

Mr [REDACTED]
Person with Management and Control
OSHCLUB PTY LTD
RE: Harrison OSHClub

Email: [REDACTED] [@junioradventuresgroup.com.au](mailto:[REDACTED]@junioradventuresgroup.com.au)
[REDACTED] [@junioradventuresgroup.com.au](mailto:[REDACTED]@junioradventuresgroup.com.au)

Dear Mr [REDACTED]

Decision to issue Administrative Letter RE: NOT-40502174

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-40502174) advising that emergency services attended the Harrison OSHClub, SE-40013142, (the Service) operated by OSHCLUB PTY LTD, PR-40013142, (the Provider) on 7 January 2021.
2. The Authority is satisfied that the Provider was not complying with the provisions of the *Education and Care Services National Law (ACT) (the Law)* and the *Education and Care Services National Regulations (the Regulation)* in respect to this notification.

Facts

3. On 14 January 2021, the Authority received a Notification of Incident (NOT-40502174) and associated attachments from the Provider. This Notification reported that on 7 January 2021, emergency services attended the school at approximately 5pm due to a triggered emergency alarm, resulting in the Service stopping and proceeding into an emergency evacuation. Refer NOT-40502174 at Attachment A.
4. Additional information provided with the notification was an emergency evacuation report completed by a staff member of the Service. Refer email at Attachment B.
5. Upon assessment of the matters it appeared that there were grounds of non-compliance related to notification of a serious incident within prescribed timeframes.

Law

Section 174 of the Law – Offence of failing to notify certain information to Authority

- (2) An approved provider must notify the Regulatory Authority of the following information in relation to an approved education and care service operated by the approved provider—
 - a) Any serious incident at the approved education and care service.
- (4) A notice under subsection (2) must be in writing and be provided within the relevant prescribed time to –
 - a) The Regulatory Authority that granted the service approval for the education and care service to which the notice relates.

Regulation 12 – Meaning of *serious incident*

For the purpose of the definition of *serious incident* in section 5(1) of the Law, each of the following is prescribed as a serious incident -

- d) Any emergency for which emergency services attended

Regulation 176 – Time to notify certain information to Regulatory Authority

(2) For the purpose of section 174(4) of the Law, a notice must be provided –

- a) In the case of a notice under section 174(2)(a) –
 - i. In the case of a serious incident, within 24 hours of the incident or the time that the person becomes aware of the incident.

Reasons

6. The Authority is satisfied that, in relation to NOT-40502174, the advised of incident falls within scope of being a serious incident, of which the Provider failed to notify the Authority of within the 24 hour timeframe regulated for response pursuant to Regulation 176(2)(a)(ii), and in contravention of section 174(4) of the *Law*.
7. The situation was determined as an emergency at the time that it occurred, for which the Service proceeded to an emergency evacuation and emergency services attended. It wasn't till after emergency services attended was it identified to not be an emergency relating to the Service.
8. In deciding if compliance action should be taken, I have considered:
 - a. The incidents notified, and subsequent emergency evacuation appeared to have been appropriately managed and addressed by the staff at the Service; and
 - b. The Services compliance history.
9. The Authority determined that taking into account the above considerations, statutory compliance action would not be proportionate in this instance, so has determined to issue Administrative Action to address the non-compliances.
10. This Decision is intended to bring to your attention to the need to ensure that all information required to be notified to the Authority, pursuant to the *Law*, are notified within the prescribed timeframes set out under the *Regulations*.
11. For your convenience, and to support future compliance, please find web addresses to relevant legislation and educational material specific to notification of required information:

The *Law* applies to you as an approved provider and any service that 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>.

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>

Educational material specific to notification of required information can be located at
<https://www.acecqa.gov.au/resources/applications/notification-types-and-timeframes>.

12. This Decision will be recorded on the Service's 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 associated *Regulations* be found.

13. If you have any queries regarding this Decision please contact me via email at janine.fairburn@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Early Childhood Policy and Regulation
ACT Education Directorate

28 January 2021