

From: Masterman, Tanya
To: P01/P01
Subject: RE: WHS concerns re. incident/occurrence and lack of notification at ECEC service
Date: Wednesday, 1 December 2021 9:08:00 AM

OFFICIAL: Sensitive - Legislative Secrecy

Dear P01

Further to previous correspondence, I can advise that the Regulatory Authority has monitored the repair of the leaking roof and is satisfied that the issue has been addressed.

Please be assured that the Service will be monitored as part of the Regulatory Authority's ongoing monitoring and compliance activities.

Kind regards

Tanya Masterman (she/her) | Senior Investigator
Phone 02 6205 2012 | Email tanya.masterman@act.gov.au
Education and Care Regulation and Support | Education | ACT Government
Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive, Stirling 2611
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From: P01 P01 <P01 P01>
Sent: Friday, 26 November 2021 11:57 AM
To: Masterman, Tanya <Tanya.Masterman@act.gov.au>
Cc: P01 P01 <P03>
Subject: Re: WHS concerns re. incident/occurrence and lack of notification at ECEC service

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Hi Tanya,

Thanks for your assurances and clarifications. I will also clarify that point with WorkSafe ACT.

Kind regards,

P01

On Fri, Nov 26, 2021 at 11:53 AM Masterman, Tanya <Tanya.Masterman@act.gov.au> wrote:

OFFICIAL: Sensitive

Thank you P01. I will ensure the information is passed to the relevant person.

Just by way of clarification, no investigation has been initiated by CECA at this point in time.

As mentioned to you during our discussions, CECA utilises multiple tools for dealing with concerns, including audits, provider engagement and other forms of enquiries, as well as formal investigations where warranted.

Hopefully that clears up any misunderstanding.

Kind regards

Tanya Masterman (she/her) | Senior Investigator
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From: [P01](#) [P01](#) <[P01](#) [P01](#)>
Sent: Friday, 26 November 2021 11:44 AM
To: Masterman, Tanya <Tanya.Masterman@act.gov.au>
Cc: [P01](#) [P01](#) <[P03](#)>
Subject: Fwd: WHS concerns re. incident/occurrence and lack of notification at ECEC service

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Hi Tanya,

For your information, we have clarified our concerns further in this recent correspondence to WorkSafe ACT, below.

As we have not yet filed a formal complaint, this latest summary of the situation may be helpful in clarifying some of the specificities and complexities of our concerns, and where we're up to as we try to resolve this matter.

If you wish, you are welcome to pass this email on, like our last one, internally and as needed with sensitivity to our concerns about confidentiality with the Service.

Thanks and best wishes,

[P01](#) & [P01](#)

----- Forwarded message -----

From: [P01](#) [P01](#) <[P01](#) [P01](#)>
Date: Fri, Nov 26, 2021 at 10:37 AM
Subject: WHS concerns re. incident/occurrence and lack of notification at ECEC service
To: <worksafe@worksafe.act.gov.au>
Cc: [P01](#) [P01](#) <[P03](#)>

Good morning,

We are parents trying to resolve a WHS issue with an Early Childhood Education and Care (ECEC) service in Canberra.

We are seeking advice and information related to a recent WHS incident/occurrence we are in the process of trying to resolve locally with the Service.

We recently sought advice from Children's Education & Care Assurance (CECA), which took it upon themselves to initiate an investigation into the matter. But they advised us that the scope of their work only pertains to the safety of children to the exclusion of staff and parents/visitors. As we have outstanding concerns about the health and safety of staff and parents, they advised us to contact WorkSafe ACT.

We tried contacting WorkSafe ACT at 132281, but were unable to get in contact with anyone during the earlier hours of availability listed on the website, so we are now emailing you instead for advice about our concerns and what type of action might be most appropriate at this point in time.

For context, the incident/occurrence was identified by Service staff on the morning of Monday, 15 November, after we had dropped off our son. A water leak from the ceiling in our child's sleeping room occurred directly above his cot. Despite several hours passing after the incident/occurrence, no notification was given to parents, and no warning signs were placed around the hazardous area. When one of us came to pick up our son, no staff were in or around the sleeping room (which was unlocked with the lights off). Nor was anyone in the adjacent room, and no Person Responsible on Duty (PRD) could be found at the reception area or nearby vicinity. When one of us entered the sleeping area to collect our son's belongings from the cot (as was expected of parents by the Service until a policy change this week), we found them soaking over the rail of the cot with holes in the ceiling above it. As no PRD could be found as the Service was about to close for the day, one of us asked an educator the next morning for more information.

During drop-off on 16/11, we were relieved to hear that alternative sleeping arrangements had been made for the children, including our son, but they didn't disclose much more information about the incident itself, and didn't explain why it wasn't reported to parents. The information we did receive after that included call-outs on the Service's online app for parent-volunteers to do landscaping "to ensure we are not attracting snakes in overgrown grass around the perimeter," and to do roof and gutter maintenance that, if not properly completed, is known to be "a contributing factor to the roof leaks."

Since responding to those call-outs, we have been asking the Director for more information about the incident. At first, they only spoke about it in terms of a maintenance issue. Although they have recently acknowledged it is also a WHS issue, their responses continue to circle around the *specific incident* by only referring to *general* WHS matters (i.e. policies, procedures, and plans that either existed before the incident or may continue to be reviewed and updated after the incident; e.g. yesterday, they provided us with a "Risk Management Plan" about *roof* leaks in a general sense, but there is no specific reference to *ceiling* leaks as a

hazard, nor other information we'd expect in a Risk Register about the specific events which took place last week).

Our concerns are only compounding as the Director largely circles around the incident itself, and has revealed that "[i]t is not financially viable for our business model and management structure to adopt some of the items in your recommendations," which include, above all, a single request to ensure that "communication with parents about safety issues in spaces normally used by their children should be made as soon as practicable after a hazard has been identified and any inherent risks have been sufficiently attended to."

We also recommended: similar communication for staff; ensuring at least one PRD is available during all regular operating hours; ensuring staff can elect a Health & Safety Representative (HSR) who is trained and supported in their duties; re-consideration of over-reliance on volunteers to conduct essential maintenance and/or high-risk duties; and consideration of hiring certified workers to conduct these essential tasks (or at least provide volunteers with proper Personal Protective Equipment [PPE] and WHS advice prior to performing such duties).

The Director and other PRDs have been regularly unavailable on site since the incident, often leaving the reception area unattended or shuttered during times of pick-up and drop off. We feel it is becoming apparent that they are largely avoiding communication (especially direct, face-to-face communication) about the incident. Almost all communication has been limited to emails with the Director who largely redirects our specific concerns about the incident to generalisations that circle around it.

At this point, we are beginning to wonder if an Incident Report was made. We are also looking for clarity about whether or not the Service is required to notify parents or authorities about any of the incidents/occurrences we've described.

Given the above, we are *primarily* seeking advice on the following:

- Do any of these events constitute a reportable WHS incident? (i.e. identification of the ceiling leak; exposing parents/visitors to a hazardous area without notification or warning; relying on volunteers to conduct essential maintenance related to known WHS hazards; not having PRDs regularly available on site during all operating hours)
- What kind of incident/occurrence would WorkSafe ACT categorise any of these WHS events? (e.g. should any of them be classified as a dangerous incident, dangerous occurrence, or some other incident/occurrence?)
- Do any of these qualify as a Notifiable Incident to parents, staff, and/or authorities?
- Do we have any rights to information here, namely:
 - can we get access to any Incident Report(s) and Risk Registers that might exist?
 - can we find out if any notifications were made to authorities?
 - in the absence of Incident Reports, Risk Registers, and/or Notifications, should any of these be made and, if so, by whom?

After our above questions are answered, we have a secondary request. We have become aware that WorkSafe ACT recently conducted an audit of ECEC services. Could you please advise how we might be able to get a copy of this report?

Many thanks in advance,

P01 & **P01**, parents of **P01**
(You can reply by email, and/or call **P01** today at **P03**)
(**P01** will be available at **P03** when she returns from work)