



Person with Management or Control
Oorama Operations Pty Ltd
RE: Kindypatch Bonython

Email:

Dear

Decision to issue Administrative Letter RE NOT-4073563

1. As you are aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an assessment into a Notification of Incident (NOT-4073563) relating to the operation of Kindypatch Bonython, SE-0009841 (the Service), operated by Oorrama Operations Pty Ltd, PR-40001489 (the Provider).
2. The Notification (NOT-40448125) related to an allegation that two children engaging in inappropriate interactions with each other. The interactions involved pulling down pants and kissing each other on their penis and vagina.
3. Web addresses to the *Education and Care Services National Law Act 2010*¹ (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 14 November, the Authority received a NOT-40793563 from the Provider in relation to two enrolled children, [REDACTED] and [REDACTED] being located by agency staff [REDACTED] hiding in a corner. It is alleged that [REDACTED] was kissing [REDACTED] on the penis. [REDACTED] separated the children and went outside to look for another educator on return found [REDACTED] with her pants down and [REDACTED] kissing her on the vagina. [REDACTED] separated the children for a second time. Refer Notification at Attachment A.
5. The Notification advised the parents of both children were notified of the incidents. Furthermore, the notification also included a witness statement from educator [REDACTED] and a witness statement from educator [REDACTED].
6. The Notification advised that immediate risk mitigation steps performed by the Provider/Service included reorganising the room to ensure that there were no places for

¹ As adopted in the ACT via the *Education and Care Services National Law (ACT) Act 2011*.

children to hide. Both children involved in the incident have also been spoken to about touching and keeping on their clothes.

7. On 15 November 2022, additional information was received from the service that showed the supervision plan at the time of the incidents and CCTV footage of the Preschool room at the time of the incidents.

Law

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

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

9. The Authority has considered all the information supplied by the Provider and is satisfied that all children were not protected from harm and hazard with two children engaging in inappropriate interaction twice within a space of a few minutes engaging section 167(1) of the *Law*.
10. The Authority acknowledges the steps that the provider has undertaken, however at no time did staff redirect the children to another area. The children were separated on the first instance prior to the staff leaving to look for another staff member. This left the children unsupervised for a second time and the children re- engaging in the same behaviour.
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 Letter.
12. This Letter is 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 – both physically and psychologically.

13. This Letter is to advise the Provider that the Regulatory Authority request evidence that staff have completed protective behaviour training and demonstrate that they have a clear understanding of how to deal with inappropriate interactions. Furthermore, the provider is requested to submit evidence of how they will ensure that all casual educators will be supported to understand protective behaviours to mitigate future risks.
14. The Authority requests that, by 6 January 2023 the Provider submit evidence to demonstrate that all steps outlined in paragraph 13 have been taken.
15. Evidence can be submitted in writing to Director of Regulator Operations Jo Williams via email at jo.williams@act.gov.au

Legislation

16. The Education and Care Services National Law applies to you as a 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 <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. Should you have any questions about this Decision please contact me at jo.williams@act.gov.au.

Yours Sincerely,



Jo Williams
Director
Early Childhood Policy and Regulation
ACT Education Directorate

13 December 2022