

7. On 6 March 2023, additional information was requested, and responded to by the Provider the following day, which included the following:
- d) Room Headcount logs
 - e) Copy of supervision plans
 - f) Message board posts to educators RE Policies and procedures
 - g) Evidence of broken door being fixed

Law

8. Provisions of the *Law* relevant to the notification assessment are:

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

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

Reasons

9. Upon considering all evidence for assessment, inclusive of Provider supplied information, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence to substantiate an offence under sections 165(1) and 167(1) of the *Law* in this instance.
10. The Authority has considered all the information supplied by the Provider and is satisfied, on the balance of probabilities, that on 2 March 2023, inadequate supervision contributed to [REDACTED] entering and being locked in the cot room at the Service. Inability to always ensure adequate supervision, engages a failure to take reasonable precautions to protect said child, from any harm and from hazard likely to cause injury.
11. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the recent transfer of Provider for this Service, the Authority has decided to issue this administrative action rather than statutory compliance actions.
12. This Decision is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, in particular the obligation to always supervise children and to

ensure every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.

13. 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

14. 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. If you have any questions in relation to this Decision, please contact me at janine.fairburn@act.gov.au.

Yours sincerely



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

21 April 2023