

Mr [REDACTED]
Person with Management or Control
Guardian Community Early Learning Centres Pty Ltd
RE: Guardian Childcare & Education Forde

Email: [REDACTED]

Dear Mr [REDACTED]

Decision to issue Administrative Action RE: NOT-00055168

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 assessed a Notification of Incident (NOT-00055168) relating to Guardian Childcare & Education Forde SE-00009804 (the Service) operated by Guardian Community Early Learning Centres Pty Ltd PR-00000823 (the Provider).
2. The notification of incident advised that on 16 July 2024, [REDACTED] (3 yrs) tripped over when in the outdoor play area and cut the inside of her mouth (as well as damaged her front teeth).
3. The Authority is satisfied that the Provider did not comply with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in this instance. Web addresses to the Law and the associated *Regulations* are provided for your convenience at the end of this Decision.

Facts

4. On 17 July 2024, a notification of incident (NOT-00055168) was submitted to the Authority by the Provider advising that on 16 July 2024, [REDACTED] tripped over and damaged her mouth while in the care of the Service (her Parents were not contacted after the incident occurred). The incident resulted in [REDACTED] ending up in hospital (swelling, bruising, loose tooth) with a loose tooth and referral to a dentist. Refer copy of the NOT-00055168 at Attachment A.
5. Additional information submitted with NOT-00055168 included the following:
 - Copy of the Incident BeSafe report;
 - Educator log for the incident date;
 - Copy of enrolment record for [REDACTED];
 - Photo of wooden blocks from Notification;
 - Email correspondence from Parent.

Refer to Attachment B.

6. On 19 July 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
 - Sign in/out sheet for 16 July 2024;
 - Risk assessment for the Service;
 - File note regarding delay in informing Parent;

- Supervision chart (AM);
- Supervision chart (PM).

Refer to Attachment C.

7. NOT-00055168 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
- The Centre Manager spoke with educators to reinforce the importance of incident management and communicating to families.
 - Educators to ensure blocks and equipment are stored away correctly to minimise risk of injury.
 - Additionally, the Centre Manager reinforced the need for adequate supervision and ensuring children are supported during outdoor play.

Law

8. 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

9. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to support an offence under section 167 of the *Law* in this instance.
10. 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 while in the care of the Service on 16 July 2024. Additionally, [REDACTED] parents were not notified at the time of the incident.
11. The Authority is satisfied that the very nature of the matter notified, and additional information submitted by the Provider supports, on balance of probabilities, the offence being substantiated.
12. The Authority is satisfied that [REDACTED] was not adequately protected from harm or hazard by educators responsible for her education and care at the time.
13. The Authority requires a response to this letter, addressing whether the Service has reviewed how they check for injury and a copy of the first aid procedure. Please provide a response by **3 October 2024**.

14. 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.
15. 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.
16. This decision services 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.
17. 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

18. 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>.
19. Should you have any questions about this Decision please contact me at Vittorio.Colosimo@act.gov.au.

Yours Sincerely,



Vittorio Colosimo
A/g Assistant Director Investigations
Regulation and Compliance
Education Directorate

19 September 2024