

██████████
Person with Management and Control
BMA Belconnen Pty Ltd ATF BMA Belconnen Unit Trust
RE: Bright Minds Academy Belconnen

Email: ██████████

Dear ██████████,

Decision to Issue Administrative Action RE: NOT-40815110

1. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, recently assessed Notification of Complaint (NOT-40815110) relating to the operation of Bright Minds Academy Belconnen SE-40012576 (the Service), operated by BMC Belconnen Pty Ltd ATF BMA Belconnen Unit Trust PR-40013290 (the Provider).
2. The complaint raised allegations of inadequate supervision which resulting in an enrolled child was found in the upstairs hall of the Service without and educator. Refer copy of NOT-40815110 and complaint at Attachment A.
3. The Authority is satisfied that the Provider has not complied with provisions of the *Education and Care Services National Law Act (ACT)* (the *Law*) in this instance. Web addresses for the *Law* and the *Regulations* are provided for your convenience at the end of this decision.

Facts

4. On 25 January 2023, a Notification of Complaint was submitted to the Authority by the Provider advising of a parent complaint outlining that child was alone in the hallway unsupervised for a short period of time. Furthermore, parents complain of not being contacted when injury occurred to child and child being left without nappy. Refer Attachment A.
5. Initial enquires were made by the Authority, with the Provider submitting requested additional information on 27 January 2021 and 3 February 2023. Refer copies of correspondence at Attachment B.
6. Documents submitted by the Provider included:
 - a) Child attendance and Educator working directly with children (WDWC) records; and
 - b) CCTV footage and Communications relevant to the Incident (Attachment C);

Law

7. Provisions of the *Law* relevant to the Notification are:

Section 165(1) of *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.

Reasons

8. After carefully considering all information submitted by the Provider via the notified complaint, the Authority finds a contravention of sections 165(1) of the *Law* against the Provider have been substantiated in this instance.
9. In relation to section 165 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider has not ensured adequate supervision at all times, which resulted in [REDACTED] being left unsupervised in a hallway on 23 January 2023.
10. The very nature of the incident, and corroborating documentation submitted by the Provider confirming that [REDACTED] was not accounted for when in the hallway supports the substantiation of the offence.
11. 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 incident, the Authority has decided to issue this administrative action rather than statutory compliance action in this instance.
12. This Decision is issued to remind the Provider, that always, staffing and supervision levels need to meet the emotional, developmental, and physiological needs of children at all times. These staffing and supervision levels may need to be adapted to be above minimum regulated ratio levels to protect children from harm and hazard likely to cause injury – both physically and psychologically.
13. 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

14. 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>.
15. 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>
16. If you have any questions in relation to this Decision, please contact me by email at Janine.fairburn@act.gov.au.

Yours sincerely



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

21 February 2023