



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

Email: ██████████@wcs.org.au
██████████@wcs.org.au

Dear ██████████

**Decision to issue Administrative Action RE NOT-40491609 and
NOT-40493324**

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 conducted an assessment into two Notifications of Incident (NOT-40491609 and NOT-40493324) relating to the operation of Garran OSHC, SE-0009677 (the Service), operated by Woden Community Service Inc, PR-00005883 (the Provider).
2. The Notifications related to children being unaccounted for/ inadequately supervised at the Service on 30 November 2020 and 4 December 2020.
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 1 and 4 December 2020, the Authority received two Notifications (NOT-40491609 and NOT-40493324) from the Provider in relation to children being unaccounted for/ inadequately supervised at the Service on 30 November 2020 and 4 December 2020. Refer submitted notifications at Attachment A.
5. The Authority noted that each Notification was submitted with additional information and supportive evidence including:
 - a) Child attendance records and educator working directly with children (WDWC) records for 30 November 2020 and 4 December 2020;
 - b) Internal incident forms in relation to the matters notified;
 - c) Policy and Procedure in relation to supervision and arrival and departure of children; and
 - d) Induction checklists and a meeting agenda for 8/12/2020.
6. The Authority also noted that within the notification the following risk mitigation measures had been advised of by the Provider:

NOT-40493324:

- a) The service will be offering supervision training to all staff.
- b) Staff will have a formal talk with children regarding the program boundaries, stranger danger and the responsibility the service has to caring for the children.
- c) Staff will also reevaluate the distribution of staff and supervision maps to ensure that boundaries are adequately supervised with staff who know the children at the service located nearest the boundaries.

NOT-40491609:

- a) Staff to implement a peer review process where qualified colleagues review the rolls each afternoon to confirm that all children have been marked in or followed up with correctly to ensure that policies regarding sign in procedures are followed.
- b) Service to check in on the family to ensure there is no further confusion around walking to the shops or afters attendance Coordinator to discuss with children the need to check with After School Care if they believe they have alternate plans for an afternoon on days in which they attend.
- c) The program will then confirm with parents or enrolments if there is no existing communication of non-attendance.
- d) Coordinator to discuss with all children that if they are ever in doubt over their pick-up situation that the service is always able to contact parents and ensure arrangements on the child's behalf.
- e) Discussion of Arrival and Departure of Children policy at the next Coordinator meeting Wednesday 9 December 2020
Photos

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 both incidents reported as occurring on 30 November 2020 and 4 December 2020, in contravention of section 165(1) of the *Law*, and engaging section 167(1) of the *Law*.
9. 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.
10. In regard to substantiated offences of sections 165 and 167 of the *Law*, the Authority requests the Provider to submit the following evidence to demonstrate compliance:
 - a) Evidence demonstrating that a review of supervision policy and practices has occurred, and that any changes as part of the review has been implemented and communicated to all staff; and
 - b) That all advised of actions noted in paragraph 6 of this Decision have been implemented/actioned.
11. Evidence to demonstrate the above is requested to be provided **by 5 January 2021**, and submitted to me via email at janine.fairburn@act.gov.au or by post to:
Children's Education and Care Assurance,
Attention Janine Fairburn,
GPO Box 158, Canberra ACT 2601.
12. In addition, 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.
13. 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

14. 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>.
15. 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>

16. 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.
17. Should you have any questions about this Decision please contact me at janine.fairburn@act.gov.au.

Yours Sincerely,



Janine Fairburn
Assistant Director
Early Childhood Policy and Regulation
ACT Education Directorate

17 December 2020