



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

Email: [REDACTED]@commsatwork.org

Dear Ms [REDACTED]

**Decision to issue Administrative Action RE: NOT-00057533**

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-00057533) relating to Communities@Work Neville Bonner Out of School Hours Care SE-00014264 (the Service) operated by Communities@Work PR-00005824 (the Provider).
2. The notification of incident advised that on 23 July 2024, [REDACTED] (4 yrs) was given an allergen (dairy) by accident via an Educator.
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 25 July 2024, a notification of incident (NOT-00057533) was submitted to the Authority by the Provider advising that on 23 July 2024, [REDACTED] was given crackers containing dairy by an Educator who did not identify the dairy content, thus exposing her to potential harm as she is allergic. Refer copy of the NOT-00057533 at Attachment A.
5. Additional information submitted with NOT-00057533 included the following:
  - Incident report

**Refer to Attachment B.**

6. NOT-00057533 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
  - Review of menu to remove or reduce common allergens.
  - Formal conversation with staff member who gave the child the allergen around his actions.
  - Incident review meeting booked for 11:00am 25/7/24 with service leader [REDACTED] and [REDACTED]

**Law**

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

**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**

8. 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 167 of the *Law* in this instance.
9. In relation to section 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were adequately protected from harm (or hazard) while in the care of the Service on 23 July 2024.
10. 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.
11. The Authority is satisfied that [REDACTED] was not adequately protected from harm or hazard, due to exposure to an allergen by the Educators responsible for her education and care at the time.
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 serves 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.cecqa.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 [Vittorio.Colosimo@act.gov.au](mailto:Vittorio.Colosimo@act.gov.au).

Yours Sincerely,



**Vittorio Colosimo**  
A/g Assistant Director Investigations  
Regulation and Compliance  
Education Directorate

2 September 2024