

██████████
Person with Management or Control
LP Childcare Management PTY LTD
RE: Ducklings Early Education

Email: ██████████

Dear ██████████

Decision to issue Administrative Action RE NOT-40548182

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 Notified Complaint of Serious Incident (NOT-40548182) relating to the operation of Ducklings Early Education SE-40014603 (the Service), operated by LP Childcare Management PTY LTD PR-40018855 (the Provider).
2. The Notification related to inadequate toileting of a child, ██████████, on 11 June 2021 in Studio 7/8.
3. Web addresses to the *Education and Care Services National Law Act (ACT)* (the Law) and the *Education and Care Services National Regulations 2011* (the Regulations) are provided for your convenience at the end of this decision.

Facts

4. On 15 June 2021, the Authority received NOT- 40548182 (the Notification) from the Provider advising of a complaint that, on 11 June 2021, a child, known to be ██████████ ██████████, (aged 4 years), was left in soiled underwear for over an hour. Refer copy of the Notification at Attachment A.
5. On 15 June 2021, the Authority requested additional information from the Provider to assist in the assessment of the Notification. Additional information was submitted on 20 June 2021 and included documents and information relating to the following:
 - a. Director’s statement of 18 June 2021;
 - b. Meeting notes with relevant educators;
 - c. Formal warnings and performance management plans for relevant educators;
 - d. Email correspondence with parents;
 - e. Staff details;
 - f. Children’s attendance records for Studios 7 and 8 for 11 June 2021, showing 26 children at 4:00pm, 20 at 4:15 and 18 children at 4:30, ██████████ being collected at approximately 5:30pm;
 - g. Working directly with children records for Studios 7 and 8 for 11 June 2021, showing three educators working directly with children between 4:00pm and 5:30pm;

- h. Support Inclusion Plan, which has not yet been finalised due to waiting for a letter from [REDACTED]'s Paediatrician.

Refer email correspondence at Attachment B.

6. The Authority assessed the information in Attachments A and B, which satisfied the Authority that an offence had been committed against the *Law* at the Service.

Law

7. The following provisions of the *Law* are relevant to the facts as outlined in the Notification:

Section 167 of the *Law* - Offence relating to protection of children from harm and hazard

- (1) The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause injury.

Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied that, on 11 June 2021, educators failing to adequately toilet [REDACTED] constituted a failure to take reasonable precautions to protect children from harm and from hazards likely to cause injury, in contravention of 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 this Administrative decision.
10. In deciding if a compliance action should be taken, the Authority considered the following considerations:
 - a. Prompt reporting to the Regulatory Authority and investigation of the incident;
 - b. That staffing levels appeared to be adequate;
 - c. The Provider has taken steps to implement additional support strategies for [REDACTED]; and
 - d. Failings at educator level have been addressed via performance management steps.
11. The Authority determined that strategies implemented to address the failings of educators have met the expectations of the Authority. Due to this, the Authority will not be initiating statutory compliance action in this instance. However, the contravention has been recorded on the Service file and may be considered in the instance of any future similar incidents.

Legislation

12. 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>.
13. 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>
14. Should you have any questions about this Decision please contact Authorised Officer Tanya Masterman at Tanya.Masterman@act.gov.au.

Yours Sincerely,



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

1 July 2021