

Person with Management or Control
OSHCLUB PTY LTD
RE: Harrison OSHClub

Email: [REDACTED]@junioradventuresgroup.com.au

Dear Ms [REDACTED]

Decision to issue Administrative Action RE: NOT-00050375

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-00050375) relating to Harrison OSHClub SE-40013142 (the Service) operated by OSHCLUB PTY LTD PR-40004402 (the Provider).
2. The notification of incident advised that on 1 July 2024, [REDACTED] (6yrs) was outside of the Service, alone and unsupervised for around six minutes.
3. The Authority is satisfied that the Provider did not comply with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in this instance. Web addresses to the Law and the associated *Regulations* are provided for your convenience at the end of this Decision.

Facts

4. On 2 July 2024, a notification of incident (NOT-00050375) was submitted to the Authority by the Provider advising that on 1 July 2024, [REDACTED] departed the Service (walked out) without anyone noticing and crossed the road. [REDACTED] was then sighted by his School Teacher (who was standing across the road), prompting the Teacher to phone the Service to retrieve [REDACTED]. Refer copy of the NOT-00050375 at Attachment A.
5. Additional information submitted with NOT-00050375 included the following:
 - Incident reflection;
 - Incident report.

Refer Attachment B.

6. On 5 July 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
 - Attendance records;
 - Rosters;
 - Detailed incident report.

Refer Attachment C.

7. NOT-00050375 further advised that steps taken by the Provider to prevent or minimise a similar incident included:

- A staff meeting to explain supervision around the service is going to happen every day from the 2/7 to the 8/7 to make sure staff understand the importance of child safety.
- A report has been made so that we can be checked to make sure we meet required standards to run a service.
- Incident reflection as well as supervision policy review to be undertaken during these meetings.

Law

8. The Notification engaged the following provisions of the *Law*:

Section 165(1) of the 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: \$11 400, in the case of an individual
\$57 400, in any other case.

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: \$11 400, in the case of an individual
\$57 400, in any other case.

Decision

9. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to support an offence under section 165 and 167 of the *Law* in this instance.
10. In relation to section 165 and 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were adequately supervised at all times (or protected from harm) while in the care of the Service on 1 July 2024.
11. The Authority is satisfied that the very nature of the matter notified, and additional information submitted by the Provider supports, on balance of probabilities, the offence being substantiated.
12. The Authority is satisfied that [REDACTED] was not adequately supervised; resulting in the him getting outside, onto the side of the road for 6 minutes, unnoticed by educators responsible for his education and care at the time.

13. 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.
14. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the advised of steps taken by the Provider to mitigate risk of a similar occurrence, the Authority has decided to issue this administrative action rather than statutory compliance actions to address the non-compliance.
15. This decision services to remind the Provider of their obligations and responsibilities under the *Law*, and to ensure that staffing and supervisory processes and educator practice is monitored regularly to ensure ongoing compliance with the *Law* and encourage continual improvements for outcomes for children.
16. 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.

Legislation

17. 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> . 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>.
18. Should you have any questions about this Decision please contact me at Vittorio.Colosimo@act.gov.au.

Yours Sincerely,



Vittorio Colosimo
A/g Assistant Director Investigations
Regulation and Compliance
Education Directorate

2 September 2024