



██████████  
Person with Management or Control  
Woden Community Service Inc.  
RE: Garran Outside School Hours Care

Email ██████████

Dear ██████████

**Decision to issue Administrative Action RE NOT-40648492**

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-40648492) relating to the operation of Garran OSHC, SE-0009677 (the Service), operated by Woden Community Service Inc, PR-00005883 (the Provider).
2. The Notification related to a six-year-old child being unaccounted for/ missing at the Service on 16 February 2022.
3. 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 letter.

**Facts**

4. On 17 February 2022, the Authority received a Notification of Incident (NOT-40648492) from the Provider in relation to a child, known to be ██████████, who on 16 February 2022, exited the Service and was missing and unaccounted for, walking back to home some 400 metres away. It was advised that ██████████ parents observed him walking home and advised the Service. Refer submitted notifications at Attachment A.
5. The Authority noted that NOT-40648492 was submitted with additional information and supportive evidence including:
  - a) Multiple relevant photos related to incident and display of supervision and risk plans located at the Service;
  - b) Internal incident report and educator accounts;
  - c) Covid-19 safe plan and risk management plans;
  - d) Policy and Procedure in relation to supervision and incident reporting;
  - e) Child attendance and educator sign in sheets for 16/02/2022; and
  - f) Induction checklists for new educators.
6. The Authority also noted that within the notification the following risk mitigation measures had been advised of by the Provider:
  - a) Engagement with parents, with parents also reminding ██████████ that he should not leave the Service.

- b) A staff meeting organised so that educators could discuss and review the service supervision plan, outdoor risk minimisation plan and supervision map.
- c) Check of progress with educators at end of term to review if any further changes in supervision arrangements required.
- d) Planned group times with children to discuss about boundaries and pickup routine and processes.

## **Law**

7. Provisions of the *Law* relevant to the assessment engaged the following:

### **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.

## **Decision**

- 8. The Authority has considered all the information supplied by the Provider and is satisfied that inadequate supervision contributed to the incident reported as occurring on 16 February 2022, in contravention of section 165(1) of the *Law*, and engaging section 167(1) of the *Law*.
- 9. The fact that [REDACTED] was able to leave the Service premises without being noticed by educators supports substantiation of the offences.
- 10. 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. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue you this Administrative Action.
- 11. In regard to the Authority's decision not to initiate statutory action, the Authority took into consideration the Service's compliance history, along with steps already undertaken by the Provider in mitigating risk of a similar incident occurring.
- 12. This Decision is issued to remind the Provider that at all times, staffing and supervision levels need to meet the emotional, developmental and physiological needs of children and educators alike. These staffing and supervision levels may need to be adapted to be above

minimum regulated ratio levels to protect children from harm and hazard likely to cause injury.

**Legislation**

13. The *Law* applies to you as an approved provider and any service you operate. The National Law is applied in the ACT by the *Education and Care Services National Law (ACT) Act 2011* which can be viewed at: <http://www.legislation.act.gov.au/a/2011-42/default.asp>.
14. The National Law is made up of an Act and Regulations which can be viewed at: <http://www.acecqa.gov.au/national-law>, and <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>
15. This decision will be recorded on your service 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.
16. Should you have any questions about this Decision please contact me at [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au).

Yours Sincerely,



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

7 March 2022