



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-40527476 and NOT-40529700

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed two Notifications of Incident (NOT-40527476 and NOT-40529700) 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 Notifications related to children being unattended indoors on 1 April 2021 and 14 April 2021.
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 7 April 2021, the Authority received NOT-40527476 from the Provider. The Notification advised that on 6 April 2021 a parent of an enrolled child advised the Assistant Director that on 1 April 2021 they had witnessed a child, known to be [REDACTED] (aged 1 year), unattended in the toddler bathroom on the change table. Refer Notification at Attachment A.
5. The documentation submitted with NOT-40527476 by the Provider included the following:
 - a) Educator accounts of 1 April 2021;
 - b) Email from parent raising the concern;
 - c) Record of conversation with parent of [REDACTED] and [REDACTED];
 - d) Evidence of strategies and actions being undertaken to mitigate risk of a similar incident.
6. On 15 April 2021, the Authority received NOT-40529700 from the Provider. The Notification advised that on 14 April 2021 the Assistant Director was advised by an educator that they had found a child, known to be [REDACTED] (aged 2 years), unattended in the toddler bathroom sitting on the change table. Refer Notification at Attachment B.
7. The documentation submitted with NOT-40529700 by the Provider included the following:
 - e) Educator Statements and Educator update sign off;

- f) Provider response to incident (Refer Attachment C);
- g) Record of conversation with [REDACTED] mother, [REDACTED] and Record of conversation from [REDACTED]
- h) Child Attendance records, educator room logs and map of educator locations; and
- i) Evidence of strategies and actions being undertaken to mitigate risk of a similar incident.

Law

8. The facts as outlined in the Notifications support contravention of the following:

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.

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.

Decision

9. The Authority has considered all the information supplied by the Provider and is satisfied that the events which took place on 1 and 14 April 2021 involving children being unattended in the Toddler bathroom at the Service constitutes a failure to adequately supervise all children at the Service, and a failure to take reasonable precautions to protect children from harm and from hazards likely to cause injury.
10. The very nature of the notifications supports the contraventions of sections 165 and 167 of the Law on 1 and 14 April 2021.
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. In determining whether to issue the Provider with an Administrative action, the Authority took the following into consideration:
- a) The Notifications of Incident were submitted within the prescribed timeframe, and the Service's previous compliance history.

- b) The Provider's response to the incident at the time, and implementation strategies, which, if actioned and followed correctly, are deemed appropriate in mitigating risk of a similar incident.
13. Regarding the substantiated offences under sections 165(1) and 167(1) of the *Law*, the Authority is satisfied that already demonstrated subsequent strategies implemented by the Provider will meet the expectations of the Authority, and therefore no further action is required.
14. However, the Authority does acknowledge a recent Administrative action engaging similar offences as a result of an investigation that was issued to the Provider 24 March 2021. Please be aware that that any further contraventions of sections 165 and 167 of the *Law* will be addressed via stronger statutory action.
15. 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

16. 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>.
17. 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>
18. 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

10 May 2021