



- Risk assessment review with the educators in the classroom.
- Revisit the safety agreements / expectations developed in consultation with the educators and children to ensure we are all clear on how we keep safe within our play environments.
- Replace the water beads with eatable resources.

### Law

9. The Notification engaged the following provisions of the *Law*:

#### **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: \$11 400, in the case of an individual  
\$57 400, in any other case.

### Decision

10. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to substantiate an offence under section 167 of the *Law* in this instance.

11. To ensure the Provider is aware of their obligation under section 167 of the *Law* can you please providing the following information:

- (a) Provide evidence of the process in determining which resources are introduced to the environment and how they are determined to be age/children appropriate, and when a risk assessment is determined to be conducted.

Please ensure a response is submitted by close of business 13 January 2025.

12. In relation to section 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were protected from harm at all times while in the care of the Service on 11 November 2024.

13. 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.

14. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the advised of steps taken by the Provider to mitigate risk of a similar occurrence, the Authority has decided to issue this administrative action rather than statutory compliance actions to address the non-compliance.

15. This decision serves to remind the Provider of their obligations and responsibilities under the *Law*, and to ensure that staffing and supervisory processes and educator practice is monitored regularly to ensure ongoing compliance with the *Law* and encourage continual improvements for outcomes for children.
16. 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**

17. The *Law* applies to you as a provider and any service you operate. 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> . 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>.
18. Should you have any questions about this Decision please contact me at [vittorio.colosimo@act.gov.au](mailto:vittorio.colosimo@act.gov.au).

Yours Sincerely,



**Vittorio Colosimo**  
A/g Assistant Director Investigations  
Education and Care Regulation and Support  
Education Directorate

16 December 2024