

[REDACTED]  
President of the Board of Directors  
Person with Management or Control  
Cubby House on Campus - Early Learning Centre Incorporated  
RE: Cubby House on Campus - Early Learning Centre

Email: [REDACTED]

Dear Ms [REDACTED]

**EMERGENCY ACTION NOTICE**  
**Section 179, *Education and Care Services National Law (ACT)***

Name of approved provider    Cubby House on Campus - Early Learning Centre Incorporated –  
PR-00009771 (the Provider)

Name of approved service    Cubby House on Campus - Early Learning Centre - SE-00009771  
(the Service)

Under the *Education and Care Services National Law (ACT)* (the *Law*) an Emergency Action Notice may be issued if the Regulatory Authority is satisfied that an education and care service is operating in a manner that poses, or is likely to pose, an immediate risk to the safety, health or wellbeing of a child or children being educated and cared for by the service.

I am satisfied that on 31 October 2023, the Service was not operating in accordance with the provisions of the *Law* or *Education and Care Services National Regulations 2011 (the Regulation)* as set out below.

An inspector from WorkSafe attended on 18 October 2023, and issued a workplace visit report. On the 31 October 2023, the Regulatory Authority was advised an Improvement Notice was issued to the Service on Friday 27 October 2023. Further to the report the following was advised:

- 1) The WorkSafe investigator, reasonably believe on 18/10/2023 3:17 PM that Cubby House on Campus - Early Learning Centre Incorporated contravened section 19 (3) (a) of the Work Health and Safety Act 2011 (ACT), section 38 of the Work Health and Safety Regulation 2011.
- 2) Cubby House on Campus - Early Learning Centre Incorporated failed to provide a control measure that controls the risk it was implemented to control so far as is reasonably practicable exposing persons in the workplace to a risk of exposure to lead containing paint.
- 3) The work environment was not maintained to be without risks to the health and safety of people in the workplace reasonable precautions not undertaken to protect children from hazard and harms likely to cause injury or illness.

I am satisfied that the observed non-compliances under the Work Health and Safety Regulation 2011 placed children or was likely to place children to an immediate risk to the safety, health or wellbeing of children being educated and cared for by the Service. Furthermore, the non-compliances identified is also a contravention of the National Law as set out below.

Law Provision	Non-compliance
<p><b>Section 167(1) – Offence relating to protection of children from harm and hazards</b></p> <p>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.</p>	<p>Persons are exposed to a risk to their health and safety from lead paint on the internal walls within the preschool room.</p> <p>Paint to the lower walls was observed to be chipped off presenting a risk of exposure to lead paint (refer photos).</p> <p>Cracking of ceiling to the nursery room, minor cracking of walls in the toddler’s room.</p>

The approved provider is required to take the following action to ensure all children are protected from harm and any hazard that is likely to cause injury.

**Action Required**

The approved provider must:

- a. Provide a lead paint analysis report of the preschool room, nursery room and toddler’s room.
- b. The preschool room must cease operation until the Regulatory Authority are satisfied the appropriate controls are in place ensure the risk presented by the chipped lead paint does not pose a risk to health and safety.
- c. A risk assessment is to be undertaken of the indoor and outdoor environments, inclusive of boundary areas to inform the Provider with determining appropriate staffing levels to be maintained to mitigate potential risks to children of harms and hazards likely to cause injury or illness.
- d. Provide updates of works completed to eradicate risks.
- e. Cubby House on Campus - Early Learning Centre Incorporated to review and, as necessary, revise control measures implemented under this regulation so as to maintain, so far as is reasonably practicable, a work environment that is without risks to health or safety and provide reviewed documents, strategies and actions to the Regulatory Authority within 24 hours of implementation.

The Regulatory Authority is satisfied that preschool age children enrolled at the service are able to be accommodated for education and care during operational hours for the duration of this notice.

The approved provider must submit evidence that the above actions have been undertaken, in writing, to Nicola Atherton, Assistant Director at [nicola.atherton@act.gov.au](mailto:nicola.atherton@act.gov.au)

**Evidence for actions must be provided prior to preschool room reopening and result of testing undertaken.**

Failure to comply

If you do not take the required actions, or do not take those steps within the required timeframe, further compliance actions may be imposed, including suspension of your service approval.



Jo Williams  
Director  
Education and Care Regulation and Support  
Children's Education and Care Assurance

1 November 2023