



██████████
Person with Management or Control
FEL Child Care Centres 4 Pty Ltd
RE: Peter Pan Early Learning by Busy Bees

Email: ██████████

Dear ██████████,

Decision to issue Administrative Action

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 assessed a Notification of Incident (NOT- 00047536) relating to Peter Pan Early Learning by Busy Bees SE-00009823 (the Service) operated by FEL Child Care Centres 4 Pty Ltd PR-40004076 (the Provider).
2. The notification of incident advised that on 20 June 2024, ██████████ (3 years 11 months) took a chair and placed it next to the external Service fence and climbed over it, placing him outside the Service, a short distance from the entrance to the Service.
3. The Authority is satisfied that the Provider did not comply with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in this instance. Web addresses to the Law and the associated *Regulations* are provided for your convenience at the end of this Decision.

Facts

On 21 June 2024, a notification of incident (NOT-00047536) was submitted to the Authority by the Provider advising that on 20 June 2024, a child, ██████████ (3 years 11 months) took a chair and placed it next to the external Service fence and climbed over it, placing him outside the Service, a short distance from the entrance to the Service.

Refer copy of the NOT-00047536 at [Attachment A](#).

4. Additional information submitted with the notification of incident included the following:
 - Incident Report;
 - Picture of Fence – One;
 - Picture of Fence – Two;
 - Picture of Chair.

Refer [Attachment B](#).

5. On 27 June 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
 - No Response to Request for Information;
 - Working directly with children records/child attendance;
 - Staff meeting notes;

- Parental correspondence;
- Supervision map; and
- Witness statements/warning letters.

Refer Attachment C.

6. The Provider further advised that steps were taken to prevent or minimise a similar incident occurring, including:
 - A review of the appropriateness of the fence by facilities management; and
 - A review of supervision policies and supervision plans and discussion with educators during a Staff meeting.

Law

7. The Notification engaged the following provisions of the *Law*:

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: \$11 400, in the case of an individual
\$57 400, in any other case.

Decision

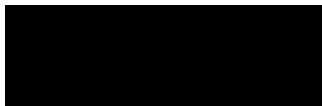
8. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to support an offence under section 165 of the *Law* in this instance.
9. In relation to section 165 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were adequately supervised at all times while in the care of the Service on 20 June 2024, in that [REDACTED] was able to use a chair and scale the fence at the Service, unnoticed by educators.
10. The Authority is satisfied that the very nature of the matter notified, and additional information submitted by the Provider supports, on balance of probabilities, the offence being substantiated.
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.
12. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the advised of steps taken by the Provider to mitigate risk of a similar occurrence, the Authority has decided to issue this administrative action rather than statutory compliance actions to address the non-compliance.

13. This decision services to remind the Provider of their obligations and responsibilities under the *Law*, and to ensure that staffing and supervisory processes and educator practice is monitored regularly to ensure ongoing compliance with the *Law* and encourage continual improvements for outcomes for children.
14. 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

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> . 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>.
16. Should you have any questions about this Decision please contact me at nicole.withers@act.gov.au.

Yours Sincerely,



Nicole Withers
Team Leader Investigations
Regulation and Compliance
Education Directorate

07 August 2024