



[REDACTED]
Cherry Tree Family Day Care
[REDACTED]
[REDACTED]

Email: [REDACTED]

Dear [REDACTED]

Show Cause Notice – Proposed Cancellation of service approval

1. The ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, approved an application for voluntary suspension for Cherry Tree Family Day Care, SE-40015126 on 26 March 2021.
2. Consistent with Section 78 of the *National Law*, I am considering cancelling of the service approval on the following grounds.
 - i. A condition of the service approval has not been complied with as per section 77 (d) of the *National Law*.
 - ii. A service approval is granted subject to a condition that the service must commence ongoing operation of the service within 6 months after the approval is granted unless the Regulatory Authority agrees to an extension of time, as per section 51 of the *National Law*.
 - iii. The ACT Regulatory Authority reasonably believes that the approved provider Australian Care and Educational Services Pty Ltd has not, within 6 months after being granted a service approval, commenced ongoing operation of the service Chery Tree Family Day Care SE- 40015126, consistent with Section 70 of the *National Law*.
3. Electronic links to the *Education and Care Services National Law 2010*¹ (the *Law*) and the *Education and Care Services National Regulations* (the *Regulations*) are provided for your convenience at the end of this notice.

Grounds for issuing Show Cause for Cancellation of service approval

4. The approved provider (the provider), Cherry Tree Family Day Care PR-40017886 was issued a service approval for Cherry Tree Family Day SE-40015126 (the service) on 16 July 2019. Attachment A.

¹ Adopted in the ACT by the *Education and Care Services National Law (ACT) Act 2011*

5. The provider failed to start operating the service within the legislated timeframe. An extension of 3 months was granted as attempts were being made to obtain CCS. Provider was notified on 12 June 2020 that should they not commence operating by 12 June 2020 a Show Cause Notice will be issued.
6. Between October 2019 and September 2020, the Authority contacted the provider to enquire about commencement of operation of the service. Each time the provider notified the Authority that the service was yet to commence operating. The Authority granted, on three occasions, more time for the provider to start the service operation. The last extension was given in September 2020 for three months due to the ongoing Health Emergency related to Covid-19.
7. An application from the provider to voluntarily suspend the service approval for Cherry Tree Family Day Care was received by the Regulatory Authority on 25 March 2021. The Regulatory Authority approved the voluntary suspension on 26 March 2021, and a letter was sent to the provider notifying them of the outcome. Attachment B.
8. Section 85 of *the Law* states that a voluntary suspension cannot exceed 12 months. The provider failed to notify the Regulatory Authority of the intention to resume operation of the service under service approval SE-40015126 or of the intention to surrender the service approval by the end of the 12 months of voluntary suspension.
9. An email was sent by the Regulatory Authority to the provider on 12 April 2022 requesting the provider to inform the Regulatory Authority of its intention to either resume operation of the service or surrender the service approval. No response was received.
10. The provider did not ensure that operation of the service resumed after a voluntary suspension of maximum 12 months. It is a condition of the service approval that the service is operating if there is no suspension in place.

Section 77– Grounds for cancellation of service approval

A Regulatory Authority may cancel a service approval if-

- (a) The Regulatory Authority reasonably believes that the continued operation of the education and care service would constitute an unacceptable risk to the safety, health or wellbeing of any child or class of children being educated and cared for by the education and care service; or
- (b) The service has been suspended under section 72 or 73 and the reason for the suspension has not been rectified at or before the end of the period of suspension; or
- (c) The service approval was obtained improperly; or
- (d) A condition of the service approval has not been complied with.

Right of response

11. You have a right to respond to the facts set out in this notice. You may, within 30 days of receiving this letter, make a written submission for the Authority's consideration in deciding if the cancellation of the service approval for kiddie cove family day care SE-40015126 should be processed.

12. If no response is received within the 30 days, the Regulatory Authority will cancel the service approval for Kiddie Cove family day care.
13. At Attachment C 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 Assistant Director Audit and Risk Management, Delphine Coutin, at delphine.coutin@act.gov.au or by post to:

Ms Delphine Coutin – Assistant Director
Children's Education and Care Assurance
GPO Box 158
CANBERRA ACT 2601

Caution

14. 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.
15. 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>.
16. 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>
17. Should you have any questions about this Notice please contact Delphine Coutin on (02) 6207 1114 or email: delphine.coutin@act.gov.au

Yours Sincerely



Delphine Coutin
Assistant Director Audit and Risk Management
Children's Education and Care Assurance
Education and Care Regulation and Support
ACT Education Directorate

8 June 2022