

Ms [REDACTED]  
Person with Management or Control  
Community Services #1 Incorporated  
RE: Forrest Early Education and Care Centre

Email: [REDACTED]@communityservices1.org

Dear Ms [REDACTED]

**Decision to Issue Administrative Action RE: NOT-40853422**

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance (CECA), recently assessed a Notification of Incident (NOT-40853422) relating to Forrest Early Education and Care Centre SE-00009775 (the Service) operated by Community Services #1 Incorporated PR-00005865 (the Provider).
2. The notified incident advised that two children, were located inside a closed storeroom with a faulty lock.
3. The Authority is satisfied that the Provider has not complied with provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in this instance. Web addresses for the Law and the *Regulations* are provided for your convenience at the end of this decision.

**Facts**

4. On 9 May 2023, the Authority received a Notification of Incident (NOT-40853422) from the Provider advising that, on 8 May 2023, two enrolled children, [REDACTED] (3:9) and [REDACTED] (3:2), were found by an educator unsupervised in a locked storeroom that had a faulty lock. Refer NOT-40853422 at Attachment A.
5. Accompanying the Notification from the Provider where the following relevant documents:
  - a) Educator and Director statements.
  - b) Internal Incident reports.
  - c) Ratio records and Working Directly chart.Refer documents at Attachment B.

**Law**

6. Provisions of the *Law* and *Regulations* relevant to the notification assessment are:

**Section 165(1) of the Law – Offence relating 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 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.

**Reasons**

7. After carefully considering all information submitted via NOT-40853422, the Authority is satisfied, on the balance of probabilities, that the Provider has contravened section 165(1) of the *Law*, giving rise to a contravention of section 167(1) of the *Law* in this instance.
8. The Authority is satisfied that on 8 May 2023, the Provider has not ensured that all children were adequately supervised, in that two children were able to access a store cupboard with a broken lock, unnoticed by educators. In addition, children were only identified as being in the storage room when an educator went to take the blue beds out and had to unlock the storage room door with a butter knife as the lock was faulty.
9. Additional information submitted with the notification identified that when found in the storage room, the two girls had pulled items off the shelves in the cupboard such as flour, puzzles and equipment, were covered in a white powder, and one child had accessed easter bunny chocolate.
10. The Authority is satisfied that by not ensuring adequate supervision at all times, and by not ensuring that the storage room had a properly operating lock mechanism, the Provider has not ensured all reasonable precautions have been taken to protect children against harm or hazard likely to cause injury or illness.
11. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the 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.
12. In relation to substantiated breaches engaged by the Provider under regulation 165 and 167, the Authority requests the Provider to submit the following evidence to support risk mitigation actions have been undertaken:
  - a) Provide risk assessment of maintenance schedule to ensure that resources and facility are being maintained appropriately in a timely manner; and
  - b) Provide risk assessment of supervision arrangements.
13. Requested information outlined above can be submitted to me at [Janine.Fairburn@act.gov.au](mailto:Janine.Fairburn@act.gov.au). The Authority requests this to occur within 14 days of receipt of this decision. Alternatively, it can be submitted by post to:

Authorised Officer, Janine Fairburn  
Children's Education and Care Assurance (CECA)  
ACT Education Directorate  
PO Box 158, CANBERRA ACT 2601

14. This Decision is issued to remind the Provider, that always, 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 – both physically and psychologically.
15. 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**

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 questions in relation to this Decision, please contact Assistant Director Janine Fairburn by email 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  
31 May 2023