

Mr [REDACTED]
Person with Management or Control
Alfoom Investments Pty Ltd
RE: Gungahlin Kinder Haven

Email: [REDACTED]

Dear Mr [REDACTED]

Decision to Issue Administrative Action – NOT-40509904

1. As you may be 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-40509904) relating to the operation of Gungahlin Kinder Haven SE-40001554 (the Service) operated by Alfoom Investments Pty Ltd PR-40000959 (the Provider).
2. The Authority is satisfied that the Provider has contravened provisions of the *Education and Care Services National Law (ACT)* (the Law).
3. Web addresses to 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

4. On 11 February 2021, the Authority received a Notification of Incident (NOT-40509904) and associated documents from the Provider, advising that on 10 February 2021, a child, known to be [REDACTED] (aged two years), was found by the cook at the Service, unsupervised, in a hallway of the service. Refer Attachment A.
5. Further, on 11 February 2021, the Authority requested further information in relation to the incident. The Provider responded to this request on 18 February 2021 with provision of the following:
 - a) Attendance Record- Toddler 1 and 2 for the 10th Feb 2021;
 - b) Signed Incident report ;
 - c) Information regarding children transitioning between rooms; and
 - d) Clarification on specifics advised of in the Notification.

Law

6. with the Notification and additional supportive documentation 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.

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.

Reasons

7. Having considered the evidence supplied by the Provider in relation to the Notification and additional information, the Authority is satisfied that the Provider has failed to comply with the *Law*.
8. The Authority is satisfied that inadequate supervision contributed to ██████████ being able to enter the hallway unnoticed by educators, and subsequently be found by the Services cook, constituting an offence under section 165(1) of the *Law*, and engaging section 167(1) of the *Law*.
9. However, the Authority also noted the Provider submitted evidence to support that appropriate policies, procedures and practices were in place to mitigate the risk of such an incident occurring.

Decision

10. The *Law* outlines a range of statutory actions which may be taken by the Authority in response to non-compliance. Many of these options allow the Authority to publish details of substantiated non-compliance.
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. In determining whether to issue the Provider with an Administrative Action, the Authority took the following into consideration:
 - a) The Notification of Incident was submitted within the prescribed timeframe;
 - b) Consideration was given to the reported low risk circumstances, however that if educators were engaged with all the children, the child would not have been able to leave the room unnoticed;
 - c) ██████████ was unaccounted for a short period of time and did not leave service premises – being up to five minutes; and
 - d) The Provider has advised of strategies which, if continued and followed correctly, are deemed appropriate in mitigating risk of a similar incident.
13. Regarding the substantiated offences under sections 165(1), 167(1) of the *Law*, the Authority is satisfied the strategies currently advised of as implemented by the Provider will meet the expectations of the Authority so long as they are followed correctly.
14. However, the Authority does acknowledge that the Provider has only recently addressed a similar Administrative Action with the Authority for a similar matter on 9 February 2021. The Authority takes this opportunity to remind the Provider of their obligations under the *Law*, and

