

Person with Management or Control  
Projects on Parkinson Ltd  
RE: Weston Creek Children's Centre

Email: [REDACTED]  
Cc: [REDACTED]

Dear Provider

**Decision to Impose Condition on Provider Approval**

1. As you are aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently became aware of the arrest of Ms [REDACTED], the Centre Director and a Nominated Supervisor of Weston Creek Children's Centre, SE-0009856 (the Service), operated by Projects on Parkinson Ltd, PR-40011926 (the Provider).
2. Web addresses for the *Law* and the *Regulations* are provided for your convenience at the end of this notice.

**Facts**

3. A provider approval was granted by the Authority to the Provider on 20 June 2017. Ms [REDACTED] is identified as a designated Person with Management or Control on behalf of the Provider. Refer relevant supportive documentation at Attachment A.
4. In addition, Ms [REDACTED] is also identified as being the only nominated supervisor of the Service between 20 June 2017 and 13 January 2020, until Ms [REDACTED] was also nominated to nominated supervisor.
5. On 26 February 2021, the Authority was informed by ACT Policing that Ms [REDACTED] was arrested and charged with multiple counts of obtaining property by deception, in contravention of section 326 of the *Criminal Code 2002 (ACT)*.
6. Further enquiry by the Authority identified that the arrest and subsequent charging of Ms [REDACTED] was in relation to an ongoing ACT Policing investigation into fraudulent activity at a child care facility in Weston by Ms [REDACTED] and that investigations are ongoing into the misappropriation of funds.

## Law

### **Section 13(1)(c) of the *Law* – Matters to be taken into account in assessing whether fit and proper person**

In determining whether a person is fit and proper person under this division, the Regulatory Authority must have regard to any prescribed matters relating to the criminal history of a person to the extent that history may affect the person's suitability for the role of provider of an education and care service.

### **Section 21(1)(b) of the *Law* – Reassessment of fitness and propriety**

The Regulatory Authority may at any time assess whether a person with management or control of an education and care service operated by an approved provider continues to be a fit and proper person to be involved in the provision of an education and care service.

## **Obligations upon Regulatory Authority**

7. The foundation for the Authority's obligations is the *Law*. Section 3 of the *Law* sets out objectives and guiding principles. Relevant to this decision is the objective at section 3(2)(a), namely:

*“to ensure the safety, health and wellbeing of children attending education and care services”.*
8. Section 260 of the *Law* sets out the functions of the Regulatory Authority, which includes:

*(c) to monitor and enforce compliance with this law;*  
*(d) to receive and investigate complaints arising under this law.*
9. The *Law* works to protect a particularly vulnerable group in our society – children – when they are in the care of people other than their parents or guardians. The *Law* authorises providers and services to participate in a regulated environment and requires those participants to comply with the *Law*.
10. A key objective of the *Law* is to protect children in the context of education and care services. The Authority looks to exercise its powers to emphasise and require best practice, as the *Law* requires, which is also inherently in the best interests of children.
11. The *Law* is predominantly a protective law and the exercise of disciplinary powers in this type of regulatory context is recognised by Courts as not being punitive: *New South Wales Bar Association v Evatt* (1968) 117 CLR 177.

## Reasons

12. Considering the recent information received from ACT Policing in relation to Ms [REDACTED] arrest, subsequent charges, outcome of mention at ACT Magistrates Court on 26 February 2021 and the objectives and guiding principles of the *Law*, I have determined that Ms [REDACTED] is no longer deemed fit and proper to be a Person with Management or Control on behalf of the Provider or a Nominated Supervisor for the Service.
13. The Authority is empowered to amend a provider approval under section 23 of the *Law*

### **Section 23 of *Law* – Amendment of provider approval by Regulatory Authority**

- (1) The Regulatory Authority may amend a provider approval at any time without an application from the approved provider.
  - (2) Without limiting subsection (1), an amendment may vary a condition of the provider approval or impose a new condition on the provider approval.
  - (3) The Regulatory Authority must give written notice to the approved provider of the amendment.
  - (4) An amendment under this section has effect:
    - (a) 14 days after the Regulatory Authority gives notice of the amendment under subsection (3); or
    - (b) If another period is specified by the Regulatory Authority, at the end of that period.
14. The Provider Approval is hereby amended by imposing the following conditions:
    1. **[REDACTED] is not to be a delegated as a Person with Management or Control, and must not have responsibility, alone or with others, for managing the delivery of the education and care service until further notice.**
    2. **[REDACTED] is not to be nominated as a Nominated Supervisor or be delegated as a Responsible Person in day-to-day charge for the education and care service, inclusive of being Centre Director until further notice.**
  15. These conditions are to minimise potential risk to the Service as a consequence of Ms [REDACTED] arrest and subsequent charges. The conditions come into effect one (1) day from the date of receipt of this Decision.
  16. An amended Provider Approval is Attachment B to this Decision.
  17. You have advised the Authority that [REDACTED] will be placed as temporary person with management or control to oversee the operation of Weston Creek Children’s Centre. You have advised the Authority that the current financial position of the service is stable and viable and you have received confirmation from Guild Insurance

that your policy is still valid. Based on this information the Authority does not object to you re-commencing operation of the service on 4 March 2021.

18. The Authority will also be increasing its auditing of the Service to ensure compliance is appropriately monitored, so as to ensure the health, safety and wellbeing of children being educated and cared for.

### **Rights of Review**

19. A decision to issue a compliance notice and a decision to impose a condition on a service approval are **reviewable decisions** as defined in Section 190 of the *Law*. Under section 191 of the *Law*, you may apply for an internal review of these decisions or either of them. Any application must be lodged within 14 days after you are notified of the decision (or, if not notified, within 14 days after becoming aware of the decision).
20. An application for review may be made by completing the form AR01 Application for Internal Review of Reviewable Decision which can be obtained from the ACECQA website.

### **Legislation**

21. The *Law* applies to you as a provider and any service you operate. The *Law* is applied in the ACT by the *Education and Care Services National Law (ACT) Act 2011*  
<http://www.legislation.act.gov.au/a/2011-42/default.asp>.
22. The *Law* and Regulations can be viewed at:  
<http://www.acecqa.gov.au/national-law>, and  
<http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>
23. Should you have any questions about this Decision, or the Condition please contact me via email at [clare.brookes@act.gov.au](mailto:clare.brookes@act.gov.au)

Yours Sincerely



Clare Brookes  
Senior Director  
Early Childhood Policy and Regulation  
ACT Education Directorate

3 March 2021