

Person with Management or Control
KIDS CLUB EARLY CHILDHOOD LEARNING CENTRES PTY LTD
RE: Kids Club Rivett Early Learning Centre

Email:

Dear

Decision to Issue Administrative Action RE: NOT-40798003

1. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Complaint (NOT-40798003) relating to Kids Club Rivett Early Learning Centre SE-40012143 (the Service) operated by KIDS CLUB EARLY CHILDHOOD LEARNING CENTRES PTY LTD PR-40001605 (the Provider).
2. The notified incident advised that a 12-month-old child was left unsupervised in the cot-room for 73 minutes without being checked.
3. The Authority is satisfied that the Provider has not complied with provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in this instance. Web addresses for the Law and the *Regulations* are provided for your convenience at the end of this decision.

Facts

4. On 28 November 2022, the Authority received a Notification of Complaint (NOT-40798003) from the Provider advising that, on 25 November 2022, a 12-month-old child was left unsupervised in the cot-room for 73 minutes. The child was located when their mother arrived to collect them and asked educators where her child was. An educator opened the door to the cot-room and located the child alone and crying. Refer NOT-40798003 at Attachment A.
5. On 29 November 2022, additional information was requested from the Provider, and received on 1 December 2022 (Refer email correspondence at Attachment B). Additional information and documents included:
 - a. 2.17 Safe Sleeping & Rest Time Policy
 - b. 2.20 Supervision Policy
 - c. Attendances 25.11.22
 - d. Kids Club Notice of Investigation Form –
 - e. Kids Club Notice of Investigation Form –
 - f. Statement
 - g. Ocean WDWC Log
 - h. Outback 1 WDWC Log

- i. Outback 2 WDWC Log
- j. Rainforest 1 WDWC Log
- k. Rainforest 2 WDWC Log
- l. Sleep Times & Sleep Check
- m. View_Print Staff Meetings
- n. advanced-safe-sleeping-education-for-early-childhood-educators

Law

6. 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 cared 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

7. 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 section 165 (1) and 167(1) of the *Law* in this instance.
8. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the steps taken by the Provider to mitigate risk of a similar incident, the Authority has decided to issue this administrative action rather than statutory compliance actions.
9. In relation to substantiated breaches engaged by the Provider under section 167 of the *Law*, the Authority requests the Provider to submit the following evidence to support risk mitigation actions have been undertaken:
- a. Provide evidence of what processes you have assessed.
 - b. Provide evidence of how you are going to address the risks and mitigate any further risks reoccurring.

10. Requested information outlined in paragraph 9 can be submitted to Authorised Officer Vittorio Colosimo at Vittorio.Colosimo@act.gov.au. The Authority requests this to occur within 14 days of receipt of this decision.
11. 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 ensure that all children being educated and cared for by the service are adequately supervised at all times and every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.
12. 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

13. 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>.
14. 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>
15. If you have any questions in relation to this Decision, please contact me by email at Vittorio.Colosimo@act.gov.au.

Yours sincerely



Vittorio Colosimo
A/g Assistant Director
Children's Education and Care Assurance
Education and Care, Regulation and Support
ACT Education Directorate

23 December 2022