

Person with Management or Control  
Woden Valley Child Care Centre Association Inc.  
Re: Woden Valley Early Learning Centre

Email: [REDACTED]

Dear [REDACTED]

**Decision to issue Administrative Action RE NOT-40871235**

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Incident (NOT-40871235).
2. NOT-40871235 relates to Woden Valley Early Learning Centre SE-00009859 (the Service) operated by Woden Valley Child Care Centre Association Inc. PR-00005885 (the Provider).
3. The Notification advised of an incident whereby a one-year-old child had been fed a known/suspected allergen – dairy, resulting in an allergic reaction.
4. Web addresses to the *Education and Care Services National Law Act (ACT)* (the Law), and the *Education and Care Services National Regulations 2011* (the Regulations) are provided for your convenience at the end of this Decision.

**Facts**

5. On 23 June 2023, the Authority received a Notification of Incident from the Provider advising that on 22 June 2023, a child (1year) with a known suspected allergy to dairy was fed yoghurt resulting in an allergic reaction. Refer Notification at Attachment A.
6. On 29 June 2023, additional information was requested from the Provider by the Authority. This was responded to same day. Refer correspondence at Attachment B.

**Law**

7. The following provision of the Law were relevant to the assessment:

**Section 167(1) of the Law - Offence relating to protection of children from harm and hazards**

The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and care for by the service from harm and from any hazard likely to cause injury.

Penalty: \$10 000, in the case of an individual  
\$50 000, in any other case.

**Reasons and Decision**

8. Upon considering all information submitted by the Provider for assessment, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence to substantiate an offence under section 167(1) of the Law.

9. The Authority is satisfied that the Provider, knowing of the child's dietary requirements, has not taken reasonable steps to ensure that [REDACTED] was not provided a known food intolerance, supporting a contravention of section 167(1) of the *Law*.
10. In deciding if compliance action should be taken, the Regulatory Authority has considered the steps undertaken by the Provider, in response to the matter, to mitigate risk of a similar incident.
11. The Authority determined that due to this, the Authority will not be initiating statutory compliance action in this instance. In making this determination, the Authority also took into consideration the Services compliance history.
12. This decision, however, is intended to bring to your attention the need to ensure that all staff are aware of, and understand, the importance of knowing and understanding children's dietary requirements to prevent risk of harm.
13. In addition, it is a reminder that strategies and dietary action plans implemented to mitigate risk, are also always followed by educators when children are being educated and cared for at the Service.

#### **Legislation**

14. The National Law applies to you as a provider and any service you operate.
15. The National 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 Decision please contact me at [Janine.Fairburn@act.gov.au](mailto:Janine.Fairburn@act.gov.au).

Yours Sincerely,



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

28 July 2023