

[REDACTED]
Person with Management or Control
Noah's Ark Resource Centre Incorporated
RE: Noah's Ark Long Day Care Service

Email: [REDACTED]

Cc: [REDACTED]

Dear [REDACTED]

Decision to issue Administrative Action RE: NOT-40504788

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-40504788) reporting that an enrolled child was unsupervised at Noah's Ark Long Day Care Service, SE-00009821, (the Service) operated by Noah's Ark Resource Centre Incorporated, PR-00005852, (the Provider).
2. The assessment related to whether the Service failed to ensure adequate supervision of a child.
3. I am satisfied that the Provider was not complying with the provisions of the *Education and Care Services National Law (ACT) (the Law)* in respect to operating and education and care service.
4. Web addresses to *Law* and the *National Regulations* are provided for your convenience at the end of this decision.

Facts

5. On 23 January 2021, the Authority received a Notification of Incident (NOT-40504788) from the Provider which reported that a child ([REDACTED] aged 1 year, 9 months at the time) had been left in the outdoor environment at the Service for possibly up to five minutes, unsupervised on 22 January 2021. Refer NOT-40504788 at Attachment A.
6. On 25 January 2021, the Authority requested further information from the Provider in relation to the incident. On 27 January 2021, the Provider furnished further information via email. Refer a copy of that email at Attachment B.
7. On 28 January 2021, the Authority sought further information from the Provider in relation to any steps taken in response to the incident. On 1 February 2021, the Provider furnished further information as requested. Refer Attachment C.

Law

8. Provisions of the Law engaged by the information provided as part of the Notification includes:

Section 165 of the Law - Offence to inadequately supervise children

- (1) 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.

Reasons

9. The Authority is satisfied that there is sufficient evidence to support that on 22 January 2021, [REDACTED] was being educated and cared for by Service, and, was mistakenly locked out of that indoor area and unsupervised in the outdoor area for approximately 5 minutes. The circumstances reasonably support that inadequate supervision contributed that incident, which is an offence engaging section 165 of the *Law*.
10. The Authority notes the Provider's information on 1 February 2021 advised of risk mitigation strategies implemented post the incident.

Decision

11. In deciding if compliance action should be taken, the Authority has considered the Provider's internal investigation into the incident and the associated actions, that the educators concerned have been spoken to, including reminding them of their obligations and Provider expectations, and, the short duration in which the child was unsupervised.
12. The Authority has determined that strategies to be implemented to address the risk of inadequate supervision resulting in a similar incident in the future meets the Authority's expectations if implemented and followed appropriately.
13. Taking into consideration all information submitted by the Provider in relation to NOT-40504788, the Authority has decided not to initiate statutory compliance action regarding the substantiated offence under section 165 of the *Law*.
14. This decision, however, is intended to bring to your attention the need to maintain the Providers supervision arrangements across the Service; to ensure that children are adequately supervised at all times they are being educated and cared for by the Service.
15. 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*. Refer <http://www.legislation.act.gov.au/a/2011-42/default.asp>.
16. 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>

17. 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.

18. If you have any queries regarding this Decision please contact Jeffrey Beaver on (02) 6207 3917 or alternatively at jeffrey.beaver@act.gov.au.

Yours sincerely



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

12 February 2021