

Ms [REDACTED]
President of Association
Aranda Afters Association Incorporated
RE: Aranda Afters

Email: [REDACTED]
Cc'd: [REDACTED]

Dear Ms [REDACTED]

Decision to issue Administrative Action

1. As you are aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an assessment into a Notification (NOT-40504519) alleging that the *Education and Care Services National Law (ACT) (the Law)* was contravened at Aranda Afters SE-00009641 (the Service) operated by Aranda Afters Association Incorporated PR-00005802 (the Provider).
2. Enquiries related to whether the Provider failed to ensure every reasonable precaution was taken to protect children from harm and hazard likely to cause injury, in that a child suffered heat stroke during an excursion on 18 January 2021.
3. Web addresses to the *Law* and the *Education and Care Services National Regulations 2011 (the Regulations)* are provided for your convenience at the end of this letter.

Facts

4. On 25 January 2021, the Authority received Notification (NOT-40504519) and documents from the Provider, advising that on 18 January 2021, a child being educated and cared for by the Service participated in an excursion at the National Zoo and Aquarium. Upon collection by parents the child was found to look tired and have a temperature. The parents sought medical attention for the child, and subsequently was diagnosed by a medical practitioner as having heat stroke. Refer notification at Attachment A.
5. On 25 January 2021, the Authority requested additional information, being the excursion risk assessment. This was provided on 27 January 2021. Refer Attachment B.
6. On 28 January 2021, prescribed records were also submitted by the Provider. These records included working directly with children records and child attendance records for the Service for 18 January 2021.

Law

7. Provisions of the *Law* engaged by the notification of incident include:

Section 167 of the Law – Offence relating to protection of children from harm and hazards

- (1) The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from hazard likely to cause injury.
Penalty: \$10 000, in the case of an individual.
\$50 000, in any other case.

Reasons

8. Upon considering all evidence gathered via the notification and additional information provided, the Authority is satisfied, that there is sufficient evidence to substantiate that the Provider has contravened section 167(1) of the *Law* in this instance.
9. In particular, the Authority notes that weather considerations should have reasonably been considered as part of the risk assessment prior to the excursion, with educators made aware of signs and symptoms of heatstroke in children. The risk assessment submitted to the Authority did not include these considerations.
10. The Authority has also considered advice in relation to actions undertaken to mitigate risk of a similar incident reoccurring, which were outlined within the notification.
11. 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 this Administrative Decision.
12. Although no further action is being taken by the Authority in this instance, this decision is intended as a reminder of the Provider's obligations under the *Law*, and to bring to your attention that the Provider must ensure that every reasonable precaution is taken to protect children being educated and cared for by the Service, from harm and hazard likely to cause injury

Legislation

13. The *Law* applies to you as a Provider engaged within the early education and care sector. 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>.
14. 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>
15. This Decision 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.
16. If you have any queries regarding this Decision, please contact Brian Cropper on (02) 6207 1104 or alternatively at brian.cropper@act.gov.au.

Yours sincerely



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

4 February 2021