



Early Childhood Education Directorate Convictions and Significant Enforcement Actions

Approved Provider	Kidoz Pty Ltd
Service Name	Happy Days Kindergarten
Type of Service	Centre based education and care service
Action Taken	Prosecution action against Kidoz Pty Ltd for: <ul style="list-style-type: none">one offence of failing to ensure that every reasonable precaution was taken to protect children from harm and from any hazard likely to cause injury – section 167(1) of the <i>Children (Education and Care Services) National Law (NSW)</i>.
Date of conviction	2 November 2020
Sentence	Convicted at Blacktown Local Court and fined a total of \$1,000

Proven offence:

Kidoz Pty Ltd was the approved provider of an education and care service known as Happy Days Kindergarten.

On 29 October 2018, a four-and-a-half-year-old child was signed into the care of the service at about 8:20am.

At approximately 9:00am, the child was observed by educators to be sitting on the railing of a wooden bridge in the outdoor area at the service. The child lost her balance and fell backwards off the bridge. The child cut her forehead on the edge of a metal garden box below.

Staff immediately applied first aid and called an ambulance. The child was taken to hospital. As a result of the incident, the child sustained a deep and large v-shaped laceration to her forehead, extending from her eyebrow to her hairline. The injury required internal and external stitches by a plastic surgeon.

The planter box onto which the child fell was one of four modular planter boxes that had been placed in the vicinity of the wooden bridge. The planter box was constructed of corrugated metal. In their original state, the planter box featured a rubber trim around the edge. The rubber trim was no longer affixed to some of the planter boxes, exposing sharp grooved edges. It was one of these planter boxes with exposed edges onto which the child fell.

Prior to the incident, the safety of the planter boxes had been raised by staff on previous occasions. The approved provider, through its person with management or control, had previously attempted to rectify the issue by fixing a new trim to the planter boxes, however the attempts were unsuccessful.

Kidoz Pty Ltd failed to ensure that every reasonable precaution was taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause injury in that it:

- failed to ensure the area around the base of the wooden bridge was free from objects;
- failed to place the planter box in a location where the risk of a child falling onto the planter boxes was minimised;
- failed to include the garden beds in the “Daily Indoor & Outdoor Safety Checklist” completed by staff at the service; and
- failed to cover the exposed metal edge of the planter boxes with a protective material to reduce the risk of injury should a child sustain impact with those structures.