

Person with Management or Control
Woden Community Service Inc.
RE: Curtin OSHC

Email:

Dear Ms

Decision to Issue Administrative Action RE: NOT-40790403

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 a Notification of Incident (NOT-40790403) relating to Curtin OSHC - SE-00009667 (the Service) operated by Woden Community Service Inc. - PR-00005883 (the Provider).
2. The notified incident related to a child reporting to his mother that an educator grabbed his hand which caused him pain. This incident occurred on 11 July 2022 and was reported to the Authority on 3 November 2022.
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 3 November 2022, the Authority received a Notification of Incident (NOT-40790403) and documentation from the Provider advising that, on 11 July 2022, an educator grabbed a child by the hand and squeezed it which resulted in the child being in pain. The child reported the incident to his mother who reported it to the Service. The educator was questioned about the incident and admitted grabbing the child’s hand. Refer NOT-40790403 at Attachment A.

Law

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

Section 174 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: \$4000, in the case of an individual.

\$20 000, 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 174 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*, in particular the requirement to notify certain information to the Regulatory Authority within the specified timeframes.
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.

Yours sincerely



Vittorio Colosimo
A/g Assistant Director
Children's Education and Care Assurance
Education and Care, Regulation and Support
ACT Education Directorate
14 December 2022