



[REDACTED]
Person with Management and Control
Woden Community Service Inc
RE: Red Hill OSHC

Email: [REDACTED]

Dear [REDACTED]

Decision to issue Administrative Letter

1. As you may be aware, Authorised Officers from Children's Education and Care Assurance, also known as the ACT Regulatory Authority (the Authority), recently assessed a Notification of Incident (NOT-40472287) advising that a child was missing/unaccounted for at Red Hill OSHC, SE-00009701, (the Service) operated by Woden Community Service Inc, PR-00005883, (the Provider) on 15 September 2020.
2. The enquiries related to whether inadequate supervision contributed to the child being unaccounted for at the Service.
3. The Authority is satisfied that the Service was not complying with the provisions of the *Education and Care Services National Law (ACT) (the Law)* and the *Education and Care National Regulations 2011 (the Regulations)* in respect to the operation of the Service on 15 September 2020.
4. Web Addresses to *Law* and *Regulations* are provided for your convenience at the end of this letter.

Facts

5. On 16 September 2020, the Authority received a Notification of Incident (NOT-40472173) from the Provider advising that a ten-year-old child, known to be [REDACTED], was able to leave the Service's premises unnoticed by educators. The notification advises that the child was missing and unaccounted for more than 10 minutes. Refer Attachment A.
6. On 16 September 2020, the Authority requested further information from the Provider. This information was received on 18 September 2020. Refer Attachment B.

Law

7. Evidence submitted via the Notification of Incident and supporting documentation engages the following sections of the *Law* and the *Regulations*:

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: \$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.

Section 175(1) of the Law – Offence relating to requirement to keep enrolment and other documents

An approved provider of an education and care service must keep the prescribed documents available for inspection by the authorised office in accordance with this section.

Penalty: \$4000, in the case of an individual
\$20 000, in any other case.

Regulation 158(1) – Children’s attendance record to be kept by approved provider

The approved provider of an education and care service must ensure that a record of attendance is kept for the service that-

- (a) records the full name of each child attending the service; and
- (b) records the date and time each child arrives and departs;
- (c) is signed by one of the following persons at the time that the child arrives and departs-
 - (i) the person who delivers the child to the education and care service premises or collects the child from the education and care service premises;
 - (ii) a nominated supervisor or an educator.

Regulation 177 – Prescribed enrolment and other documents to be kept by approved provider

- (1) for the purposes of section 175(1) of the *Law*, the following documents are prescribed in relation to each education and care service operated by the approved provider-
 - k) a children’s attendance record as set out in regulation 158.
- (2) the approved provider of the education and care service must take reasonable steps to ensure the documents referred to in subregulation (1) are accurate.

Reasons

- 8. Having considered the evidence of the assessment and documents submitted by the Provider; the Authority is satisfied that the Provider has failed to comply with the *Law*.
- 9. The Authority is satisfied that, sections 165(1) and 167(1) of the *Law* were contravened on 15 September 2020. Sections 165 and 167 of the *Law* were engaged by educator accounts and by documentation obtained from the Provider.
- 10. Information gathered engaged the obligation that the Provider must ensure that all children being educated and cared for by the service were adequately supervised at all times that the children are in the care of that Service, as required by section 165 of the *Law*.
- 11. Information gathered supports that the Provider, by not ensuring adequate supervision of children, has not appeared to ensure that every reasonable precaution was taken to protect children being educated and cared for by the Service from harm and from any hazard likely to cause injury, in contravention of section 167 of the *Law*.
- 12. The fact that a [REDACTED] was able to leave the Service premises unnoticed by educators and go to a friend’s house further supports the contraventions of sections 165 and 167 of the *Law*.

13. The Authority is also satisfied that the Provider has failed to maintain arrival and departure times and identities of those signing for arrival and collection of children attending the Service; constituting a failure to keep a prescribed record - being a children's attendance record required by Regulation 158(1)) in contravention of section 175(1) of the *Law*. The only details noted were the names of children attending and booking times on 15 September 2020, and those identified as absent. Refer Child Attendance records at Attachment C.

Decision

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. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue you this Administrative Letter.

15. This Decision is issued to remind the Provider, that always, 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.

16. In addition to the above, the Provider is required to provide documentation and evidence to demonstrate that the Nominated Supervisor and all educators are aware of, and understand, the expectations and obligation to 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, for example, evidence of:

- (a) Evidence to support that the Nominated Supervisor and all educators are aware of, and understands, policies, procedures and practices relevant to supervision and guiding children's behaviour.
- (b) Evidence of contingency plans in place to mitigate risk of inadequate supervision as a result of high-risk environments and activities.
- (c) Evidence to demonstrate that staffing levels are determined, not just on minimum regulated ratio levels, but on ensuring adequate supervision at all times, taking into account individual needs of each child, the environment, and the experience levels of educators employed.

17. In addition, the Authority requires the Provider to:

- a) Advise of steps taken to ensure that child attendance records are compliant with Regulation 158; and
- b) Provide a copy of one week's worth of compliant child attendance records.

18. The required evidence should be submitted to the Authority by close of business 14 days from the date of receipt of this letter. Information can be sent by email to janine.fairburn@act.gov.au or by post to:

Janine Fairburn, Authorised Officer
Children's Education and Care Assurance
PO Box 158, CANBERRA ACT 2601

19. The *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>.

20. 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>

21. This letter will be recorded on your Service 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 *Regulations* be found.

22. If you have any queries regarding this letter or if you require any information in order to understand your obligations under *the Law* and *Regulation*, please contact me on (02) 6205 4390 or alternatively at janine.fairburn@act.gov.au.

Yours sincerely 



Janine Fairburn
Assistant Director
Early Childhood Policy and Regulation
ACT Education Directorate

30 September 2020



I01 Notification of Incident

Thank you for submitting your notification. Below is a copy of the information provided in your notification. If there are any issues, please contact your Regulatory Authority for assistance.

Notification of Incident

Provider

Provider Name	Woden Community Service Inc.
Provider Number	PR-00005883
Provider Approval Status	Approved

Service

Service Legal Entity Name	
Service Trading Name	Red Hill OSHC
Service Approval Number	SE-00009701
Service Approval Status	Approved

Incident Details

Incident Type	Reg 12-Any circumstance where a child being educated and cared for by an education and care service appears to be missing or cannot be accounted for
Incident Date	15/09/2020
Incident Time	04:27 PM
Missing Type	Child not seen exiting by staff - found by non-staff member
Duration Missing	Less than 10 mins
Did Emergency Services attend	No
Further Details of the Incident	<p>_____ account: _____ was playing inside the gates at the fake grass/sand pit area at after school care. However, _____ repetitively went into out of bounds areas (up the staircase, garden beds, etc) and when asked by a staff member to not do this, he continued to not follow the instructions. _____ then proceeded to say "I don't want to fucking be here" and "I want to bend the rules on purpose because I don't want to be at afters so my parents will take me out". Following this, _____ (Educator) informed _____ that he had to come and talk with myself _____, however, he then ran from inside the gate towards the playground areas. From discussions with a children he was playing with _____ at 5:00PM – I asked him "had you been playing with _____ this afternoon?" and he replied saying "yes, we started by playing in the sand pit area/fake grass and then we went down to the spider web. When I went inside with _____ though, _____ didn't come inside with us.". Furthermore, a discussion with 2 other childrer _____ and _____</p>

Submitted By: _____



at 4:45PM – the children heard me ask on what had occurred and both replied saying "He wasn't following instructions and was being rude, going out of bounds". "I then asked if they saw where he had gone to and they both said "we just saw him run to the spiderweb playground".

Therefore, following this, went inside, however, they said did not follow. The staff member in that area was unsure of who the child was as shown in the following conversation at 5:10PM – I asked him if he saw leave from the equipment, however he replied "I'm unsure who it is, was it a child with curly wavy hair?" and I replied saying "It is shoulder length but not really wavy". then replied say "I'm not too sure who it is then sorry". Therefore, he did not see the child leave the area or see him leave the grounds. Therefore from understanding, ran without visible notice to a friends house off school grounds across La Perouse Street, therefore leaving after school care without parental sign out. This is further shown through conversations with at 5:05PM - I asked if she had seen this afternoon and explained he had left and she responded with "No, I didn't see him come past me or leave". Furthermore there was a conversation with at 5:15PM – I asked if he had seen leave and he responded "no, I know who the kids are and didn't see him leave this afternoon". I was informed of whereabouts by his mother at 4:37PM by a phone call then notified (OSHC Manager) at 4:47PM

account:
I was supervising the kids outside, at the sand pit and fake grass area. There was about 11 children at the area was one of those children at the fake grass told me not to come near him when we initially went outside, and he was quite rude. So, I was observing him and his friends from a distance for a while. After a while, I saw hang around with five other friends. They were climbing on the hand rails and the cupboards outside the classrooms. I went over to them and told them that they are not allowed to do that. At one time, I saw sneaking down the stairs from the classrooms, so I had to literally tell him that the area is out of bounds. He started saying that he can do anything and that he want to 'bend the rules on purpose' so that he need not come to afters anymore. In fact, he said that he hate coming to afters. and two of his friends went to the indigenous garden. I called them out and his friends listened but went into the garden again. I told him that I would report to and send him inside if he doesn't listen anymore. He started swearing and when I told him not to use offensive language, he used it again. I warned that I would really send him inside, and it was then that he said he doesn't want to go in. He started running outside the gate. I thought he was going to the new equipment or the spider web. I didn't realize that he had gone to a friend's place until told me personally later.

Child's Name	
Child's Date of Birth	
Child's Gender	Male
Details of Action Taken (e.g. First Aid)	Conversations held with students and staff members. Notified (OSHC Manager) at 4:47PM
Please detail what steps were taken to ensure parents were notified as soon as practicable, including time, date and nature of notification	contacted via a phone call at 4:33PM, having received a phone call of whereabouts by a family friend at 4:27PM. Discussion with and as they collected school bag./ Further phone calls on 16/09/2020 with to confirm these details.



Name of parent or guardian notified	[REDACTED]
Email of parent or guardian notified	[REDACTED]
Phone number of parent or guardian notified	[REDACTED]
Name of Witness to the incident	[REDACTED]
Please detail what steps were taken or will be taken to prevent or minimise this type of incident in the future	<p>Discussions with staff about active supervision and the requirement to use walkie talkie communication to communicate movement between playing areas, particularly children who require closer monitoring when making comments about not wanting to be at after school care. Providing reminders to all staff to have discussions with one another if signs are observable that a student may be exhibiting different actions to their usual routine or look disrupted.</p> <p>As an organisation WCS will be reviewing supervision policy and will look to address appropriate training for staff supervision and incident reporting.</p>
Photos and Evidentiary Documents	
Area map.pdf	Map showing outside school play areas, including location of house [REDACTED] went to and the staff and children ratios.
Incident Report Form - 403 (1).pdf	WCS Incident form.
[REDACTED] day-to-day charge.pdf	[REDACTED] day-to-day charge form.
staff roster 15.9.2020.pdf	Staff roster for 15/09/2020
supervision map 15.9.2020.pdf	Map of inside school gates, including staff and children ratios.

Contact Details

Name	[REDACTED]
Phone Number	[REDACTED]
Email Address	[REDACTED]