

Ms [REDACTED]
Person with Management or Control
Communities@Work
RE: Communities@Work Palmerston Out of School Hours Care

Email: [REDACTED]@commsatwork.org

Dear Ms [REDACTED]

Decision to issue Administrative Action RE: NOT- 00039591

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- 00039591) relating to Communities@Work Palmerston Out of School Hours Care SE-00009682 (the Service) operated by Communities@Work PR-00005824 (the Provider).
2. The notification of incident advised that on 22 May 2024, a child absconded from the OSHC area and was left unsupervised for over 30 minutes.
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 24 May 2024, a notification of incident (NOT- 00039591) was submitted to the Authority by the Provider advising that on 22 May 2024, child [REDACTED] left the Service unnoticed and unaccompanied to visit his mother [REDACTED] classroom ([REDACTED] is employed as a teacher at Palmerston Primary School). Educators did not realise the child had gone and he was absent for over 30 minutes. The child was returned to the Service when his mother escorted him back whereby educators were unaware that he had left.
Refer copy of the NOT- 00039591 at Attachment A.
5. Additional information submitted by the Provider in the notification included:
 - Incident Record – Part 1;
 - Incident Record – Part 2.

Refer to Attachment B.

6. On 30 May 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
 - Sign in Sheets/Child Attendance Record;
 - Team Leader meeting documents (reviewing supervision plans);

- Incident Report (signed);
- Minutes for Educators meeting;
- Correspondence with family.

Refer Attachment C.

7. The Provider has advised the Authority in submitted information of the steps taken to prevent or minimise a similar incident, including:
 - Initial conversations with team leaders and educators;
 - A review of the supervision plan and related risk assessment;
 - Developing an accessible and digestible guidance for display in all Communities at Work OSHC sites as a part of the compliance framework.

Law

8. 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

9. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to support an offence under section 165 of the *Law* in this instance.
10. 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 22 May 2024.
11. The Authority is satisfied that the very nature of the matter notified, and additional information submitted by the Provider supports, on balance of probabilities, the offence being substantiated.
12. The Authority is satisfied that, while risk was mitigated and the child was still on grounds, the biggest issue relates to the Service not realising that the child was missing.
13. The Authority would like to remind the Provider that they should know where children are at all times, even if the child is familiar with the environment and the parent works within the school grounds.

14. 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.
15. 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.
16. 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.
17. 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

18. 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>.
1. Should you have any questions about this Decision please contact me at nicole.withers@act.gov.au.

Yours Sincerely,



Nicole Withers
Team Leader Investigations
Regulation and Compliance
Education Directorate

1 August 2024