



[REDACTED]
Person with Management or Control
Northside Community Service Limited
RE: Treehouse in the Park Early Learning Centre (NCS)

Email: [REDACTED]

Dear [REDACTED]

Decision to issue Administrative Action RE NOT-40591852

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed Notification (NOT-40591852) relating to the operation of Treehouse in the Park Early Learning Centre (NCS), SE-00009852 (the Service), operated by Northside Community Service Limited, PR-00005856 (the Provider).
2. The Notification related to a missing and unaccounted for child.
3. Web addresses to the *Education and Care Services National Law Act (ACT) (the Law)*, and the *Education and Care Services National Regulations 2011 (the Regulations)* are provided for your convenience at the end of this Decision.

Facts

4. On 9 November 2021, the Authority received a Notification and attachments from the Provider advising a child, believed to be [REDACTED] (2:4 old), was in the outdoor area when she entered the preschool room unnoticed, climbed the change table where she removed her nappy and applied Sudocream.
5. The Notification further advised that [REDACTED] was located on top of the change table approximately 2-3 minutes later by an Educator entering the room. Refer Notification and documents at Attachment A.
6. Documents received from the provider included the following:
 - a. Incident Report.
 - b. Service Notification
 - c. Supervision Policy Sign off
 - d. Treehouse attendance records

Law

7. The following provisions of the *Law* were relevant to the assessment:

Section 165(1) of the *Law* – Offence to inadequately supervise children

The approved provider of an education and care service must ensure that all children being educated and cared for by the service are adequately supervised at all times that the children are in the care of that service

Penalty: \$10 000, in the case of an individual
\$50 000, in any other case.

Section 167(1) of the *Law* - Offence relating to protection of children from harm and hazards

The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and care for by the service from harm and from any hazard likely to cause injury.

Penalty: \$10 000, in the case of an individual
\$50 000, in any other case.

Reasons and Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied, on the balance of probabilities, that on 8 November 2021 the Provider has failed to adequately supervise a child in the outdoor space, and therefore, failed to take reasonable precautions to protect said child, from any harm and from hazard likely to cause injury.
9. The Authority is satisfied that these failures contributed to [REDACTED] being able to gain entry to the nappy change area unnoticed by educators and proceed to climb onto the change table.
10. The very nature of the Notification and accompanying documentation submitted by the Provider, support offences under sections 165 (1) and 167(1) of the *Law* being substantiated.
11. The *Law* outlines a range of statutory actions which may be taken by the Authority in response to non-compliance. The Authority has the flexibility to choose the most appropriate action to support the Provider in achieving compliance and improved outcomes for children.
12. When deciding what appropriate action to take, the Regulatory Authority took the following matters into consideration:
- a) The age of the child and associated risks if unsupervised in toileting areas;
 - b) The length of time that the child was unsupervised and unaccounted for;
 - c) The Provider has submitted advice that the supervision policy was reviewed; and

- d) The Provider has submitted advice that communications around supervision and safety expectations have been had with educators and children to mitigate risk of a similar incident.
13. In this circumstance, the Authority has also considered the Service's compliance history and determined not to initiate statutory action but instead to issue this Administrative Decision.
14. This decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments, or waivers. This decision may also be considered in determining any future regulatory action, should there be future similar breaches of the *Law* or *Regulations*.

Legislation

15. The *Law* and *Regulations* 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>
16. 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>
17. Should you have any questions about this Decision please contact Senior Investigator Sheree Lockwood on sheree.lockwood@act.gov.au.

Yours Sincerely,



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Education and Care Regulation and Support
ACT Education Directorate

26 November 2021