



██████████
Person with Management or Control
Woden Community Service Ltd
RE: Hughes OSHC

Email: ██████████@wcs.org.au

Dear ██████████

Decision to issue Administrative Action RE: NOT-00092193

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-00092193) relating to Hughes OSHC SE-00009686 (the Service) operated by Woden Community Service Ltd PR-00005883 (the Provider).
2. The notification of incident advised that on 11 November 2024, an educator took two children to the local shop to obtain medical cream without written permission.
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 18 November 2024, a notification of incident (NOT-00092193) was submitted to the Authority by the Provider advising that on 11 November 2024, two children, ██████████ (8yr old) and ██████████ (10yr old) were taken out of the Service and walked to the local shop by an Educator, this was to obtain Sudo medical cream for one of the children.
5. Additional information submitted with NOT-00092193 included the following:
 - Incident report.
6. On 16 December 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
 - Communication with the ACT Ombudsman;
 - ACT Ombudsman Reportable Conduct Scheme form;
 - First and Final written warning to Educator;
 - General information regarding incident;
 - Position Description for Team Leader;
 - Woden Community Service – Code of Conduct;
 - Responsible Person consent/acknowledgement;
 - Supervision Policy;
 - Excursion Policy;

- Internal Investigation – Meeting notes;
- Notice of Internal Investigation;
- Notice of Meeting;
- Witness Statements/Reports;
- Communications from Parents;
- Conduct Meeting notes;
- Individual Learning Plan;
- Summary of Findings.

7. Please note, documents referred to in paragraph 4 through 6 are not included. These documents can be provided upon request.

Law

8. The Notification engaged the following provisions of the *Law and Regulations*:

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.

Regulation 170 - Policies and procedures to be followed

The approved provider of a centre-based service must take reasonable steps to ensure that nominated supervisors and staff members of, and volunteers at, the service follow the policies and procedures required under regulation 168.

Penalty: \$1100.

Decision

9. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to substantiate an offence under section 167 and regulation 170 of the *Law and Regulations* in this instance.
10. In relation to section 167 of the *Law* and regulation 170, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were protected from harm while in the care of the Service on 11 November 2024.
11. It is a reasonable precaution to ensure that any persons in a nominated supervisor, or responsible person position, understand and notify the Provider if an incident has occurred at the time that the incident has occurred, not days later.

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 vittorio.colosimo@act.gov.au.

Yours Sincerely,



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

11 February 2025