



Ms [REDACTED]
Person with Management or Control
Communities@Work
RE: Communities@Work Palmerston Out of School Hours care

Email: [REDACTED]

Dear Ms [REDACTED],

Show Cause Notice – Proposed Compliance Action

1. I am a delegate of the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance (CECA).
2. As you are aware, the Authority is the regulator of education and care services in the ACT and has the responsibility of monitoring and enforcing compliance with the *Education and Care Services National Law* (the *Law*). One of the Authority’s roles is to investigate suspected offences under the *Law*. Web addresses to the *Law* and the *Education and Care Services National Regulations* (the *Regulations*) are provided for your convenience at the end of this notice.
3. The Authority has recently assessed multiple notifications related to Communities@Work Palmerston Out of School Hours Care – SE-00009682 (the *Service*) operated by Communities@Work– PR- 00005824 (the *Provider*).
4. Authorised Officers have assessed relevant notifications, and the Authority has determined that the *Provider* has a case to answer regarding suspected offences. However, the Authority’s assessment of notifications will not be complete until the *Provider* has had an opportunity to respond to the allegations and evidence obtained by the Authority. This is the reason for sending this Show Cause Notice (Notice) to you. Detailed instructions of how to respond appear at the end of this Notice.
5. If substantiated, the allegations may constitute offences under sections 165, and 167 of the *Law*. If, after considering all available evidence, the Authority finds any offences are substantiated on the balance of probabilities (or any combination of them) it will need to consider whether compliance action is required.
6. Where offences under the *Law* are substantiated, the Authority considers many factors when determining appropriate action, the focus being on ensuring future compliance and improved outcomes for children, rather than punishment. Further details regarding potential compliance actions appear at the end of this Notice.

Grounds for issuing Show Cause Notice

7. Evidence obtained during the assessment of notifications to date supports offences under the *Law* within the following areas:
 - a. Inadequate Supervision
 - b. Protection from harms and hazards.

Facts

8. On 26 August 2024, the Authority received a notification that on 25 August 2024, a child, known to be [REDACTED], had been signed into care of the Service at 3:07pm before going to look for a friend. The child was not seen again by educators that day. A lockdown commenced at 3:15pm before contact was made with a family friend at 3:38pm that the child had been collected by their parent.
Refer Attachment A: Notification – NOT-00067413
9. On 28 August 2024, the Authority received a notification that on 22 August 2024, that a child, known to be [REDACTED], was not delivered to their classroom by educators as there was a miscommunication between educators, leaving [REDACTED] unsupervised until noticed by school staff.
Refer Attachment B: Notification – NOT-00068226
10. On 11 September 2024, the Authority received a notification that on 10 September 2024, a child, known to be, [REDACTED], was locked out of the Service and located on the concrete path outside the locked gate on the school oval at 3:22pm.
Refer Attachment C: Notification – NOT-00072618
11. Due to the risk of safety, health and wellbeing of a child when inadequately supervised, the Authority determined to issue this show cause notice, regarding suspected offences under sections 165, and 167 of the *Law*.

Allegations

Allegation One

It is alleged that on 25 August 2024, the Provider failed to ensure that all children being educated and cared for by the Service were adequately supervised, in that, a child believed to be [REDACTED] left the service unsupervised and was located by his mother, contravening section 165(1) of the *Law*, and giving rise to a contravention of 167(1) of the *Law*.

Allegation Two

It is alleged that on 22 August 2024, the Provider failed to ensure that all children being educated and cared for by the Service were adequately supervised, in that, a child believed to be ██████████ left the service unsupervised and was located on the adjacent paved area to the preschool, contravening section 165(1) of the *Law*, and giving rise to a contravention of 167(1) of the *Law*.

Allegation Three

It is alleged that on 10 September 2024, the Provider failed to ensure that all children being educated and cared for by the Service were adequately supervised, in that, a child believed to be ██████████ left the service unsupervised and was located on a concrete path outside the locked gate on the school oval, contravening section 165(1) of the *Law*, and giving rise to a contravention of 167(1) of the *Law*.

Legislation Relevant to the Allegations

12. The following provisions of the *Law* are relevant to the Allegations:

Section 165(1) of the *Law* - Offence to Inadequately supervise 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: \$11 400, in the case of an individual
\$57 400, 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: \$11 400, in the case of an individual
\$57 400, in any other case.

Contraventions Support Allegations

13. Evidence obtained appears to support that ██████████ and ██████████ were inadequately supervised while being educated and cared for at the approved Service, contravening section 165(1) of the *Law*, and giving rise to a contravention of 167(1) of the *Law*.
14. Ensuring that children are adequately supervised and remain in the Service is viewed as being a reasonable precaution to protect children from harm likely to cause injury.

Potential Compliance Action

15. The Authority reiterates that no decision has been made at this time – this letter is a step in the regulation process. However, procedural fairness requires that the Authority take this opportunity to advise you of potential compliance actions if an offence is substantiated. Potential compliance actions include:
- a. Non-statutory Administration Action (similar to a caution) with no further action;
 - b. Non-statutory Administrative Action with measures to be taken and evidence produced; or
 - c. A Compliance Notice under section 177 of the *Law*, if the Authority is satisfied that the Service is not complying with the *Law*.
 - d. Imposing of Conditions on the Service’s approval under section 51 of the *Law*.
 - e. Suspension of the service approval under section 72 of the *Law*. The suspension would be in effect from the time the provider has been notified of the decision until the provider can demonstrate that they have mitigated any future risks.
 - f. Cancellation of the service approval under section 79 of the *Law*.
16. In arriving at a decision concerning compliance action, if warranted, the Authority considers many factors, such as severity of non-compliance and the compliance history of the Provider and Service.
17. If a matter is determined as warranting consideration of suspension or cancellation of a service approval, please be aware that additional opportunity to respond to the grounds for such action would be provided, as required under sections 71 and 78 of the *Law*.

Right of response

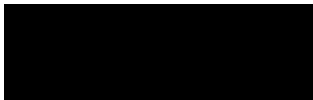
18. As mentioned previously, this is the Provider’s opportunity to respond to the allegations and evidence set out in this Notice. You may, within 14 days of receiving this Notice, make a written submission for the Authority’s consideration in deciding if any offences are substantiated and, if so, whether any compliance action should be taken.
19. At Attachment D to this Notice is a ‘4 Step Guide to Responding to a Show Cause Notice’ to assist in the development of your submission. Please direct your written submission via email to daryl.adams@act.gov.au or by post to:

Children’s Education and Care Assurance (CECA)
Education Directorate
Attention: Daryl Adams
GPO Box 158, Canberra ACT 2601.

Caution

20. Please also be aware that it is an offence under section 295 of the *Law* to provide the Authority with false or misleading information or documents.
21. 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>.
22. 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>
23. Should you have any questions about this Show Cause Notice please contact Daryl Adams on daryl.adams@act.gov.au.

Yours Sincerely



Vittorio Colosimo
A/g Assistant Director
Children's Education and Care Assurance
Education and Care, Regulation and Support

04 October 2024