

██████████
Email: ██████████

Dear ██████████,

Regulatory Authority Investigation Outcome Letter – Decision not to issue Compliance Action

1. As you are aware, Authorised Officers from Children’s Education and Care Assurance, also known as the ACT Regulatory Authority (the Authority), recently conducted an investigation into complaints alleging that the safety, health and wellbeing of children was compromised at Busy Bees at Crace SE-40002600 (the Service), operated by FEL Child Care Centres 4 Pty Ltd PR-40004076 (the Provider).
2. The investigation alleged that you, as the Nominated Supervisor at the Service, failed to ensure that all children being educated and cared for by the Service were adequately supervised at all times which resulted in those children being put at risk of harm and of hazards.

Facts

3. On 19 October 2020, the Authority sent you a Show Cause Notice (the Notice), as a result of an investigation into allegations that you, as the Nominated Supervisor of the Service, had failed to ensure that all children being educated and cared for by the Service were adequately supervised at all times which resulted in those children being put at risk of harm and of hazards.
4. The Notice set out the grounds for the issue of the Notice, allegation posed, and evidence obtained by the Authority in respect to the allegation. Please note that due to size of the Notice and its attachments, a copy has not been included with this outcome, but may be provided on request.
5. On 9 November 2020, your response to the Notice was received by the Authority. Refer response at Attachment A.

Law

6. Legislative Provisions engaged by the Notice were as follows:

Section 165(2) of the *Law* - Offence to inadequately supervise children

The nominated supervisor 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

Section 167(2) of the *Law* - Offence relating to protection of children from harm and hazards

The nominated supervisor 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

Regulation 123(1) –Educator to child ratios – centre-based services

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 in a jurisdiction, the relevant ratio (if any) set out in Chapter 7 for that jurisdiction.

Regulation 122 –Educators must be working directly with children to be included in ratios

An educator cannot be included in calculating the educator to child ratio of a centre-based service unless the educator is working directly with children at the service.

Decision

- 7. After considering all evidence obtained through the investigation process, inclusive of your response to the Notice, the Authority is satisfied that, on the balance of probabilities, there is insufficient evidence to substantiate contraventions of the *Education and Care Services National Law (ACT)* (the *Law*) or the *Education and Care Services National Regulations 2011* (the *Regulation*).
- 8. As such, the Authority has determined that there is insufficient evidence to support instituting compliance actions, as proposed in the Notice.
- 9. The Authority has deemed this matter now closed, unless new relevant information is received to warrant further enquiries being made.
- 10. If you have any questions relating to the investigation findings, please contact Senior Investigator Jeff Beaver on telephone (02) 6207 3917 or email jeffrey.beaver@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Early Childhood Policy and Regulation
Education Directorate

17 December 2020