

Ms [REDACTED]
Person with Management or Control
Community Services #1 Incorporated
RE: Narrabundah Children's Cottage

Email: [REDACTED]@communityservices1.org

Dear Ms [REDACTED]

Decision to Issue Administrative Action RE: NOT-40793404

1. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Incident (NOT-40793404) relating to Narrabundah Children's Cottage SE-00009816 (the Service) operated by Community Services #1 Incorporated PR-00005865 (the Provider).
2. The notified incident advised that a child known as [REDACTED] [REDACTED] (11 months old) pulled an electrical cord from a bottle warmer subsequently spilling the contents onto himself resulting in scalding himself from the contents.
3. The Authority is satisfied that the Provider has not complied with provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in this instance. Web addresses for the Law and the *Regulations* are provided for your convenience at the end of this decision.

Facts

4. On 14 November 2022, the Authority received a Notification of Incident (NOT-40793404) from the Provider. The notification advised that, on 11 November 2022, a child [REDACTED] [REDACTED] (11 months old) attended the Service and pulled an electrical cord. The cord was from a bottle warmer sitting on a bench. This resulted in the contents spilling onto [REDACTED] and scalding him. Refer NOT-40793404 at Attachment A.

Law

5. Provisions of the Law relevant to the notification assessment are:

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 cared 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.

Reasons

6. Upon considering all evidence for assessment, inclusive of Provider supplied information, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence to substantiate an offence under section 165 and 167 of the *Law* in this instance.
7. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the steps taken by the Provider to mitigate risk of a similar incident, the Authority has decided to issue this administrative action rather than statutory compliance actions.
8. In relation to substantiated breaches engage by the Provider under section 165 and 167 of the *Law*, the Authority requests the Provider to submit the following evidence to support risk mitigation actions have been undertaken:
 - a. Provide evidence that supervision policies have been reviewed by educators
 - b. Provide evidence that educators understand effective supervision.
 - c. Provide evidence that safety practices training has been completed.
9. Requested information outlined in paragraph 8 can be submitted to Authorised Officer Vittorio Colosimo at Vittorio.Colosimo@act.gov.au. The Authority requests this to occur within 14 days of receipt of this decision.
10. This Decision is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, in particular the obligation to ensure that staffing and supervision levels need to meet the emotional, developmental, and physiological needs of children and educators alike. These staffing and supervision levels may need to be adapted to be above minimum regulated ratio levels to protect children from harm and hazard likely to cause injury – both physically and psychologically.
11. 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.

Legislation

12. 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>.
13. 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>
14. If you have any questions in relation to this Decision, please contact me by email at Vittorio.Colosimo@act.gov.au.

Yours sincerely



Vittorio Colosimo
A/g Assistant Director
Children's Education and Care Assurance
Education and Care, Regulation and Support
ACT Education Directorate

14 December 2022