

██████████  
Person with Management or Control  
Capital Region Community Services Limited  
RE: Florey OSHC Program

Email: ██████████

Dear Ms ████████,

**Decision to Issue Administrative Action RE NOT-40803036**

1. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, recently assessed Notification of Incident (NOT-40803036) relating to Florey OSHC Program SE-00009674 (the Service) operated by Capital Region Community Services Limited PR-00005807 (the Provider).
2. The notified incident advised that two children had left the Service unnoticed and returned were only noted on return to the Service.
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 13 December 2022, the Authority received a Notification of Incident (NOT-40803036) from the Provider. This notification advised that two children believed to be ██████████ (age 9) and ██████████ (age 9) signed into the Service before absconding to the nearby shopping centre. The children left the Service without the knowledge of educators. The children returned to the Service at 3.20pm where they were escorted back into the Service by an educator. Refer NOT-40803036 at Attachment A.

**Law**

5. Provisions of the *Law* relevant to the notification assessment are:

**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.

### Reasons

6. Upon considering all evidence for assessment, inclusive of Provider supplied information, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence to substantiate an offence under section 165(1) of the *Law* in this instance.
7. 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.
8. This Decision is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, specifically that the approved provider must notify the Regulatory Authority of any complaints alleging that the *Law* has been contravened.
9. 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

10. 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>.
11. 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>
12. If you have any questions in relation to this Decision, please contact me by email at [Vittorio.Colosimo@act.gov.au](mailto:Vittorio.Colosimo@act.gov.au).

Yours sincerely



Vittorio Colosimo  
A/g Assistant Director  
Children's Education and Care Assurance  
Education and Care, Regulation and Support  
ACT Education Directorate

23 December 2022