

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

Email: [REDACTED]@junioradventuresgroup.com.au
notifications@junioradventuresgroup.com.au

Dear Ms [REDACTED]

Decision to issue Administrative Action RE: NOT-40820159

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-40820159) advising that an enrolled child of Harrison OSHClub, SE-40013142, (the Service) operated by OSHCLUB PTY LTD, PR-4004402, (the Provider) was missing and unaccounted for on 6 February 2023.
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)* in respect to this notification. Web addresses to the *Law* and *Education and Care Services National Regulations (the Regulation)* are provided for your convenience at the end of this Decision

Facts

3. On 8 February 2023, the Authority received a Notification of Incident (NOT-40820159) from the Provider. This Notification reported that on 6 February 2023, a four-year-old child, known to be [REDACTED], was identified as missing after a headcount conducted at around 4:30pm. The child was subsequently located at about 4:45pm when the child was being walked back across school grounds with school teaching staff. Refer NOT-40820159 at Attachment A.
4. On 9 February 2023, additional information was requested by the Authority. This was responded to on 15 February 2023 by the Provider. Refer email correspondence at Attachment B.
5. Additional information submitted by the Provider on 15 February 2023 consisted of the following:
 - a) Records/minutes of internal meetings and Communication with parent;
 - b) Incident report and Incident reflection tool;
 - c) Staff roster and risk assessment; and
 - d) Incident Investigation Summary (Attachment C).
6. Information provided indicates that [REDACTED] was last accounted for at 4:10pm and then subsequently located by a Service staff member at 4:45pm when the School staff member informed the Lead Coordinator that [REDACTED] was outside of the school grounds towards Mapleton Avenue.

Law

- Information submitted via NOT-40820159 and supporting documentation engages the following sections of the *Law*:

Section 165(1) of *Law* - Offence to inadequately supervise children

The Approved Provider of an education and care service must ensure that all children being educated and cared for by the service are adequately supervised at all times that the children are in the care of that service.

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

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

The approved provider, and the nominated supervisor, 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

- Having considered all documents submitted by the Provider the Authority is satisfied that the Provider has failed to comply with the *Law*.
- The Authority is satisfied that sections 165(1) and 167(1) of the *Law* were contravened on 8 February 2023. Sections 165 and 167 of the *Law* were engaged by documentation obtained from the Provider.
- Information gathered supports that the Provider did not ensure that all children being educated and cared for by the service were adequately supervised at all times that the children are in the care of that Service, in contravention of section 165 of the *Law*.
- Information gathered supports that the Provider, by not ensuring adequate supervision of children, has not appeared 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 contravention of section 167 of the *Law*.
- The fact that ██████ was able to leave the Service premises unnoticed by educators and was located by school staff outside of the school grounds towards Mapleton Avenue, further supports the contraventions of sections 165 and 167 of the *Law*.

Decision

- 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 you this Administrative Decision.

