

Mr [REDACTED]
Person with Management or Control
Guardian Corporate Early Learning Centres Pty Ltd
RE: Guardian Childcare & Education Forrest

Email: [REDACTED]

Dear Mr [REDACTED]

Decision to issue Administrative Action RE: NOT-00059753

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-00059753) 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 30 July 2024, when [REDACTED] (3yrs) was brought home from the Service, it was discovered that she had with a full/soiled nappy due to not being changed by Educators.
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 31 July 2024, a notification of incident (NOT-00059753) was submitted to the Authority by the Provider advising that on 30 July 2024, [REDACTED] was picked up by her parents from the Service with a nappy full, due to being unchanged all day, raising serious potential for harm of infection. Refer copy of the NOT-00059753 at Attachment A.
5. Additional information submitted with NOT-00059753 included the following:
 - Nappy change chart – 30/07/2024
 - Parent complaint email
 - Response to Parent email
 - BeSafe/Event report

Refer Attachment B.

6. NOT-00059753 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
 - Expectations for supporting children's nappy and toileting routines were reinforced with educators.
 - A board with each child's requirements has been implemented in the nappy change area.

- The center leadership team will conduct additional checks throughout the day to ensure timely responses.
- Weekly rolls will now be marked with children needing nappy changes and toileting, and the morning educator will complete the nappy change chart with clear documentation of children's names.

Law

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

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

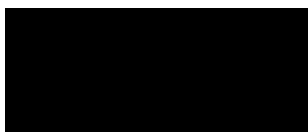
8. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to support an offence under section 167 of the *Law* in this instance.
9. In relation to section 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were protected from harm at all times while in the care of the Service on 30 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 protected from harm around infection or disease (from a nappy being left soiled all day) by educators responsible for her education and care at the time.
12. The Authority requires a response to this letter, indicating what's been done in terms of updating policies and procedure for the Service (beyond what was provided in the Notification), and how is the Service ensuring that policy procedures are being implemented and embedded in practice. Please provide a response by **16 September 2024**.
13. 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.
14. 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.

15. This decision serves 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