



Ms [REDACTED]
Person with Management and Control
FEL Child Care Centres 4 Pty Ltd
T/A Busy Bees at The Park

Email: [REDACTED]

Cc: [REDACTED]

Dear Ms [REDACTED]

Decision to Issue Administrative Decision

1. An Authorised Officer from Children's Education and Care Assurance (the Authority) recently conducted an assessment into a Notification of Incident relating to the operation of Busy Bees at The Park SE-00009849 (the Service), operated by FEL Child Care Centres 4 Pty Ltd PR-40004076 (the Provider) on 1 September 2019.
2. The Authority is satisfied that the Provider has contravened sections 165(1) and section 167(1) of the *Education and Care Services National Law (ACT)* (the Law).
3. Web addresses to the Law and the *Education and Care Services National Regulations 2011* (the Regulations) are provided for your convenience at the end of this letter.

Facts

4. On 3 September 2019, the Authority received a Notification of Incident (NOT-40468680) from the Provider. The notification advised that a child, known to be [REDACTED] (aged four years), was unattended/unsupervised in a sandpit which was external to the Preschool room. At the time that [REDACTED] was noticed outside, it was identified that all other children and educators were located inside. Refer Notification at [Attachment A](#).
5. During its assessment of the Notification, the Authority obtained additional information from the Provider, via email from Area Manager [REDACTED] on 9 September 2020 (refer email correspondence at [Attachment B](#)). This information included:
 - a. Child Attendance records for 1 September 2020;
 - b. Working Directly with Children Records for 1 September 2020;
 - c. Provider obtained witness statements from four educators (Refer copies at [Attachment C](#));
 - d. Copy of the incident report including conversation with [REDACTED] parent; and
 - e. A copy of Supervision policy and procedure.
6. On 9 September 2020, the Authority requested the Provider to submit an update to the internal investigation being undertaken by the Provider. It was requested that this update be provided by 11 September 2020. As a result of no update being provided, a second request was forwarded on 22 September 2020.

7. On 23 September 2020, the Provider advised via email from representative acting Area Manager [REDACTED] that the original contact in this matter, Area Manager [REDACTED] was no longer engaged with the Provider. Ms [REDACTED] advised the following –

"I have followed up with [REDACTED] the Service Manager and at this point in time I can report:

- *Formal investigation meetings have been held with Busy Bees employees working in the room at the time of incident.*
- *Randstad Educator who was working at the time of incident has been engaged to be at the service next week when a formal meeting will take place.*
- *Once formal meetings have been conducted with all necessary educators an outcome can be determined internally by Busy Bees.*
- *Practice around leaving bathroom door to yard open has changed and this is now closed when the children are inside to prevent children from utilizing outdoor spaces if the area isn't supervised.*
- *Supervision policy has been distributed to all staff for review and signing to acknowledge."*

8. In response to the email of 23 September 2020, the Authority requested an update from the Provider by close of business 1 October 2020. No update was received from the Provider by this date.

Law

9. As a result of its assessment, the Authority found evidence to support non-compliance with 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: \$10 000, in the case of an individual
\$50 000, 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: \$10 000, in the case of an individual
\$50 000, in any other case.

Reasons

10. Having considered the evidence gathered for the purpose of assessment from the Provider; I am satisfied that the Provider has failed to comply with the *Law*.
11. I am satisfied that, sections 165(1) and 167(1) of the *Law* were contravened on 1 September 2020. Sections 165 and 167 of the *Law* were engaged by educator accounts and by documentation obtained from the Provider.
12. Information gathered engaged the obligation that the Provider must ensure that all children being educated and cared for by the service were adequately supervised at all times that the children are in the care of that Service, as required by section 165 of the *Law*.

13. Information gathered identifies that [REDACTED] was able to leave the indoor environment of the Preschool and take himself to the sandpit in the outdoor environment, unwitnessed by educators within the Preschool. In addition, [REDACTED] absence was not noticed until such time as an educator from the Toddler room informed the Preschool educators of [REDACTED] whereabouts.
14. Information gathered supports that the Provider, by not ensuring adequate supervision of [REDACTED] at all times on 1 September 2020, has not appeared to ensure that every reasonable precaution was taken to protect children being educated and cared for by the Service from harm and from any hazard likely to cause injury, in contravention of section 167 of the *Law*.

Decision

15. The *Law* outlines a range of statutory actions which may be taken by the Authority in response to non-compliance. Many of these options allow the Authority to publish details of substantiated non-compliance.
16. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. On this occasion, the Authority has determined to issue you with this Administrative Decision rather than impose any statutory compliance actions.
17. In determining to issue the Provider with an Administrative Decision, the Authority took the following into consideration:
 - a) [REDACTED] was unaccounted for a short period of time – being between five and ten minutes;
 - b) [REDACTED] was still located on service premises whilst unaccounted for and sustained no injury or other trauma;
 - c) The Provider responded quickly to commence investigation of the incident; and
 - d) The Provider has advised of strategies which, if implemented and followed correctly, are deemed appropriate in mitigating risk of a similar incident.
18. In regard to the substantiated offences under sections 165(1) and 167(1) of the *Law*, the Authority requests that the Provider, within 14 days of receipt of this Decision, submit evidence to demonstrate the following:
 - a) Policies and practices relating to ensuring adequate and active supervision have been implemented and communicated with staff at the Service to ensure that risk of a similar incident is mitigated; and
 - b) Copy of the Provider's internal investigation into the matter, inclusive of findings and outcomes.
19. Evidence to demonstrate the above can be forwarded to Authorised Officer, Janine Fairburn, at Janine.fairburn@act.gov.au, or alternatively via post at:

Attention: Janine Fairburn
Children's Education and Care Assurance
Early Childhood Policy and Regulation
ACT Education Directorate
PO Box 158, Canberra City 2601
20. This letter 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.

Legislation

21. 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>.

22. 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>

23. If you have any questions in relation to this letter, please contact Authorised Officer Janine Fairburn on (02) 6205 4390 or by email at janine.fairburn@act.gov.au.

Yours sincerely



Clare Brookes
Senior Director
Early Childhood Policy and Regulation
ACT Education Directorate

6 October 2020



I01 Notification of Incident

Thank you for submitting your notification. Below is a copy of the information provided in your notification. If there are any issues, please contact your Regulatory Authority for assistance.

Notification of Incident

Provider

Provider Name	FEL Child Care Centres 4 Pty Ltd
Provider Number	PR-40004076
Provider Approval Status	Approved

Service

Service Legal Entity Name	
Service Trading Name	Busy Bees at The Park
Service Approval Number	SE-00009849
Service Approval Status	Approved

Incident Details

Incident Type	Reg 12-Any circumstance where a child being educated and cared for by an education and care service appears to be missing or cannot be accounted for
Incident Date	1/09/2020
Incident Time	01:10 PM
Missing Type	Child unattended outdoors - found by staff
Duration Missing	Less than 10 mins
Did Emergency Services attend	No



Further Details of the Incident

On Tuesday 1st September 2020. The 2IC was advised by an employee that a child by the name of [REDACTED] was located in the the sandpit external to the bathroom door of the Preschool room. At the time of the incident the children were located inside participating in the program and activities in preschool room 1. There were 19 children with 2 educators rostered on at the time of the incident. An employee observed [REDACTED] via a viewing window playing in the sandpit. The employee approached [REDACTED] and redirected him into the indoor play environment and the employee immediately informed the educators in the room and the 2IC. As per Busy Bees procedures an internal investigation is underway with Busy Bees HR and Operations departments. The parent was notified immediately of the incident and advised that an internal investigation has commenced and the incident will be lodged on the ACECQA portal by close of business 2nd September, 2020. The parent was satisfied with the steps being taken and the parent will be communicated to during the investigation and the outcome.

Child's Name

[REDACTED]

Child's Date of Birth

[REDACTED]

Child's Gender

Male

Details of Action Taken (e.g. First Aid)

As per Busy Bees procedures an internal investigation is underway with Busy Bees HR and Operations departments. The parent was notified immediately of the incident and advised that an internal investigation has commenced and the incident will be lodged on the ACECQA portal by close of business 2nd September, 2020. The parent was satisfied with the steps being taken and the parent will be communicated to during the investigation and the outcome.

Please detail what steps were taken to ensure parents were notified as soon as practicable, including time, date and nature of notification

The parent was notified immediately of the incident and advised that an internal investigation has commenced and the incident will be lodged on the ACECQA portal by close of business 2nd September, 2020. The parent was satisfied with the steps being taken and the parent will be communicated to during the investigation and the outcome.

Name of parent or guardian notified

[REDACTED] (mother)

Email of parent or guardian notified

[REDACTED]@gmail.com

Phone number of parent or guardian notified

[REDACTED]

Name of Witness to the incident

[REDACTED]

Please detail what steps were taken or will be taken to prevent or minimise this type of incident in the future

Photos and Evidentiary Documents

Kiosk Report 1-9-20 Kinder 1 Room.PNG

Kiosk Report Kinder 1 1-9-20

Map of Area [REDACTED].pdf

Map of Area

WDWC- All Copies.pdf

Working Directly with Children Record Preschool 1

Submitted By: [REDACTED]



ACT
Government
Education

Notification Number: **NOT-40468680**
Date generated: 03/09/2020

Contact Details

Name	[REDACTED]
Phone Number	[REDACTED]
Email Address	[REDACTED]@busybees.edu.au

Submitted By: [REDACTED]