



██████████
Person with Management or Control
World of Learning Pty Limited
RE: Gold Creek World of Learning

Email: ██████████ ██████████
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Dear ██████████,

Decision to issue Administrative Action RE NOT-40529690

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, recently conducted an assessment into a Notification of Complaint (NOT-40529690) relating to the operation of Gold Creek World of Learning, SE-0009779 (the Service), operated by World of Learning Pty Limited, PR-00000937 (the Provider).
2. The Notification (NOT-40529690) related to a parent complaint alleging that their child had a tampon in their mouth at pickup on 13 April 2021.
3. Web addresses to the *Education and Care Services National Law Act (ACT)(the Law)* and the *Education and Care Services National Regulations 2011 (the Regulations)* are provided for your convenience at the end of this Decision.

Facts

4. On 15 April 2021, the Authority received a Notification of Complaint from the Provider in relation to an enrolled child, known to be ██████████ ██████████ (three years old), who was allegedly found with a tampon in their mouth at pickup on 13 April 2021. Refer Notification at Attachment A.
5. Supporting documentation submitted by the Provider with the notification included:
 - a) Incident Injury Trauma and Illness Record;
 - b) Discussion record between ██████████ and ██████████ ██████████;
 - c) Discussion Records between ██████████ ██████████ and educators;
 - d) ██████████ ██████████ emailed complaint and Grievance Record; and
 - e) Educator statements.Refer documentation at Attachment B.
6. On 16 April 2021, the Authority requested further information from the Provider, which included CCTV footage. Refer email correspondence at Attachment C.
7. Educator statements indicated that educators made admission that children were able to access rubbish out of the bin and were identified playing in the bin. CCTV footage was unable to determine what may have been in ██████████ mouth at pick up time by her mother.

Law

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

Section 165(1) of the *Law* - Offence to inadequately supervision children

The Approved Provider of an education and care service must ensure that all children being educated and cared for by the service are adequately supervised at all times that the children are in the care of that service.

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

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 on 13 April 2021, not all reasonable precautions were taken to ensure that all educators were adequately supervising children allowing them to access waste materials and place these materials within their mouth unnoticed by educators.
10. The Authority is satisfied that although evidence does not clearly confirm whether the waste material in [REDACTED] mouth was a tampon or not, possible material matter of cotton swabs used for sunscreen are no less concerning when being potentially ingested by a child, especially when these materials have been mixed with other wastes unknown.
11. Evidence submitted by the Provider, specifically in relation to the educator accounts and discussion records supports, on the balance of probabilities, the contravention of sections 165(1) and 167(1) of the *Law* being substantiated
12. 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 Decision.
13. In determining this action, the Authority considered the steps already undertaken and demonstrated by the Provider in internally investigating the allegations, and the compliance history of the Service.
14. Regarding the substantiated offence under sections 165 and 167 of the *Law*, the Authority is requests that the Provider, within 7 days of receipt of this Decision, submit the following evidence:

- a) The completed internal investigation report, investigation findings, and how this has been communicated with [REDACTED] parents and their response to how the Provider has managed this matter;
- b) Evidence of strategies/actions undertaken to mitigate the risk of a similar incident occurring; and
- c) Evidence to demonstrate that the Nominated Supervisor, educators, and relief staff are aware of and understand the Provider's policy, procedures, and processes in relation to the adequate supervision of children and identifying potential risks in the environment.

15. Evidence to demonstrate the above can be forwarded to me at janine.fairburn@act.gov.au, or alternatively via post at:

Attention: Janine Fairburn
Education and Care Regulation and Support,
ACT Education Directorate
PO Box 158, Canberra City 2601

16. This decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments, or waivers. This decision may also be considered in determining any future regulatory action, should there be future breaches of the *Law or Regulations*.

Legislation

17. 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>.

18. 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>

19. Should you have any questions about this Decision please contact me at janine.fairburn@act.gov.au.

Yours Sincerely,



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

25 May 2021