



██████████
Person with Management or Control
Woden Community Service Ltd
RE: Duffy OSHC

Email: ██████████@wcs.org.au

Dear ██████████

Decision to issue Administrative Action RE: Direct Complaint

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 complaint relating to Duffy OSHC SE-00009668 (the Service) operated by Woden Community Service Ltd PR-00005883 (the Provider).
2. The complaint advised that on 8 August 2024, a child became dysregulated and started fighting with a peer. This is not the first incident, and these incidents have not been reported to the Authority.
3. The Authority is satisfied that the Provider did not comply with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in this instance. Web addresses to the Law and the associated *Regulations* are provided for your convenience at the end of this Decision.

Facts

4. In September 2024, a complaint was submitted to the Authority advising that a child known to be ██████████ (8 yrs), would often become dysregulated, getting into fights with other children without any communication of incidents being provided to the parents of ██████████.
5. On 10 October 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
 - ██████████ – Enrolment Form;
 - Child behaviour report;
 - Injury/illness report;
 - Meeting notes.
6. Injury/illness records note that 25 July 2024, ██████████ had punched another child in the face. As this incident poses a risk to the health, safety, or wellbeing of a child or children attending the service, this incident should have been reported to the Authority.
7. Please note, documents referred to in paragraphs 4 and 5 are not included due to size. These documents can be provided upon request.

Law

8. The Notification engaged the following provisions of the *Law*:

Section 174(2) of the Law - Offence to fail to notify certain information to Regulatory Authority

An approved provider must notify the Regulatory Authority of the following information in relation to an approved education and care service operated by the approved provider -

- (a) any serious incident at the approved education and care service;
- (b) any complaints alleging –
 - (i) that a serious incident has occurred or is occurring while a child was or is being educated and cared for by the approved education and care service; or
 - (ii) that this Law has been contravened;
- (c) information in respect of any other prescribed matters.

Penalty: \$4 500, in the case of an individual
\$22 900, in any other case.

Decision

9. The Authority has considered all the information supplied and is satisfied that there is sufficient evidence to support an offence under section 174 of the *Law* in this instance.
10. As the Authority was not notified of this incident, ensure that all relevant instances are reported in the future, especially including those around restrictive practice and absconding.
11. 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.
12. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the advised of steps taken by the Provider to mitigate risk of a similar occurrence, the Authority has decided to issue this administrative action rather than statutory compliance actions to address the non-compliance.
13. This decision services to remind the Provider of their obligations and responsibilities under the *Law*, and to ensure that notifiable incidents are reported to the Authority within the legislated timeframe..
14. 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

15. The *Law* applies to you as a provider and any service you operate. 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> . The *Law and Regulations* can be viewed at: <http://www.cecqa.gov.au/national-law> , and <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>.

16. Should you have any questions about this Decision please contact me at vittorio.colosimo@act.gov.au.

Yours Sincerely,



Vittorio Colosimo
A/g Assistant Director Investigations
Education and Care Regulation and Support
Education Directorate

23 October 2024