



Mr [REDACTED]  
Person with Management or Control  
Macgregor Primary School P&C Assn Inc  
RE: Macgregor Primary School OSHC

Email: [REDACTED]

Dear Mr [REDACTED]

**Decision to issue Administrative Action RE: NOT-40679237**

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Incident (NOT-40679237) relating to the operation of Macgregor Primary School OSHC SE-00009690 (the Service), operated by Macgregor Primary School P&C Assn Inc, PR-00005845 (the Provider) on 28 March 2022.
2. 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**

3. On 29 March 2022, the Authority received a Notification of Incident (NOT-40679237) from the Provider advising that on 28 March 2022, a child identified as [REDACTED] (DOB [REDACTED]), was incorrectly administered an additional dose of Ritalin by educators. Refer Notification at Attachment A.
4. On 31 March 2022, the Authority sought additional information from the Provider, which was submitted same day. Refer email correspondence at Attachment B.
5. Additional documents submitted on 31 March 2022 included:
  - a) Medication administration document, Medication Policy and Staff Handbook;
  - b) Week 9 Meeting Minutes;
  - c) Copy of medical permission from [REDACTED] doctor;
  - d) Photo of Medication folder; and
  - e) [REDACTED] First Aid qualifications.

**Law**

6. The following provisions of the Law were relevant to the assessment:

### **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 or illness.

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

### **Reasons and Decision**

7. The Authority has considered all the information supplied by the Provider and is satisfied, on the balance of probabilities, that on 28 March 2022, the Provider has failed to ensure reasonable precautions to protect [REDACTED] from any harm and from hazard likely to cause illness.
8. Evidence supports that not all educators were aware that there were different medications needed to be administered to [REDACTED] in the morning and afternoon, which contributed to the additional dose of Ritalin being administered. The very nature of the Notification and accompanying documentation submitted by the Provider, support the offence under section 167(1) of the *Law* being substantiated.
9. However, the Authority acknowledges the actions taken by the Provider to mitigate risks of a similar incident occurring, which were advised of via the Notification and demonstrated via the Week 9 meeting minutes.
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 the Provider in achieving compliance and improved outcomes for children.
11. In this circumstance, the Authority has also considered the Service's compliance history and the age and potential risks associated to the child in this matter and determined not to initiate statutory action but instead to issue this Administrative Decision as acknowledgement of the substantiated offence – no further response is required by the Provider in this instance.
12. This decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments, or waivers. This decision may also be considered in determining any future regulatory action, should there be future similar breaches of the *Law* or *Regulations*.

### **Legislation**

13. The *Law* and *Regulations* 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>

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. Should you have any questions about this Decision please contact me at email

[janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au).

Yours Sincerely,



Janine Fairburn  
Assistant Director  
Children's Education and Care Assurance  
ACT Education Directorate

11 April 2022