



██████████ on behalf of

██████████
Person with Management or Control
Communities@Work
RE: Communities@Work Palmerston

Email: ██████████@ballawyers.com.au

Dear Ms ██████████

Decision to issue Administrative Action RE: NOT-00068226, NOT-00067413 and NOT-00072618

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 three Notifications of Incident (NOT-00068226, NOT-00067413 and NOT-00072618) relating to Communities@Work Palmerston SE-00009682 (the Service) operated by Communities@Work PR-00005824 (the Provider).
2. The notification of incident (NOT-00068226) advised that on 22 August 2024, a child was not delivered from before school care to preschool by Educators.
3. The notification of incident (NOT-00067413) advised that on 25 August 2024, a child was signed in, then left the Service to find a friend.
4. The notification of incident (NOT-00072618) advised that on 11 September 2024, a child was unaccounted for around 12 minutes, having left the Service area and entered the school oval.
5. 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

6. On 28 August 2024, a notification of incident (NOT-00068226) was submitted to the Authority by the Provider advising that on 22 August 2024, ██████████ (5yrs old) was struggling during the handover from Before School Care to Preschool, an Educator was told to follow her (this instruction was not heard), leaving her unsupervised (for around 5 minutes) in the area adjacent to the Preschool.
7. On 26 August 2024, a notification of incident (NOT-00067413) was submitted to the Authority by the Provider advising that on 25 August 2024, ██████████ (10yr old) was signed into the Service, then allowed to leave the Service (unsupervised) to look for a friend, for around 30 minutes.

8. On 10 September 2024, a notification of incident (NOT-00072618) was submitted to the Authority by the Provider advising that on 11 September 2024, [REDACTED] (8yr old) left the roll call queue to trade playing cards with a peer, that peer took one of these cards and ran to the school oval (unsupervised), [REDACTED] was missing for around 12 minutes by the time Educators found him.
9. Additional information submitted with NOT-00068226 included the following:
 - Communication with School
10. Additional information submitted with NOT-00067413 included the following:
 - Incident report;
 - Emergency response report;
 - Additional notes.
11. Additional information submitted with NOT-00072618 included the following:
 - Incident report;
 - Sign in/Sign out records;
 - Supervision plan.
12. On 23 September 2024, the Provider submitted additional documents in response to a request for further information from the Authority (NOT-00068226), including:
 - Working directly with children log;
 - Conversations with team notes;
 - Child attendance records;
 - Team meeting agenda and minutes;
 - Preschool drop off routine;
 - [REDACTED] - Behaviour Support Plan;
 - Conversation with family;
 - Timeline of events;
 - Record of brief conversation.
13. Please note, documents referred to in paragraph 6 through 12 are not included. These documents can be provided upon request.
14. NOT-00068226 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
 - Creation of incident record.
 - Discussion of incident with school staff.
 - Review of service transition risk assessment to ensure sign out is completed upon transfer of duty of care.
 - Review of serious incident decision making to ensure responsibilities remain clear at all times.
15. NOT-00067413 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
 - Meeting with team to discuss the sign in process.

- On the 26/08/24 Palmerston OSHC sent all Palmerston families an emailing outline the process when a child is absent and attached the missing and unaccounted for policy.
16. NOT-00072618 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
- Review of supervision plan to include an educator supervising in the hall to instead supervise the line for roll.

Law

17. 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.

Section 167(1) of the Law - Offence relating to protection of children from harm and hazards

The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and care for by the service from harm and from any hazard likely to cause injury.

Penalty: \$11 400, in the case of an individual
\$57 400, in any other case.

Decision

18. 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 and 167 of the *Law* in this instance.
19. In relation to section 165 and 167 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 or protected from harm while in the care of the Service on 22 August 2024, 25 August 2024 and 11 September 2024.
20. To ensure the Provider is aware of their obligation under section 165 and 167 of the *Law*, can you please provide the following information:
- a) Provide copies of the transition plans and other documents advised to the Authority, to ensure that appropriate procedures are in place across all services under the Provider.

For future reference, the Provider cannot delegate their liabilities and responsibilities under the National Law to an Educator/s.

Please ensure a response is submitted by close of business **25 February 2025**.

21. 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.
22. 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.
23. 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.
24. 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

25. 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>.
26. 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

11 February 2025