

Person with Management or Control
Team Gump Pty Ltd as Trustee for Team Gump Trust
RE: Sage Education and Childcare Belconnen

Email:

Dear

Decision to Issue Administrative Action RE: NOT-40671376

1. As you are aware, the ACT Regulatory Authority (the Authority) also known as Children's Education and Care Assurance (CECA), recently assessed Notification of Complaint (NOT-40671376), relating to the operation of Sage Education and Childcare Belconnen, SE-40016571 (the Service) operated by Team Gump Pty Ltd as Trustee for Team Gump Trust, PR-40007989 (the Provider).
2. The notified complaint raised to the Provider by alleged that a serious incident had occurred on 10 March 2022.
3. The Authority is satisfied that the Provider has not complied with provisions of the *Education and Care Services National Law Act (ACT)* (the *Law*) in this instance. Web addresses for the *Law* and the *Regulations* are provided for your convenience at the end of this decision.

Facts

4. On 18 March 2022, the Authority received a Notification of Complaint (NOT-40671376) from the Provider advising that, on 11 and 16 March 2022, the Provider had received complaint from the mother and grandmother of (aged 1year), alleging that a serious incident had occurred on 10 March 2022, in response to being picked up on 10 March 2022 with what is described to be a large lump on his forehead. Refer relevant records at [Attachment A](#).
5. The Authority noted that additional information received with the Notification included:
 - a) Email correspondence between complainants and the Provider;
 - b) Email correspondence between Service and Provider (inclusive of additional uploaded 21/03/2022 via ACECQA NQA ITS; and
 - c) An incident report for dated 10/03/2022.
6. The Authority noted that the incident report identified that had a bruise on his forehead whilst having lunch, which was 10 minutes after he had woken up, and that any incident contributing to the bruise was unwitnessed.

7. The Authority notes that enquiry by the Provider into the alleged incident identified that there had been a breakdown in communication between two educators, and that the head injury procedure was not completely followed regarding the Nominated Supervisor being informed at the time so that she could check the injury, ensure correct first aid had been applied and to discern if medical intervention was necessary. However, the educator did check [REDACTED] over and an ice pack was applied after the bump was noticeable, but [REDACTED] was pulling the ice pack away resulting in a possible larger swelling than if the ice was able to be applied consistently.
8. The Provider advised that video footage identified the area in the room where [REDACTED] fell over, and that the Nominated Supervisor would follow up with the Services maintenance manager if a soft covering was possible to apply over the metal trips to help reduce injuries of the same nature. The Provider advised how the complaint was followed up with the educators involved, the complainants and head injuries were focused on in the recent staff meeting.
9. The Authority also noted that the complainants did not indicate in correspondence with the Service or Provider that medical attention was sought in response to the injury sustained by [REDACTED] on 10 March 2022.

Law

10. Provisions of the *Law* relevant to the notification assessment are:

Section 174 of *Law* - Offence to fail to notify certain information to Regulatory Authority

- (2) An approved provider must notify the Regulatory Authority of the following information in relation to an approved education and care service operated by the approved provider—
 - (a) any serious incident at the approved education and care service;
 - (b) any complaints alleging—
 - (i) that a serious incident has occurred or is occurring while a child was or is being educated and cared for by the approved education and care service;
 - or
 - (ii) that this Law has been contravened;
 - (c) information in respect of any other prescribed matters.
Penalty: \$4 000, in the case of an individual
\$20 000, in any other case.
- (4) A notice under subsection (2) must be in writing and be provided within the relevant prescribed time to—
 - (a) the Regulatory Authority that granted the service approval for the education and care service to which the notice relates

Regulation 176(2) – Time to notify certain information to Regulatory Authority

- (2) For the purposes of section 174(4) of the Law, a notice must be provided—

- (a) in the case of a notice under section 174(2)(a)—
 - (ii) in the case of any other serious incident, within 24 hours of the incident or the time that the person becomes aware of the incident.
- (b) in case of a notice under section 174(2)(b) or a notice of a matter referred to in regulation 175(2)(b), within 24 hours of the complaint or incident.

Reasons

11. After carefully considering all information submitted via the NOT-40671376, the Authority is satisfied that the Provider was in contravention of section 174(4) of the *Law* in this instance.
12. The Authority is satisfied that the Provider, received a complaint on 11 and 16 March 2022 from [REDACTED] mother and grandmother, alleging that a serious incident had occurred on 10 March 2022. This complaint alleging that the *Law* had been contravened was not notified to the Authority within 24 hours of receipt, in contravention of section 174(4) of the *Law*.
13. Additional information attached to the Notification, being email correspondence between the complainants and the Provider supports concerns were raised on 11 and 16 March 2022, with initial responses back to the mother on 11 March 2022, yet the complaint was not notified to the Authority until 18 March 2022 – outside of the regulated 24-hour timeframe for notification required pursuant to *Regulation 176(2)(a)(i)*.
14. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the steps taken by the Provider to mitigate risk of a similar incident, the Authority has decided to issue this administrative action rather than statutory compliance actions.
15. The Authority takes this opportunity to remind the Provider of its notification obligations and to ensure that all persons in management positions or delegated by the Provider to perform notification of prescribed matters to the Authority on the Provider's behalf, are aware of those requirements, to facilitate compliant reporting as required under the *Law*.
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 similar breaches of the *Law* or associated *Regulations* be found.

Legislation

17. 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>.
18. 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. If you have any questions in relation to this Decision, please contact me by email at Janine.Fairburn@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Education and Care, Regulation and Support
ACT Education Directorate

5 April 2022