

██████████
Person with Management or Control
Communities@Work
RE: Communities@Work Theodore Out of School Hours Care

Email: ██████████@commsatwork.org

Dear Ms ██████████

Decision to issue Administrative Action RE: NOT-00089509

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 Notification of Incident (NOT-00089509) relating to Communities@Work Theodore Out of School Hours Care SE-00009711 (the Service) operated by Communities@Work PR-00005824 (the Provider).
2. The notification of incident advised that on 6 November 2024, a child was found unsupervised, sleeping inside the Service.
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. On 7 November 2024, a notification of incident (NOT-00089509) was submitted to the Authority by the Provider advising that on 6 November 2024, ██████████ (12 yrs old) was found unattended in the Service during pick up, both onsite educators were in other areas.
5. Additional information submitted with NOT-00089509 included the following:
 - Copy of complaint and follow up conversation.
6. On 12 November 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
 - Record of Conversation – Educator ██████████
 - Review of late collection of child routine.
7. Please note, documents referred to in paragraph 4 through 6 are not included. These documents can be provided upon request.
8. NOT-00089509 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
 - Review of relevant procedure for late collection with ██████████
 - Record of conversation with ██████████ regarding his actions in the situation;

- Call to [REDACTED] (Theodore Principal) as a follow up.

Law

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

Section 165(1) of the Law - Offence to inadequately supervise children

The approved provider of an education and care service must ensure that all children being educated and cared for by the service are adequately supervised at all times that the children are in the care of that service.

Penalty: \$11 400, in the case of an individual

\$57 400, in any other case.

Decision

10. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to substantiate an offence under section 165 of the *Law* in this instance.
11. In relation to section 165 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were adequately supervised at all times while in the care of the Service on 6 November 2024.
12. 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.
13. 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.
14. This decision services to remind the Provider of their obligations and responsibilities under the *Law*, and to ensure that staffing and supervisory processes and educator practice is monitored regularly to ensure ongoing compliance with the *Law* and encourage continual improvements for outcomes for children.
15. 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

16. 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.acecqa.gov.au/national-law> , and
<http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>.

17. 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

16 December 2024