

Ms [REDACTED]
Person with Management or Control
Woden Community Service Inc
RE: Margaret Hendry OSHC

Email: [REDACTED]@wcs.org.au
[REDACTED]

Dear Ms [REDACTED],

Decision to issue Administrative Action RE: 40544506

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an assessment into a Notification (NOT-40544506) advising of an incident at Margaret Hendry OSHC SE-40014983 (the Service), operated by Woden Community Service Inc PR-00005883 (the Provider).
2. The Notification advised of a circumstance where a child being educated and cared for by the Service was missing/ unaccounted for on 1 June 2021.
3. Web addresses to the *Education and Care Services National Law (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

4. On 2 June 2021, the Authority received a Notification of Incident (NOT-40544506) from the Provider, advising that an enrolled child of the Service, known to be [REDACTED] (age 5 years), did not attend after school care as expected, and that the Service became aware of his location when [REDACTED] mother rang to advise that [REDACTED] had walked home alone.
5. Furthermore, the Notification advised that [REDACTED] was on the roll to attend, but that he had not been assigned a class on this roll, so educators made assumptions as to which class he was supposed to be collected from which contributed to [REDACTED] then being marked absent and him subsequently walking home. Refer NOT-40544506 at Attachment A.
6. Additional information submitted with the notification included an incident report form, child arrival and departure policy and child attendance records for 1 June 2021.
7. On 3 June 2021, additional information was requested from the Provider, which was responded to on 4 June 2021. Additional information included evidence demonstrating that transition policy and procedure had been reviewed, with any changes implemented and communicated to staff, to mitigate risk of reoccurrence. Refer email correspondence at Attachment B.

Law

8. Evidence submitted via NOT-40544506 and supporting documentation engages the following sections of the *Law*:

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.

Reasons

9. Having considered all documents submitted by the Provider the Authority is satisfied that the Provider has failed to comply with the *Law*. The Authority is satisfied that section 167(1) of the *Law* was contravened on 1 June 2021.
10. Information gathered supports that the Provider, by failing to adequately confirm child's absence arising from, on balance of probabilities, a communication breakdown with the school, has not appeared to ensure that every reasonable precaution was taken to protect children being educated and cared for by the Service from harm and from any hazard likely to cause injury, in contravention of section 167 of the *Law*.
11. The very nature of the Notification, and the fact that [REDACTED] class details were not confirmed with the school prior to educators attending classes to transition children to the Service supports the contravention of sections 167 of the *Law*.
12. 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 you this Administrative Decision.
13. In determining this outcome, the Authority took into consideration the actions undertaken by the Provider once becoming aware of the failings, and the compliance history of the Service.
14. The Authority is satisfied that, if implemented and always followed, the strategies/actions advised of via the notification, to mitigate risk of a similar incident occurring, meets the expectations of the Authority to ensure compliance moving forward in regard to the transitioning of children between the school and the Service.
15. However, 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.
16. For your convenience, and to support future compliance, please find web addresses to relevant legislation:

The *Law* applies to you as an approved provider and any service that 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>.

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. If you have any queries regarding this Decision, please contact me via email at janine.fairburn@act.gov.au.

Yours sincerely



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

16 June 2021