



Ms [REDACTED]
Person with Management or Control
Northside Community Service Limited
Re: Majura Early Childhood Centre

Email: [REDACTED]@northside.asn.au

Dear Ms [REDACTED]

Decision to issue Administrative Action RE NOT-40507734

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 conducted an assessment of a Notification of Incident (NOT-40507734) relating to the operation of Majura Early Childhood Centre SE-00009809 (the Service), operated by Northside Community Service Limited PR-00005856 (the Provider).
2. The Notification related to the toddler children leaving the Service in company of educators, without parental permission, and to unsafe areas.
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 letter.

Facts

4. On 4 February 2021, the Authority received NOT-40507734 (the Notification) from the Provider. Refer Notification and relevant documentation at Attachment A.
5. The documentation submitted with the Notification advised of circumstances occurring late morning on 4 February 2021, involving toddler-aged children leaving the Service in company of educators, without permission of parents, firstly walking towards a playground that had been previously assessed as unsafe, then returning to a courtyard outside the Service, where several children ran in different directions, including crawling under some fencing to reach some unsafe decking. Children were restrained to prevent running away, on multiple occasions, before returning to the Service.
6. It is noted that the reason for leaving the Service to play was a gastro outbreak and that the children had had lunch in the courtyard the previous day.

Law

7. The facts as outlined in the Notification support contravention of the following:

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.

Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied that the course of events which took place late morning on 4 February 2021 involving the toddler children leaving the Service constituted a failure to take reasonable precautions to protect children from harm and from hazards likely to cause injury.
9. It is noted that the playground destination had previously been assessed as unsafe, that appropriate parental permission was not in place and there did not appear to be a current risk assessment for the courtyard area. Documentation included with the Notification indicates that there are substantial risks present in the courtyard.
10. However, it was also noted that no children were injured as a result of the incident notified.
11. 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.
12. The Authority requests that the Provider submit evidence, within 14 days of receipt of this letter, to demonstrate that the following has occurred, has been implemented and effectively communicated to all staff:
 - a. Review of risk assessments of the playground identified via the notification;
 - b. Risk assessment of the courtyard and surrounds identified via the notification (or review, if one has been previously prepared);
 - c. Procedures for obtaining authorisations for excursions;
 - d. Strategies for communicating excursion and risk assessment requirements to educators, including taking into account all appropriate considerations and potential harm and hazards before utilizing certain spaces for children’s play.
13. Evidence should be submitted in writing to me via email at janine.fairburn@act.gov.au or, alternatively, via post to:

Children’s Education and Care Assurance
Attention: Janine Fairburn, Assistant Director
GPO Box 158, Canberra ACT 2601

14. The substantiated contravention has been recorded on your Service file and may be considered by the Authority in any future applications for approvals, amendments or waivers. They may also be considered in determining the action to be taken, should further breaches of the *Law or Regulations* be substantiated.

Legislation

15. 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>.
16. 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
Janine.fairburn@act.gov.au.

Yours Sincerely,



Janine Fairburn
Assistant Director
Early Childhood Policy and Regulation
ACT Education Directorate

12 February 2021