

██████████
Person with Management or Control
SDN Children's Services
RE: SDN Bluebell Early Childhood Education Centre

Email: ██████████

Dear ██████████

Decision to Issue Administrative Action RE: NOT-40855576

1. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Incident (NOT-40855576) relating to SDN Bluebell Early Childhood Education Centre SE-00009834 (the Service) operated by SDN Children's Services PR-00005562 (the Provider).
2. NOT-40855576 advised that on 12 May 2023 a 3-year-old child was found alone and unsupervised in the Service foyer.
3. The Authority is satisfied that the Provider has not complied with provisions of the *Education and Care Services National Law Act (ACT)* (the *Law*) in this instance. Web addresses for the *Law* and the *Regulations* are provided for your convenience at the end of this decision.

Facts

4. On 12 May 2023, the Authority received Notification of Incident (NOT-40855576) from the Provider advising that, on 12 May 2023 at around 3.30pm, an enrolled child, known to be ██████████ was found alone and unsupervised in the Service foyer by an educator. Refer NOT-40855576 at Attachment A.
5. On 16 May 2023, the Authority requested additional information from the Provider. This was provided on 18 May 2023. Refer copy of correspondence at Attachment B.
6. Additional information submitted on 18 May 2023 included:
 - a. Educator statements and handwritten accounts; and
 - b. Headcounts and Working Directly with Children records.

Law

7. Provisions of the *Law* relevant to the notification assessment are:

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

Reasons

8. Upon considering all evidence for assessment, inclusive of Provider supplied information, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence to substantiate an offence under section 165 of the *Law* in this instance.
9. The Authority is satisfied that inadequate supervision has contributed to [REDACTED] being able to leave the preschool room unnoticed by educators.
10. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the steps taken by the Provider to mitigate risk of a similar incident, the Authority has decided to issue this administrative action rather than statutory compliance actions.
11. This Decision is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, in particular the obligation to always supervise children and ensure that every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.
12. Furthermore, 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.
13. This Decision will be recorded on the Service's 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 associated *Regulations* be found.

Legislation

14. 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>.
15. 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>
16. If you have any questions in relation to this Decision, please contact me by email at Janine.fairburn@act.gov.au .

Yours sincerely



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

2 June 2023