



[REDACTED]  
Person with Management or Control  
Community Service #1 Incorporated  
RE: Acacia Children's Education and Care Centre

Email: [REDACTED]

Dear [REDACTED]

**Decision to issue Administrative Action RE NOT-40488970, NOT-40488987 and NOT-40490326**

1. As you may be aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an assessment into two Notifications of Incident (NOT-40488970 and NOT-40488987) relating to the operation of Acacia Children's Education and Care Centre, SE-0009833 (the Service), operated by Community Service #1 Incorporated, PR-00005865 (the Provider).
2. The Notifications related to children being unaccounted for/ inadequately supervised at the Service on 18 November 2020. Additionally, another Notification of Incident (NOT-40490326) identified an additional instance of children being inadequately supervised on 18 November 2020.
3. Web addresses to the *Education and Care Services National Law (ACT)* (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 20 November 2020, the Authority received two Notifications (NOT-40488970 and NOT-40488987) from the Provider in relation to children being unaccounted for/ inadequately supervised at the Service on 18 November 2020. Refer submitted NOT-40488970 at Attachment A and NOT-40488987 at Attachment B.
5. On 25 November 2020, the Authority received a Notification (NOT-40490326) from the Provider in relation to preschool children being inadequately supervised at the Service on 18 November 2020. Refer submitted NOT-40490326 at Attachment C
6. The Authority noted that each Notification was submitted with additional information and supportive evidence including:
  - a) Multiple records of conversations with educators working directly with children (WDWC) on 18 November 2020; and
  - b) An internal incident form in relation to a four-year-old child known to be [REDACTED].

## Law

7. Provisions of the *Law* relevant to the assessment engaged the following:

### **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.

## Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied that inadequate supervision contributed to all three incidents reported as occurring on 18 November 2020, in contravention of section 165(1) of the *Law*, and engaging section 167(1) of the *Law*.
9. The Authority noted that within the information supplied by the Provider regarding the notifications, educator accounts raised concerns around children's ability to access and open doors independently, that supervision was compromised due to the bathroom door which connects to the outdoor play area closing behind children, that children need to open sliding doors into the Service to obtain drink bottles as water stations outside have not been adequately maintained.
10. Furthermore, the Authority notes that the Provider was issued an Administrative Decision in relation to a similar matter of inadequate supervision resulting in a child being able to exit the Service on 25 June 2020.
11. The *Law* outlines a range of statutory actions which may be taken by the Authority in response to non-compliance. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue you this Administrative Action.
12. In regard to substantiated offences of sections 165 and 167 of the *Law*, the Authority requests the Provider to submit the following evidence to demonstrate compliance:

- a) Evidence demonstrating that a review of supervision policy and practices has occurred, and that any changes as part of the review has been implemented and communicated to all staff; and
  - b) That the Service is appropriately staffed to not only just meet minimum regulated staffing arrangements at all times, but to also ensure adequate supervision of children to support child development in each age group and take into consideration the different environments that children are being educated and cared in; and
  - c) That all educators regardless of employment status (i.e. permanent, casual, temporary, and agency) are informed of the services policies and procedures and are inducted to ensure that they understand and are aware of their roles and responsibilities when working directly with children and maintaining, at minimum, adequate supervision at all times; and
  - d) That children identified as displaying challenging behaviours are appropriately supported with guidance plans incorporating consistent strategies for staff to follow to redirect behaviour whilst also maintaining the child's rights and dignity.
13. Evidence to demonstrate the above is requested to be provided within 14 days of receipt of this Decision, and submitted to me via email at [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au) or by post to:
- Children's Education and Care Assurance,  
Attention Janine Fairburn,  
GPO Box 158, Canberra ACT 2601.
14. This Decision is also issued to remind the Provider that at all times, staffing and supervision levels need to meet the emotional, developmental and physiological needs of children and educators alike. 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 – especially in rooms that cater to mixed age groups where the ratio should be calculated to the age of the youngest child in the room.
15. Furthermore, this Decision is to advise the Provider that the Authority will be monitoring more strictly how the Service is being operated, and that any further non-compliances may result in stronger enforcement measures being actioned by the Regulatory Authority.

### **Legislation**

16. The *Law* applies to you as an approved 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* which can be viewed at: <http://www.legislation.act.gov.au/a/2011-42/default.asp>.
17. 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>
18. This decision will be recorded on your service file and may be considered in any future applications for approvals, amendments or waivers. This decision may also be considered in

determining any future regulatory action, should there be future breaches of the Law or Regulations.

19. Should you have any questions about this Decision please contact me at [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au).

Yours Sincerely,



Janine Fairburn  
Assistant Director  
Early Childhood Policy and Regulation  
ACT Education Directorate

07 December 2020