

Ms [REDACTED]
Person with Management and Control
Northside Community Service Limited
RE: Civic Early Childhood Centre

Email: [REDACTED]@northside.asn.au

Dear Ms [REDACTED]

Decision to issue Administrative Action RE: NOT-40538738

1. As you may be aware, Authorised Officers from Children’s Education and Care Assurance, also known as the ACT Regulatory Authority (the Authority), recently assessed a Notification of Complaint relating to the operation of Civic Early Childhood Centre SE-00009766, (the Service) operated by Northside Community Service Limited PR-00005856, (the Provider).
2. The Authority is satisfied that the Provider was not complying with the provisions of the *Education and Care Services National Law (ACT) (the Law)* in respect to operating and education and care service. Web addresses to *Law* and the *National Regulations* are provided for your convenience at the end of this letter.

Facts

3. On 17 May 2020, the Authority received a Notification of Complaint (NOT-40538738) from the Provider alleging that staffing arrangements were compromised at the Service on 14 May 2021. Refer Attachment A and additional attached document at Attachment B.
4. The Provider advised via the Notification that the Service had not been always meeting minimum regulated ratio levels whilst children were being educated and cared for at the Service on 14 May 2021.

Law

5. The Notification engaged the following section of *Law*:

Section 169(1) of the Law - Offence relating to staffing arrangements

An approved provider of an education and care service must ensure that, whenever children are being educated and cared for by the service, the relevant number of educators educating and caring for the children is no less than the number prescribed for this purpose.

Regulation 123 – Educator to child ratios – centre-based services

- (1) The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in accordance with the following ratios-

- (a) for children from birth to 24 months of age – 1 educator to 4 children;
 - (b) for children over 24 months and less than 36 months of age – 1 educator to 5 children;
 - (c) for children aged 36 months of age or over (not including children over preschool age) – 1 educator to 11 children;
 - (d) for children over preschool age, 1 educator to 15 children.
- (2) If children being educated and cared for at a centre-based service are of mixed ages the minimum number of educators for the children must meet the requirements of subregulation (1) at all times.

Reasons

6. After considering all information supplied by the Provider, the Authority is satisfied that there is sufficient evidence to support that on 14 May 2021, the Provider did not ensure that, whenever children are being educated and cared for by the service, the relevant number of educators educating and caring for the children is no less than the number prescribed for this purpose, which is an offence under section 169(1) of the *Law*.
7. The very nature of the notification, and admissions made within it support the substantiation of the offence.
8. In deciding if compliance action should be taken, the Authority has considered the timeframe that the Service was not meeting minimum regulated ratio requirements, the associated risk of activities that children were engaged in, which in this instance was lowered due to children sleeping, and the steps undertaken by the Provider to mitigate risk of a similar non-compliance.
9. Taking into consideration all information submitted by the Provider in relation to NOT-40538738, the Authority has decided not to initiate statutory compliance action regarding the substantiated offence under sections 169 of the *Law*, but rather issue this Administrative action to address the non-compliance.
10. This decision is intended to bring to your attention the need to maintain compliant staffing arrangements across the Service; to ensure that children are adequately supervised and protected from harm and hazard likely to cause injury at all times they are being educated and cared for by the Service.
11. The *Law* applies to you as a provider and any service you operate. The National Law is applied in the ACT by the *Education and Care Services National Law (ACT) Act 2011*. Refer <http://www.legislation.act.gov.au/a/2011-42/default.asp>.
12. The National Law is made up of an Act and Regulations which can be viewed at:
 - <http://www.acecqa.gov.au/national-law>, and
 - <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>
13. This Decision will be recorded on your Service 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 *Regulations* be found.

14. If you have any queries regarding this Decision, please contact me at janine.fairburn@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Children's Education Care Assurance
Education and Care, Regulation and Support
ACT Education Directorate

4 June 2021