

██████████  
Person with Management or Control  
Seiznem Pty Ltd & Besmen Pty Ltd  
RE: Gungahlin Children's Centre

Email: ██████████@bigpond.com

Dear Ms ██████████

**Decision to issue Administrative Action RE: NOT-00077019**

1. As you may be aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Incident (NOT-00077019) relating to Gungahlin Children's Centre SE-00009789 (the Service) operated by Seiznem Pty Ltd & Besmen Pty Ltd PR-00005864 (the Provider).
2. The notification of incident advised that on 24 September 2024, a child was found hiding in an open equipment shed, having been unsupervised for 15 minutes since the arrival of their parent to the Service.
3. The Authority is satisfied that the Provider did not comply with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in this instance. Web addresses to the Law and the associated *Regulations* are provided for your convenience at the end of this Decision.

**Facts**

4. On 25 September 2024, a notification of incident (NOT-00077019) was submitted to the Authority by the Provider advising that on 24 September 2024, ██████████ (3yr old) was found hiding in an outdoor shed, whilst all other children and educators were located in the indoor environment. This absence was only noticed when his father arrived for collection.
5. Additional information submitted with NOT-00077019 included the following:
  - Incident report.
6. On 1 October 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
  - Incident timeline;
  - Child Attendance Records;
  - Direct Supervision Sign in sheet;
  - Policies/Employee Handbook for Service;
  - Child Management Plan;
  - Investigation Notes;
  - Previous Incident (08/03/2024);
  - Risk Management Plan;

- Staff Memo;
  - Working Directly with Children records.
7. Please note, documents referred to in paragraph 4 through 6 are not included due to size. These documents can be provided upon request.
8. NOT-00077019 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
- Review of transitions in the early morning and late afternoon, maximum 2 spaces to be open during these times when staffed by 3 educators.
  - Re organise the shed storage to reduce hiding spots
  - Shed closed at all times, other than putting equipment in/out
  - Revisit supervision procedures with all educators (counting awareness of individual children)

### Law

9. The Notification engaged the following provisions of the *Law*:

#### **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: \$11 400, in the case of an individual  
\$57 400, 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: \$11 400, in the case of an individual  
\$57 400, in any other case.

### Decision

10. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to support an offence under section 165 and 167 of the *Law* in this instance.
11. In relation to section 165 and 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were adequately supervised, nor were they protected from harm, at all times while in the care of the Service on 24 September 2024.

12. The Authority is satisfied that the very nature of the matter notified, and additional information submitted by the Provider supports, on balance of probabilities, the offence being substantiated.
13. The Authority is satisfied that [REDACTED] was not adequately supervised, nor was he protected from harm, resulting being able to hide in a shed, unnoticed by educators responsible for his education and care at the time.
14. 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 you to achieve compliance and improve outcomes for children.
15. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the advised of steps taken by the Provider to mitigate risk of a similar occurrence, the Authority has decided to issue this administrative action rather than statutory compliance actions to address the non-compliance.
16. This decision services to remind the Provider of their obligations and responsibilities under the *Law*, and to ensure that staffing and supervisory processes and educator practice is monitored regularly to ensure ongoing compliance with the *Law* and encourage continual improvements for outcomes for children.
17. This Decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments, or waivers. It may also be considered in determining the action to be taken, should further breaches of the Law or associated Regulations be found.

#### **Legislation**

18. 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> . 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>.
19. Should you have any questions about this Decision please contact me at  
[vittorio.colosimo@act.gov.au](mailto:vittorio.colosimo@act.gov.au).

Yours Sincerely,



**Vittorio Colosimo**  
A/g Assistant Director Investigations  
Education and Care Regulation and Support

Education Directorate

23 October 2024