

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

Email: [REDACTED]

Dear Ms [REDACTED]

SHOW CAUSE NOTICE – PROPOSED COMPLIANCE ACTION

1. Authorised Officers from ACT Regulatory Authority (the Authority) also known as Children’s Education and Care Assurance, recently conducted an investigation into suspected offences of inadequate supervision at Majura Early Childhood Centre SE-00009809 (the Service), operated by Northside Community Service Limited, PR-00005856, (the Provider).
2. Web addresses to the *Education and Care Services National Law (ACT)* (the *Law*) and the *Education and Care Services National Regulations* (the *Regulations*) are provided for your convenience at the end of this notice.
3. I am considering compliance action based on a suspected contravention of the *Law* and *Regulations* indicated by evidence gathered during the investigation. As delegate of the Authority, I am considering compliance actions available under Part 7 of the *Law*.

Grounds for issuing Show Cause for Compliance Action

4. On 20 October 2020, the Authority received two Notifications of separate incidents from the Provider advising that two children had been unsupervised, both missing and unaccounted for with one child absconding from the Service. Refer NOT-40480409 and NOT-40480468 at Attachment A
5. Due to the high risk of children being exposed to harms and hazards when inadequately supervised, the Authority determined to investigate.
6. The Authority is considering compliance action based on the evidence gathered which indicates that there have been contraventions of the *Law*.

- Specifically, evidence obtained during the investigation support an allegation of children being inadequately supervised, an offence under section 165(1) of the *Law*, and engaging an offence under section 167(1) of the *Law*.

Allegations

Allegation One

- It is alleged that, on 19 October 2020, the Provider failed to ensure that all children being educated and cared by the Service were adequately supervised at all times, in that a child (known to be [REDACTED] DOB: [REDACTED]) was located by the Centre Director unsupervised in a room, in contravention of section 165(1) of the *Law*, and engaging a contravention of section 167(1) of the *Law*.

Allegation Two

- It is alleged that on 20 October 2020, the Provider failed to ensure that all children being educated and cared by the service were adequately supervised at all times, in that a child (known to be [REDACTED] DOB: [REDACTED]) exited the service unnoticed by educators and was subsequently found by a non-staff member, in contravention of section 165(1) of the *Law*, and engaging a contravention of section 167(1) of the *Law*.

Legislative Provisions Relevant to Allegations

- Sections of the *Law* engaged by the allegations are as follows:

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.

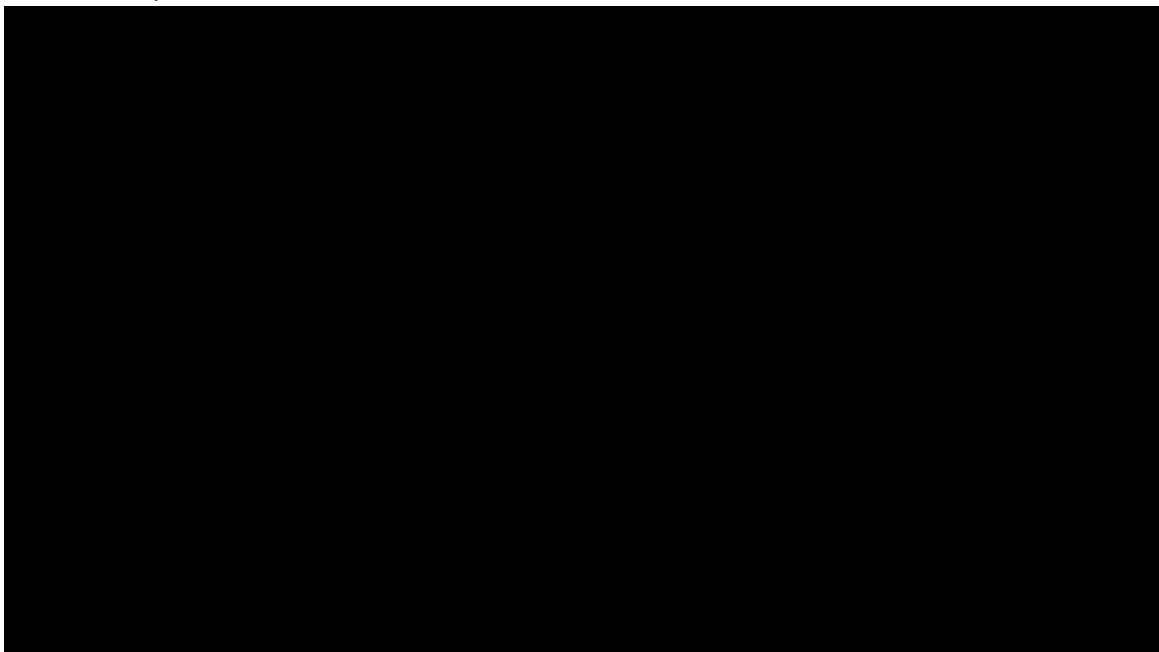
Penalty: \$10 000, in the case of an individual
\$50 000, in any other case.

Evidence Relevant to Allegation One:

- On 9 November 2020, the Provider furnished documents pursuant to a notice allowable under section 215 of the *Law* (215 Notice). Documents included, but were not limited to, an Internal investigation report, an Internal notification and a Record of Conversation – [REDACTED]
[REDACTED]

Refer stated documents at Attachment B.

12. Also included within the 215 Notice response from the Provider were copies of the Providers Supervision policy and supervision maps. Refer Attachment C
13. Analysis of documents identified three educators supervising children, with one inside the Service and two in the outdoor space, prior to [REDACTED] allegedly re-entering the Service unnoticed until located by the Centre Director painting in a classroom.
14. During the investigation, the Authority obtained statements from various witnesses with relevant excerpts included below.
15. Relevant excerpts from statement of Witness A:



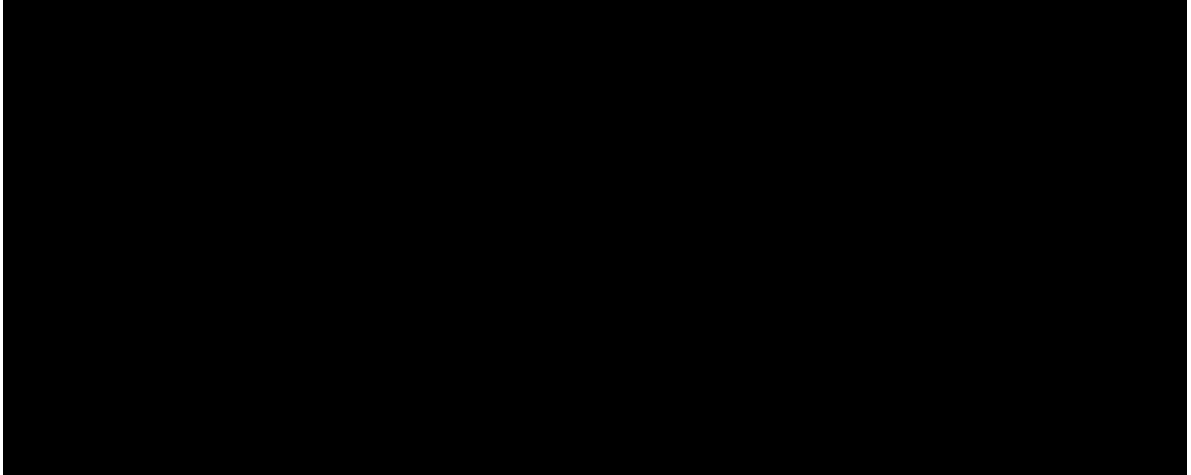
Evidence Relevant to Allegation Two

16. On 9 November 2020, the Provider furnished documents pursuant to a notice allowable under section 215 of the *Law* (215 Notice). Documents included, but were not limited to, an Internal investigation report, educator statements, an internal notification and a record of conversation.
Refer copies of stated documents provided at Attachment D.
17. Also included within the 215 Notice response from the Provider was a copy of the Nursery supervision plan. Refer to Attachment E.
18. Analysis of documents, inclusive of an internal investigation report for 20 October 2020, identified two educators in the nursery, one inside the Service nursing a child with the other educator in the outdoor space, who then entered the nursery room in response to an upset child prior to a further child in the outdoor space exiting through a gate unsupervised.

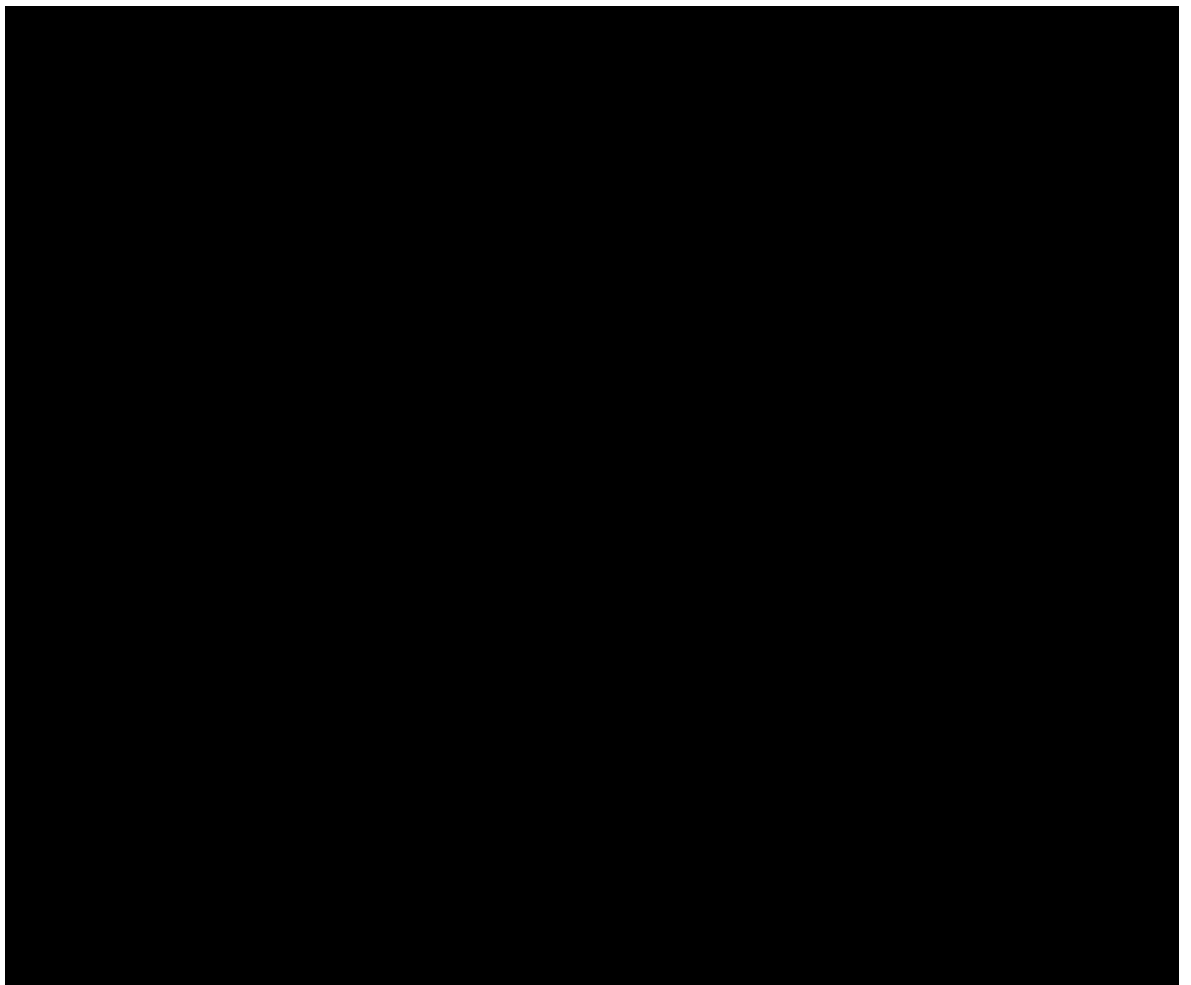
19. On 9 December 2020, Authorised Officers attended the Service and conducted an inspection of the nursery space, inclusive of the outdoor area, and took several photographs. Refer to copies of photographs at Attachment F.


20. During the investigation, the Authority obtained statements from various witnesses with relevant excerpts included below.

21. Relevant excerpts from statement of Witness A:



22. Relevant excerpts from statement of Witness B:





Contraventions Engaged by Allegations One and Two

23. Evidence gathered relevant to the Allegations include documentation provided via NOT-40480409 and NOT-40480468, documentation provided under 215 Notice, Authority's inspection photos and witness statements.
24. Relevant evidence gathered appear to support the following contravention of the *Law*:
- a) On 19 October 2020, the Provider failed to ensure the adequate supervision of all children being educated and cared for by the Service, in that a child was located by the Centre Director unsupervised in a room, in contravention of section 165(1) of the *Law*, and engaging a contravention of section 167(1) of the *Law*; and
 - b) On 20 October 2020, the Provider failed to ensure the adequate supervision of children being educated and cared for by the Service, in that a child exited the nursery gate of the Service unsupervised and unaccounted for, in contravention of section 165(1) of the *Law* engaging a contravention of 167(1) of the *Law*.

Right of response

25. You have a right to respond to the allegations set out in this notice. You may, within 14 days of receiving this notice, make a written submission for the Authority's consideration in deciding if compliance action under the *Law* should be taken.
26. Accompanying this Notice is a '4 Step Guide to Responding to a Show Cause Notice' to assist in the development of your submission. Refer Attachment G.
27. Please direct your written submission via email to brian.cropper@act.gov.au or by post to:

Children's Education and Care Assurance,
Attention: Senior Investigator Brian Cropper,
GPO Box 158, Canberra ACT 2601.

Caution

28. I am informing you that the excerpts of witness accounts taken for the Authority's investigation are included in the interests of procedural fairness. The statements taken during the investigation and the excerpts provided for your consideration in the show cause process are protected disclosures under section 296 of the *Law*. The *Law* provides, at section 297, for the protection of persons who make protected disclosures from serious detrimental action against them in reprisal.

29. Please be aware that it is an offence under section 295 the *Law* to provide the Authority with false or misleading information or documents.
30. 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>.
31. The *Law* and *Regulations* can be viewed at:
<http://www.acecqa.gov.au/national-law>, and
<http://www.legislation.nsw.gov.au/#/view/regulation/2011/653q>
32. Should you have any questions about this Show Cause Notice please contact Brian Cropper on telephone (02) 620 71104 or email brian.cropper@act.gov.au

Yours Sincerely



Jo Williams
Director
Children's Education and Care Assurance
Early Childhood Policy and Regulation
ACT Education Directorate.

22 February 2021