

██████████
Person with Management or Control
Camp Australia Pty Limited
RE: Camp Australia - St Jude's Primary School OSHC
Email: ██████████

Dear ██████████

Decision to issue Administrative Action RE: NOT-40812333

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an assessment into Notification of Incident (NOT-40812333) relating to Camp Australia - St Jude's Primary School OSHC SE-40016130 (the Service), operated by Camp Australia Pty Limited PR-00002539 (the Provider).
2. Web addresses to the *Education and Care Services National Law (ACT)* (the Law) and the *Education and Care Services National Regulations 2011 (the Regulations)* are provided for your convenience at the end of this decision.

Facts

3. On 17 January 2023, the Authority received Notification of Incident (NOT-40812333) from the Provider, advising that the Service was closed on 19th to 23rd December 2022 due to a shortage of available educators in the area to support safety and supervision of children booked into care and all bookings were cancelled. Refer Attachment A

Law

4. Relevant provisions of the Law engaged by the notification are as follows:

Section 174 of the Law - Offence to fail to notify certain information to Regulatory Authority

- (2) An approved provider must notify the Regulatory Authority of the following information in relation to the approved education and care service operated by the approved provider –
 - (c) information in respect of any other prescribed matter.
- (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 175(2)(b) provides that, for the purposes of section 174(2)(c) of the Law, the following matter is prescribed –

- a) any incident that requires the approved provider to close, or reduce the number of children attending the education and care service.

Regulation 176(2)(c) provides that for the purposes of section 174 of the Law, a notice must be provided –

- b) in any other case, within 7 days of the relevant event or within 7 days of the approved provider becoming aware of the relevant information.


Reasons

5. Upon considering all information submitted by the Provider for assessment, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence to substantiate an offence under section 174 of the *Law*.
6. The Authority is satisfied that the Provider has not notified of a prescribed matter within the prescribed timeframe of 7 days as required by Regulation 176(2)(c), which engages a contravention of section 174(4)(a) of the *Law*.
7. Evidence supports that the incident occurred on 19 December 2022, it is reasonable that the Provider would have been aware of the service closure occurring in response to staff shortages, notification to the Authority of the matter should have occurred within 7 days, however, notification did not occur until 17 January 2023, outside of regulated timeframes outlined in Regulation 176(2)(c).
8. In deciding if compliance action should be taken, I have taken into account that:
 - c) The Service did take appropriate steps to ensure compliance with regulated staffing arrangements and safety of children; and
 - d) There have been no similar identified non-compliances in relation to the Service previously.
9. The Authority determined that due to this, the Authority will not be initiating statutory compliance action in this instance. This decision, however, is intended to bring to your attention the need to ensure that all notifiable incidents, complaints, and circumstances, as outlined under the *Law* and *Regulations* are notified by the Provider within the regulated timeframes.

Legislation

10. The *Law* applies to you as an approved provider and any approved service that the Provider operates.
11. 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>.
12. 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>
13. This Decision will be recorded on your Service 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 *Regulations* be found.
14. If you have any queries regarding this Decision, please contact me at janine.fairburn@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
ACT Education Directorate
8 February 2023