

[REDACTED]
Person with Management or Control
ACT Education Directorate
Farrer Primary School – Preschool Unit

Email: [REDACTED]@act.gov.au

Dear [REDACTED]

Decision to issue Administrative Letter RE 40463013

1. As you may be aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, recently assessed a Notification of Incident (NOT-40463013) relating to the operation of Farrer Primary School – Preschool Unit SE-00011186 (the Service), operated by ACT Education Directorate PR-00006465 (the Provider).
2. The Notification related to interaction by a member of the public with a child being educated and cared for by the Service on 4 August 2020, with the member of the public observed outside the Service making further apparent attempts to interact with the child over the following week.
3. 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 letter.

Facts

4. On 11 August 2020, the Authority received NOT-40463013 (the Notification) from the Provider that, on 4 August 2020, a member of the public interacted with a child over the fence for a period of ten minutes, initially alone, then under observation from the preschool teacher, who requested the person’s name ([REDACTED]) and asked for further details, which were not forthcoming. [REDACTED] was observed by staff on multiple occasions over the following two days, slowing down as she walked past the Service, looking over the fence and into the preschool, and using her phone.
5. On 10 August 2020, [REDACTED] was observed on two occasions in short succession. At the time the Notification was lodged on 11 August 2020, it was stated that it was intended to notify police.
6. Enquiries were made by the Authority regarding evidence of steps taken to ensure that children were adequately supervised and protected from harm. Further information was provided on 11 August 2020.

Refer Attachment A for Notification and relevant documentation.

Law

7. The following provision of the *Law* is relevant to the facts as outlined in the Notification:

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.

Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied that the failure to notify police concerning the incident for a week after the initial interaction, in circumstances where ██████████ appeared to seek further interaction on multiple occasions, constituted a failure to take reasonable precautions to protect children from harm and from hazards likely to cause injury, in contravention of section 167(1) of the *Law*.
9. However, in mitigation, the Authority notes that steps have now been taken to ensure adequate supervision, recording of any future attempts by "██████████" to interact with children, and has engaged in relevant personal safety discussions with children, and ensure adequate communication between staff. It is further noted that police attended the Service and spoke with ██████████. The strategies now implemented meet the expectations of the Authority.
10. 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 Letter.
11. However, the contravention has been recorded on the Service file and may be considered in the instance of any future similar incidents.

Legislation

12. 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>.
13. 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>

14. Should you have any questions about this Decision please contact Authorised Officer Tanya Masterman at Tanya.Masterman@act.gov.au.

Yours Sincerely,



~~Tanya Masterman~~

A/g Assistant Director

Early Childhood Policy and Regulation

ACT Education Directorate

21 August 2020