

Ms [REDACTED]
Person with Management Control
Heritage Early Childhood Centre Incorporated
RE: Heritage Early Childhood Centre

Email: [REDACTED]

Dear Ms [REDACTED]

Decision to issue Administrative Action RE: NOT-40542478

1. As you may be aware, Children's Education and Care Assurance, also known as the ACT Regulatory Authority (the Authority), recently made enquiries relating to a Notification of Incident (NOT-40542478) regarding the operation of Heritage Early Childhood Centre SE-00009791 (the Service), operated by Heritage Early Childhood Centre Incorporated PR-00005838 (the Provider).
2. The Notification related to a circumstance where a child being educated and cared for by the Service was missing/unaccounted for on 26 May 2021.
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 27 May 2021, the Authority received NOT-40542478 (the Notification) from the Provider advising that, on 26 May 2021 a child, known to be [REDACTED] (aged two years), was missing/unaccounted for whilst participating in a regular outing/excursion. Refer copy of the Notification at Attachment A.
5. On 28 May 2021, the Authority requested additional information from the Provider to assist in the assessment of the Notification. Additional information was submitted 28 May 2021 and consisted of an incident report. Refer email correspondence at Attachment B.
6. The Authority assessed the information provided in the Notification. The information satisfied the Authority that an offence had been committed against the *Law* at the Service.

Law

7. The following provisions of the *Law* are relevant to the facts as outlined in the Notification:

165 of the Law - Offence to inadequately supervise children

- (1) 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.

Section 167 of the Law - Offence relating to protection of children from harm and hazard

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

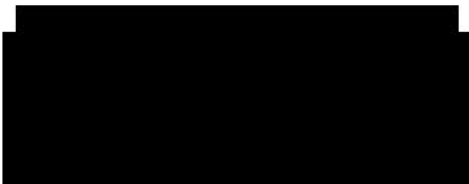
Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied that, on 26 May 2021, inadequate supervision by educators during an activity of higher risk, being the excursion, constituted a failure to take reasonable precautions to protect children from harm and from hazards likely to cause injury, in contravention of sections 165(1) and 167(1) of the *Law*.
9. In addition, the Authority is satisfied that the very nature of the Notification supports the substantiated offences.
10. 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. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue this Administrative decision.
11. In deciding if a compliance action should be taken, the Authority considered the following considerations:
 - a) That because of the incident, the Provider has advised of strategies that they have put in place to mitigate future risk of a similar incident occurring during an excursion/regular outing.
 - b) If the Provider ensures that policies and procedures are followed appropriately at the Service, then risk of potential harm or hazard to children will be mitigated through better planning of supervision needs within the different environments utilised by children, considering each child's developmental stage and risk assessment of areas to be utilised.
 - c) The compliance history of the Service, noting no similar contraventions of Law for any previous similar matters.
12. The Authority determined that strategies advised of to address the inadequacies of supervision and accountability of children during an excursion has met the expectations of the Authority. However, the contraventions have been recorded on the Service file and may be considered in the instance of any future similar incidents.
13. In addition, this Decision issued to remind the Provider that at all times, staffing and supervision levels need to meet the emotional, developmental and physiological needs of children and educators alike. These staffing and supervision levels may need to be adapted to be above

minimum regulated ratio levels to protect children from harm and hazard likely to cause injury – especially when engaging children in activities and experiences outside of familiar Service surroundings.

Legislation

14. 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>
15. 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>
16. Should you have any questions about this Decision please contact me at
janine.fairburn@act.gov.au.



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

16 June 2021