



██████████

Person with Management or Control

Communities@Work

RE: Communities@Work Gordon Out of School Hours Care

Email: ██████████@commsatwork.org

Dear ██████████

### Decision to issue Administrative Action

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-00047574) relating to Communities@Work Gordon Out of School Hours Care SE-00009679 (the Service) operated by Communities@Work PR-00005824 (the Provider).
2. The notification of complaint advised of an incident that occurred on 19 June 2024 about 5.50pm, when a child, ██████████ (5 years, 6 months) was located by her father, outside of the Service in front of the hall doors unbeknown to educators.
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 21 June 2024, a notification of complaint (NOT-00047574) was submitted to the Authority by the Provider and included a copy of an email complaint submitted to the Service by ██████████. Refer copy of the NOT-00047574 at Attachment A.
5. ██████████ alleges in the email complaint that on 19 June 2024 about 5.50pm he greeted ██████████ outside the hall doors on the concrete/bitumen near the carpark of the Service. ██████████ states that when he entered the Service to collect ██████████'s bag, there were no staff members present.
6. ██████████ states that ██████████ approached the kitchen door where two educators were talking. A male educator appeared to be surprised at this interaction and apparently believed that ██████████ had gone home.
7. On 26 June 2024, the Provider submitted additional documents in response to a request for further information from the Authority. These documents included:
  - Working directly with children records;
  - Parental correspondence – Email one;

- Parental correspondence – Email two;
- Child attendance records;
- Parental correspondence – Phone call; and
- Team meeting notes.

Refer Attachment B.

8. The Provider advised the Authority of further steps taken by the Provider so to prevent or minimise a similar incident, including:
- Allow the newly appointed Program Coordinator time to understand team dynamics and provide coaching for improved routines and practices.
  - Host a compulsory meeting for Gordon OSHC staff facilitated by Senior Manager OSHC to discuss the series of concerns in detail.
  - Identify key policy, procedure, routines, practices and trainings required for review/completion. Additional frequency of site visits from senior staff to ensure substantial improvement is enacted.

#### 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.

#### **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

10. 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 and 167 of the *Law* in this instance.
11. 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 or protected from harm while in the care of the Service on 19 June 2024 in that [REDACTED] was left unsupervised outside of the Service at 5.50pm. By not ensuring adequate supervision, the

Provider did not take all reasonable steps to ensure that children were protected from harm or any hazard likely to cause injury at this time.

12. 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 offences being substantiated.
13. The Authority would like to remind the Provider that they must ensure that all children being educated and cared for by the service are adequately supervised at all times. If the Service is unsure of a child's whereabouts, they should follow the appropriate procedures for missing and unaccounted children.
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 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 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.
17. The Authority requests a response from the Provider within 14 days of the issue of this letter with the following information:
  - a. a. A copy of the revised policy or procedure that ensures that the risk of any similar incident occurring, is mitigated; and
  - b. Evidence that the revised policy or procedure has been implemented and that all staff have been trained and supported in understanding this procedure.
18. 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**

19. 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>.

20. The response to this letter can be directed to [nicole.withers@act.gov.au](mailto:nicole.withers@act.gov.au). Additionally, please contact me should you have any questions.

Yours Sincerely,



**Nicole Withers**

Team Leader Investigations  
Regulation and Compliance  
Education Directorate

07 August 2024