independent schools in Victoria. Independent schools are currently required to comply with the Act and the Ministerial Order.

In this context, we now wish to take this opportunity to provide you with a written response to each of the Coroner's recommendations:

Recommendation 1

That the Department of Education and Early Childhood Development review the 2006 'Anaphylaxis Guidelines for Victorian Government Schools' publication to ensure that the content and advice to schools reflects current best practice in anaphylaxis management, and includes the requirements set out under Ministerial Order 90.

In response to this recommendation, we advise that the Coroner's recommendation is in the process of being implemented.

Prior to the Coroner's findings and recommendations, the Guidelines were reviewed in 2011 to incorporate advice provided by the Royal Children's Hospital and Anaphylaxis Australia in relation to the use of an Anapen.

These revised Guidelines were communicated to all Victorian government schools on 24 June 2012, to CEOM on 27 July 2012, and to ISV on 9 August 2012.

The revised Guidelines were also published on the Department's website in June 2012 and can be found at the following link:

<http://www.eduweb.vic.gov.au/edulibrary/public/stuman/wellbeing/anaphylaxisguidelinesch.pdf>.

On receipt of the Coroner's Court findings and recommendations, the Department has conducted a further review of the Guidelines.

In conducting the review, we consulted with the VRQA, CEOM and ISV.

This review identified a further need to revise the Guidelines to clarify the obligations under Ministerial Order 90, and to implement the further recommendations discussed below.

The Department is now in the process of redrafting the Guidelines. The Guidelines will be revised in accordance with the following structure:

1. Introduction
2. Relevant medical information about anaphylaxis
3. Legal obligations (pursuant to the Act and Ministerial Order 90)
4. Anaphylaxis Management Policy (Part 2 of Ministerial Order 90)
5. Individual Anaphylaxis Management Plans (Part 3 of Ministerial Order 90)
6. Communications Plan (Part 4 of Ministerial Order 90)
7. Staffing training on anaphylaxis management (cl. 9(a) – (e) of Ministerial Order 90)
8. Emergency response (cl. 9(f) of Ministerial Order 90)
9. Additional obligations
 - Purchase of additional adrenaline auto injector device(s) (see commentary regarding Recommendation 3 below)

- Annual Anaphylaxis Risk Management Checklist (see commentary regarding Recommendations 3 & 4 below)
10. Roles and Responsibilities
11. FAQs.

Once the Guidelines are finalised, the Department will develop and implement a communication strategy to ensure that all Victorian schools are aware of the revised Guidelines.

Compliance with the Guidelines will be a requirement for all Victorian government schools. The CEOM and ISV have indicated that they will also encourage and direct their schools to comply with the revised Guidelines. As such, the Guidelines will no longer make reference to Victorian government schools.

It is anticipated that the new Guidelines will be in operation by Term 1, 2013.

The Department will provide you with a copy of the revised Guidelines as soon as practicable.

In conducting this review, the Department has also recognised a need to amend Ministerial Order 90 to enable the revised Guidelines and the Ministerial Order to be consistent. The revised Ministerial Order will also enable the VRQA to monitor and enforce compliance by all registered schools.

The Department is in the process of drafting amendments to the Ministerial Order. Given the proposed amendments are significant, the Department will be required to prepare a Regulatory Impact Statement and comply with the further procedures outlined in *Subordinate Legislation Act 1994* (Vic).

It is anticipated that this process will extend beyond Term 1, 2013.

The Department will provide you with a copy of the revised Ministerial Order as soon as practicable.

Recommendation 2

That the Department of Education and Early Childhood Development provide specific guidance to all schools in Victoria with respect to the purchasing of spare or 'back up' adrenaline auto-injection devices for first aid kits to ensure that in the event that a student experiences a life threatening allergic reaction a spare device is available. The number of diagnosed children attending the school, and the likely availability of a spare device in various settings, including school excursions and camps, should be considered as part of this assessment. A review of the 2006 'guidelines for schools' would provide an opportunity to convey this advice to schools.

In response to this recommendation, we advise that the Coroner's recommendation is in the process of being implemented.

The Department is currently consulting with allergy experts from the Royal Children's Hospital, CEOM and ISV to determine what specific guidance will be provided to Victorian schools in relation to the purchase of additional adrenaline auto-injection devices.

The Department is also conducting research into what guidance is currently provided to schools in other states/territories. In this regard, we note that the Queensland Department of Education requires that an adrenaline auto-injector for general use form part of the school's first-aid kits.

It is anticipated that once the specific guidance is settled among the relevant stakeholders, this will be included in the revised Guidelines and the revised Ministerial Order.

Recommendations 3 & 4

That the Minister for Education introduces a requirement for all schools to complete an Anaphylaxis Risk Management Checklist on an annual basis as a means for ensuring ongoing compliance with the specific requirements under the Ministerial Order – whether that be by an amendment to the Ministerial Order No 90 or by the creation of a new Order.

That if the previous recommendation is not feasibly capable of being implemented, that in revising the 2006 'Anaphylaxis Guidelines for Victorian Government Schools', the Department of Education and Early Childhood Development include a detailed Anaphylaxis Risk Management Checklist as a means for ensuring compliance with the specific requirements under Ministerial Order 90.

In response to these recommendations, we advise that the Coroner's recommendations are in the process of being implemented.

The Department has a Risk Assessment Checklist that was developed by Ambulance Victoria. This Checklist is currently on the Department's website and can be found at the following link:

http://www.eduweb.vic.gov.au/edulibrary/public/stuman/wellbeing/A_Anaphylaxis_Risk_Management_Checklist.pdf

The Department has requested that the Director of Allergy and Immunology at the Royal Children's Hospital review the checklist and ensure that it complies with best practice.

Once this review is complete, it is envisaged that the revised checklist will be included in the revised Guidelines and the revised Ministerial Order.

The Department is confident that the revised Guidelines and the revised Ministerial Order will address all of the recommendations made, and will substantially reduce the risk of anaphylaxis for all students in Victorian schools.

If there are any questions in relation to these matters, please contact Mr John Allman, Acting Executive Director, Student Wellbeing and Engagement Division, Department of Education and Early Childhood Development, on 9637 3291, or by email: allman.john.ja@edumail.vic.gov.au.

Yours sincerely



The Hon. Martin Dixon, MP
Minister for Education