

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

Email: [REDACTED]@act.gov.au

Dear Ms [REDACTED]

Decision to issue Administrative Decision

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-40468424) relating to the operation of Garran Primary School – Preschool Unit SE-00011190 (the Service), operated by ACT Education Directorate PR-00006465 (the Provider).
2. The Notification related to an enrolled child at the Service being released to an unauthorised person/entity on 26 August 2020.
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 2 September 2020, the Authority received NOT-40468424 (the Notification) from the Provider advising that, on 26 August 2020, a preschool child, known to be [REDACTED] was released out of care from the preschool to an unauthorised person on the day, being a staff member of Garran Outside School Hours service.
5. The Authority was aware of the incident, as the service that the child should have been released to, being Woden Valley Childcare Centre, notified the Authority.

Refer Attachment A for Notification and relevant documentation.

Law

6. 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

7. The Authority has considered all the information supplied by the Provider and is satisfied that the failure to ensure that [REDACTED] was released to an authorised staff member of Woden Valley Childcare Centre, 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*.
8. However, in mitigation, the Authority notes that steps have now been taken to ensure risk of a similar circumstance is mitigated. The Authority acknowledges specific strategies advised of as follows:
 - a) The preschool team and the Deputy Principle have spoken about making sure that they follow all preschool procedures, in particular the process of releasing students to After School Care (ASC) when requested by them.
 - b) That the Service will also go back over the drop off and pick up procedures at their team meeting and remind parents that if pick up circumstances change throughout the day then both ASC and preschool should be informed.
 - c) That procedures included not releasing students unless staff see the updated electronic version of their roll or an official printed version of the same document, and that word of mouth and handwritten names on a piece of paper are not acceptable and that staff must remind ASC staff to check their lists thoroughly before they leave so that 2 trips are not necessary as this can cause confusion.
 - d) That the Service now has a suitable plan in place to ensure ASC handovers are accurate and that the preschool staff do not release children to them without comprehensive proof that this is the correct thing to do.
9. 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 Decision.
10. However, the contravention has been recorded on the Service file and may be considered in the instance of any future similar incidents.
11. In addition, the Authority requests that the Provider, by COB 22 September 2020, submit evidence to demonstrate that actions, identified above in paragraph 8, have been communicated and implemented. Evidence can be submitted to myself at Janine.fairburn@act.gov.au, or alternatively via post to:

Children's Education and Care Assurance
Attention: Janine Fairburn
GPO Box 158, Canberra ACT 2601.

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 myself at Janine.fairburn@act.gov.au or via telephone on (02)6205 4390.

Yours Sincerely,



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

15 September 2020