

Ms [REDACTED]  
Person with Management or Control  
Guardian Community Early Learning Centres Pty Ltd  
RE: Guardian Childcare & Education Wanniasa

Email: [REDACTED]

Dear Ms [REDACTED]

**Decision to issue Administrative Action RE: NOT-40919013**

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-40919013) relating to Guardian Childcare & Education Wanniasa SE-40004191 (the Service) operated by Guardian Community Early Learning Centres Pty Ltd PR-00000823 (the Provider).
2. The notification of incident advised that on 1 November 2023 two children were found inside the preschool space unsupervised for approximately 10-15minutes.
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 1 November 2023, a notification of incident (NOT-40919013) was submitted to the Authority by the Provider advising that on 1 November 2023, two children [REDACTED] (3yr old) and [REDACTED] (4yr old) were found alone reading in the Preschool room whilst all other children and educators were located in the outdoor environment. Refer copy of the NOT-40919013 at Attachment A.
5. Additional information submitted with NOT-40919013 included the following:
  - Educator log and weekly roster.
  - Copy of enrolment records for both children.
  - Copy of Incident BeSafe reports for both children.
6. NOT-40919013 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
  - The centre is reviewing supervision and transition practices with support of the NS and CLT.
  - The NS to revisit policies and procedures in coming days with the entire team as part of preventive measures and recurrence of incident.

## Law

7. 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: \$10 000, in the case of an individual  
\$50 000, in any other case.

## Decision

8. 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 of the *Law* in this instance.
9. In relation to section 165 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were adequately supervised at all times while in the care of the Service on 1 November 2023.
10. 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.
11. The Authority is satisfied that [REDACTED] and [REDACTED] were not adequately supervised resulting in the two children returning to the inside space from outside unnoticed by educators responsible for their education and care at the time.
12. 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.
13. 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.
14. 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.
15. 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**

16. 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>.
17. Should you have any questions about this Decision please contact me at [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au).

Yours Sincerely,



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

1 December 2023