



### **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 cared for by the service from harm and from hazard likely to cause injury.

Penalty: \$10 000, in the case of an individual  
\$50 000, in any other case.

### **Reasons**

6. 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 165 of the *Law* in this instance, engaging a contravention of s167 of the *Law*.
7. The Authority is satisfied that inadequate supervision of has contributed to the child being left alone outdoors. The Authority is further satisfied that by not ensuring adequate supervision of all children at all times, the Provider has not taken reasonable precautions to protect children from harms and hazards likely to cause injury in these instances.
8. The Authority notes that the Provider has implemented strategies to mitigate the risk of a similar incident occurring, and has addressed educators actions which also contributed to the supervision failing in this instance.
9. In consideration of all relevant information, the objectives and guiding principles of the *Law*, and the Services compliance history, the Authority has determined not to initiate statutory compliance action regarding the substantiated contraventions of sections 165(1) and 167(1) of the *Law*, but rather issue this Administrative Decision to address the non-compliances.
10. This Decision is issued to remind the Provider, that always, staffing and supervision levels need to meet the emotional, developmental, and physiological needs of all 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.
11. This Decision will be recorded on your Service file and may also 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 *Regulations* be found.

### **Legislation**

12. The *Law* applies to you as an approved provider and any approved service that the Provider operates.
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 queries regarding this Decision, please contact Assistant Director, Janine Fairburn, at [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au).

Yours sincerely



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