

██████████
Person with Management or Control
Guardian Corporate Early Learning Centres Pty Ltd
RE: Guardian Childcare & Education Forrest

Email: ██████████

Dear Mr ██████████

Decision to issue Administrative Action RE: NOT-00057020

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-00057020) relating to Guardian Childcare & Education Forrest SE-40005756 (the Service) operated by Guardian Corporate Early Learning Centres Pty Ltd PR-00004736 (the Provider).
2. The notification of incident advised that on 22 July 2024, ██████████ (4yrs) was left unsupervised and alone, within the Service, for around thirteen minutes.
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 23 July 2024, a notification of incident (NOT-00057020) was submitted to the Authority by the Provider advising that on 22 July 2024, ██████ was left alone inside the Service by Educator A (who assumed Educator B had supervision over her). ██████ was under a table and only found upon return of Educator A. Refer copy of the NOT-00057020 at Attachment A.
5. Additional information submitted with NOT-00057020 included the following:
 - ██████████ – Enrolment
 - Supervision checklist
 - Supervision flowchart
 - Educator room logs
 - Educator shifts
 - Child Support Plan – ██████
 - BeSafe – Incident report
 - Witness Statements

Refer to Attachment B.

6. NOT-00057020 further advised that steps taken by the Provider to prevent or minimise a similar incident included:

- Educators are continuing to review supervision practices across the centre including a review of the services transitioning between spaces process.
- Educators will review processes to support transitions and educators to review policies and complete self-assessments in the coming days.
- A fact-finding process is currently underway including the collection of witness statements. The investigation is ongoing, and a copy of the completed fact-find will be provided to the Regulatory Authority upon completion.

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: \$11 400, in the case of an individual
\$57 400, 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 22 July 2024.
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] was not adequately supervised, resulting in her being left within the inside space and unnoticed by educators responsible for her 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. The Provider needs to ensure that the Behaviour Support Plan for all children (especially [REDACTED] is current and reviewed regularly to ensure risk is mitigated as far as possible. All staff and

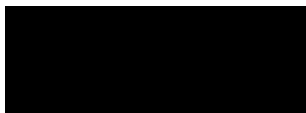
educators should also be aware of the unique needs of the child and that communication is regular and up to date.

15. 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.
16. 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

17. 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>.
18. Should you have any questions about this Decision please contact me at Vittorio.Colosimo@act.gov.au.

Yours Sincerely,



Vittorio Colosimo
A/g Assistant Director Investigations
Regulation and Compliance
Education Directorate

2 September 2024