

Mr [REDACTED]
Person with Management or Control
Anglicare NSW South NSW West and ACT
RE: Anglicare at Franklin ECS

Email: [REDACTED]

Dear Mr [REDACTED]

Decision to Issue Administrative Action RE: NOT-40823858

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 a Notification of Complaint (NOT-40823858) relating to Anglicare at Franklin ECS SE-00014231 (the Service) operated by Anglicare NSW South NSW West and ACT PR-00005801 (the Provider).
2. The Provider advised in the notification that a child was alleged to have been found at the school's reception by their parent due to Service educators having signed the child absent when they were not.
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 *Education and Care Services National Regulations* (the *Regulations*) are provided for your convenience at the end of this decision.

Facts

4. On 16 February 2023, the Authority received a Notification of Complaint (NOT-40823858) from the Provider advising of a parent allegation that on 14 February 2023 a Grade 1 child, known to be [REDACTED], did not attend service as was expected.
5. The parent alleged that [REDACTED] was found in the school's office area at 3:30pm when the parent arrived for parent-teacher interviews, and that the Service marked child absent without checking. Refer Attachment A.
6. Additional information submitted with the notification included the parents' emailed complaint with follow up correspondence, ISOPRO report and relevant sign in/out procedure. Refer information submitted at Attachment B.

Law

7. Provisions of the *Law* relevant to the notification assessment are:

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

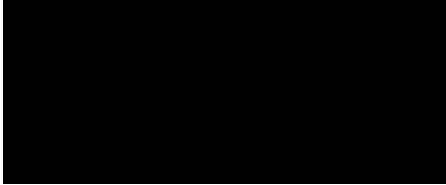
8. Upon considering all evidence for assessment, inclusive of Provider supplied information, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence to substantiate an offence under section s167(1) of the *Law* in this instance.
9. The very nature of the notification, admission of incident contributed to by errors in accountability of children expected to attend, and actions taken by the Provider to address educator failings on the day support the non-compliances as identified.
10. 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 actions.
11. This Decision is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, in particular the obligation that children are being appropriately accounted for at all stages of transition between the school and service, to ensure every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.
12. 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 similar breaches of the *Law* or associated *Regulations* be found.

Legislation

13. 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>.
14. 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>

15. If you have any questions in relation to this Decision, please contact me at janine.fairburn@act.gov.au.

Yours sincerely



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

22 March 2023