

[REDACTED]
Person with Management or Control
Team Gump Pty Ltd as Trustee for Team Gump Trust
RE: Sage Education and Childcare Belconnen

Email: [REDACTED]

Dear [REDACTED],

Decision to Issue Administrative Action RE: NOT-40793482

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-40793482) relating to Sage Education and Childcare Belconnen SE-40016571 (the Service) operated by Team Gump Pty Ltd as Trustee for Team Gump Trust PR-40007989 (the Provider).
2. The notified incident advised that a child was found asleep and unsupervised by their mother in a cubby, no educators were in the room and the room had been closed for the day.
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-40793482) from the Provider advising that, on 11 November 2022 around 5:30pm, a child, [REDACTED], was found asleep and unsupervised by his mother, [REDACTED]. No educators were in the room, and it had been closed for the day. Refer NOT-40793482 at Attachment A.
5. On 15 November 2022, additional information was requested from the Provider, and received on 16 November 2022 and 17 November 2022 (Refer email correspondence only at Attachment B. Documents attached to email can be produced on request). Additional information and supportive evidence of actions included:
 - a. CCTV footage (delivered to the Authority on 16 November by USB drive)
 - b. Investigation record
 - c. [REDACTED] incident report
 - d. Staff meeting1
 - e. Staff meeting2
 - f. Staff meeting3
 - g. Staff meeting4
 - h. Staff meeting5
 - i. [REDACTED] Incident 15.11.2022

- j. [REDACTED] incident 15.11.2022
- k. [REDACTED] incident 15112022
- l. [REDACTED] incident 15.11.2022
- m. [REDACTED] 15112022
- n. [REDACTED] 15112022

Law

6. 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 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.

Reasons

7. 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 sections 165 and 167 of the *Law* in this instance.
8. 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.
9. In relation to substantiated breaches engaged by the Provider under sections 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 of what you have put in place to mitigate the risk of similar incidents occurring.
 - b. Provide evidence that educators have completed the Safe Sleeping presentation.
 - c. Provide evidence that all other follow-up steps have taken place, as outlined in your investigation.

10. 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.
11. 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 adequate supervision at all times to guarantee every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.
12. 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

13. 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>.
14. 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>
15. If you have any questions in relation to this Decision, please contact Authorised Officer Vittorio Colosimo 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

23 December 2022