



██████████
Person with Management or Control

Trustees of the Roman Catholic Church for the Archdiocese of Canberra and Goulburn

RE: St Thomas Aquinas Early Learning Centre

Email: ██████████

Dear Mr ██████████

Decision to issue Administrative Action RE: NOT-40897297

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-40897297) relating to St Thomas Aquinas Early Learning Centre - SE-00009840 (the Service) operated by Trustees of the Roman Catholic Church for the Archdiocese of Canberra and Goulburn - PR-00005878 (the Provider).
2. The notified incident advised for periods of time between 14 August 2023 and 23 August 2023 there were no staff members engaged who held current first aid/CPR qualifications.
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.
4. Web addresses to the Law and the *Education and Care Services National Regulations (the Regulations)* are provided for your convenience at the end of this Decision.

Facts

5. On 31 August 2023, the Authority received a notification of incident (NOT-40897297) from the Provider advising that on 14 August 2023, 15 August 2023, 22 August 2023, and 23 August 2023 for periods of time, the longest being 1 hour and 21 minutes, there were no staff members at the Service that had a current first aid/CPR qualification. Refer copy of NOT-40897297 at [Attachment A](#).

Law

6. Provision of the Law relevant to the assessment of the notification are:

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.

Obligations upon Regulatory Authority

7. Section 3 of the *Law* sets out objectives and guiding principles of the *Law*. Relevant to this decision is the objective at section 3(2)(a), namely

'To ensure the safety, health and wellbeing of children attending education and care services; ...'
8. There are two relevant guiding principles at sections 3(3)(a) and (f), namely:
 - (a) that the rights and best interests of the child are paramount; ...
 - (f) that best practice is expected in the provision of education and care services.
9. Section 260 of the *Law* sets out the functions of the Regulatory Authority, which includes:
 - (c) to monitor and enforce compliance with this *Law*;
 - (d) to receive and investigate complaints arising under this *Law*.
10. The *Law* works to protect a particularly vulnerable part of our society — children — when they are in the care of people other than their parents or guardians. The *Law* authorises providers and services to participate in a regulated environment and requires those participants to comply with the *Law*.
11. A key object of the *Law* is to protect children in the context of education and care services. The Authority looks to exercise its powers to emphasise and require best practice, as the *Law* requires, which is also inherently in the best interests of children.

Decision

12. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to ground an offence under section 167 of the *Law*.
13. In relation to section 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider failed to ensure all reasonable precautions were undertaken to protect children, by not having an educator engaged at the service with a current first aid/CPR qualification, and therefore not ensuring the health, safety and wellbeing of the children.
14. 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.
15. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the demonstrated 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 to address the non-compliances.

16. This Decision serves as a reminder that, as a Provider, it is imperative to ensure that there is at least one nominated supervisor or staff member at the Service with a current first aid and CPR qualification.
17. 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

18. 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>.
19. Should you have any questions about this Decision please contact Authorised Officer Janine Fairburn at Janine.Fairburn@act.gov.au.

Yours Sincerely,



Jo Williams
Director
Children's Education and Care Assurance
Education and Care Regulation and Support

18 October 2023