

Mr [REDACTED]  
Person with Management or Control  
Team Holiday Pty Ltd  
RE: TeamKids – St Benedict’s Primary

Email: [REDACTED]

Dear Mr [REDACTED]

**Decision to issue Administrative Action RE: 40532637**

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 of Incident (NOT-40532637) relating to the operation of TeamKids-St Benedict’s Primary SE-40020300 (the Service), operated by Team Holiday Pty Ltd PR-40002234 (the Provider).
2. 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**

3. On 26 April 2021, the Authority received a Notification of Incident (NOT-40532637) from the Provider, advising that on 23 April 2021, that a child, known to be [REDACTED] (aged nine years) was identified at 3:12pm as not attending the Service as expected.
4. Furthermore, it was advised that [REDACTED] mother was not advised that [REDACTED] had not attended until 5:30pm when she arrived to pick [REDACTED] up from the Service. Refer NOT-40532637 at Attachment A
5. On 29 April 2021, additional information was requested from the Provider to assist with the Authority’s assessment of the matter. Additional information was forwarded on 29 April 2021. Refer email correspondence at Attachment B.
6. Information and documents submitted by the Provider included:
  - a) TeamKids Incident Report (Attachment C);
  - b) Working directly with children records and child attendance records; and
  - c) Relevant policies related to delivery and collection of children, and non-arrival of children.

**Law**

7. Relevant provisions of the Law engaged by the notification are as follows:

## Section 167 of the Law – Offence relating to protection of children from harm and hazards

- (1) 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

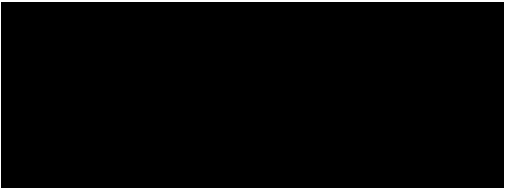
8. Upon considering all evidence for assessment the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence, by the very nature of the notification and admission of the Provider that educators did not follow policy and procedure, to substantiate an offence under section 167(1) of the *Law* in this instance.
9. The fact that educators of the Service did not seem to be aware of the seriousness of [REDACTED] being unaccounted for, resulting in no actions being undertaken to identify his whereabouts until three hours after he was first identified as being unaccounted for due to not attending as expected further supports the contravention.
10. In deciding if compliance action should be taken, the Authority has considered all relevant information supplied by the Provider regarding the Provider's management of the incident, and the Services compliance history.
11. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. On this occasion, the Authority has determined to issue you with this Administrative Action rather than impose any statutory compliance actions.
12. Regarding the substantiated offence under section 167(1) of the *Law*, the Authority requests that the Provider, within 14 days of receipt of this Decision, submit the following evidence:
  - a) The completed internal investigation report; and
  - b) Evidence to demonstrate that the Nominated Supervisor, educators, and relief staff are aware of and understand the Provider's policy, procedures, and processes in relation to the delivery and collection of children, and non-arrival of children.
13. Evidence to demonstrate the above can be forwarded to me at [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au), or alternatively via post at:

Attention: Janine Fairburn  
Education and Care Regulation and Support,  
ACT Education Directorate  
PO Box 158, Canberra City 2601
14. This decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments, or waivers. This decision may also be considered in determining any future regulatory action, should there be future breaches of the *Law* or *Regulations*.

### **Legislation**

15. The *Law* applies to you as an approved provider and any approved service that the Provider operates.

16. 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>.
17. 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>
18. If you have any queries regarding this Decision, please contact me at  
[janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au).



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

17 May 2021