

Ms [REDACTED]
Person with Management Control
ACT Education Directorate
RE: Curtin Primary School - Curtin South Preschool Unit
GPO Box 158
Canberra, ACT 2601

Email: [REDACTED]
Cc'd: [REDACTED]

Dear Ms [REDACTED]

Decision to issue Administrative Letter RE: NOT-40479806

1. As you may be aware, Authorised Officer(s) from Children's Education and Care Assurance, also known as the ACT Regulatory Authority (the Authority), recently received a Notification of Incident (NOT-40479806) on 16 October 2020. The notification was submitted to the Authority by ACT Education Directorate, PR-00006465 (the Provider) and related to Curtin Primary School - Curtin South Preschool Unit, SE-00011180 (the Service).
2. The notification advised that a serious incident occurred on Wednesday 14 October 2020, where a four-year-old child sustained a head injury resulting in the Service advising the child's father to take the child to hospital.
3. I am satisfied that the Provider was not complying with the provisions of the *Education and Care Services National Law (ACT) Act 2011 (the Law)* and the *Education and Care Services National Regulations 2011 (the Regulation)* in respect to notifying of serious incidents outside of regulated timeframes.

Facts

4. On Friday 16 October 2020, the Provider notified the Authority of a serious incident occurring on Wednesday 14 October 2020, where a four-year-old child sustained a head injury resulting in the Service advising the child's father to take the child to hospital. Refer notification and additional information at Attachment A.

Law and Regulation

5. The evidence obtained via the Notification and additional information engages the following provisions of the *Law* and *Regulation*.

Section 174(2)(a) of the *Law* provides that an approved provider must notify the Regulatory Authority of any serious incident at the approved education and care service.

Regulation 176(2)(a) (ii) provides that in the case of a serious incident, other than death of a child, notification of a serious incident must be within 24 hrs of the incident or the time that the person becomes aware of the incident.

Regulation 12(b) provides that the definition of a serious incident includes any incident involving serious injury or trauma to a child while that child is being educated and cared for by an education and care service –

- I. Which a reasonable person would consider required urgent medical attention from a registered medical practitioner; or
- II. For which a child attended, or ought reasonably to have attended, a hospital.

Reasons

6. I am satisfied that the Provider has not notified the Authority of a serious incident within the prescribed timeframe of 24 hours, which engages a contravention of section 174(2)(a) of the *Law*.
7. The notification clearly identifies that the Service thought that the child ought to have attended hospital as a result of the injury, and that educators at the Service advised the father to do this.
8. Furthermore, as the incident occurred on Wednesday 14 October 2020, the Provider should reasonably have been aware of the serious incident, and notification to the Authority of the serious incident should have occurred within 24 hours. However, notification did not occur until Friday 16 October 2020, outside of regulated timeframes outlined in Regulation 176(2)(a)(ii).
9. In deciding if compliance action should be taken, I have taken into account that:
 - a. The Service did appropriately administer first aid and manage the injury until the child's parent arrived;
 - b. There have been no similar identified non-compliances in relation to the Service previously.
10. The Authority determined that due to this, the Authority will not be initiating statutory compliance action in this instance.
11. This decision, however, is intended to bring to your attention the need to ensure that all notifiable incidents, complaints, and circumstances, as outlined under the *Law and Regulations* are notified by the Provider within the regulated timeframes.
12. The Authority notes that similar issues of late notification of incidents and complaints have been raised with the Provider previously on multiple occasions for various services that the Provider operates.
13. In addition, the Authority notes that a meeting was requested and held on 7 August 2019 with the Provider's identified Persons in Management or Control (on behalf of the Approved Provider) being Ms ██████████, Ms ██████████, Ms ██████████, Mr ██████████ and Ms ██████████ in regard to late and non-notification issues across services.

14. This letter will be recorded on your service 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 *Regulations* be found.
15. If you have any queries regarding this letter or if you require any information in order to understand your obligations under *the Law* and *Regulation*, please contact Janine Fairburn on (02) 6205 4390 or alternatively at janine.fairburn@act.gov.au.

Yours sincerely



Clare Brookes
Senior Director
Children's Education and Care Assurance
Early Childhood Policy and Regulation
ACT Education Directorate

9 November 2020