

██████████  
Person with Management or Control  
Camp Australia Pty Ltd  
RE: Camp Australia – St Jude’s Primary School OSHC  
Email: ██████████

Dear ██████████

**Decision to Issue Administrative Action RE: NOT-00023939**

1. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, recently assessed a Notification of Incident (NOT-00023939) relating to Camp Australia - St Jude’s Primary School OSHC SE-40016130 (the Service) operated by Camp Australia Pty Ltd PR-00002539 (the Provider).
2. The notified incident was submitted on 2 April 2024 and advised that on 22 February 2024 a child, (██████████ ██████████) climbed a small tree in the playground area where his foot became stuck in the branches, and he fell. The Provider states that the incident was not reported in the legislated timeframe due to an “admin error”.
3. The Authority is satisfied that the Provider has not complied with provisions of the *Education and Care Services National Law Act (ACT)* (the *Law*) in this instance. Web addresses for the *Law* and the *Regulations* are provided for your convenience at the end of this decision.

**Facts**

4. On 2 April 2023, the Authority received a Notification of Incident (NOT-00023939) from the Provider advising that, on 22 February 2024, an enrolled child, known to be ██████████ climbed and fell from a tree in the playground area of the Service. Refer copy of notification and additional documents also submitted at Attachment A.
5. On 24 April 2024, the Authority requested additional information from the Provider in relation to the notification. Additional information was submitted by the Provider via email and included copies of:
  - a. Information on risk mitigation strategies in place to ensure children do not climb or fall from trees or similar structures; and
  - b. A copy of the Outdoor Risk Assessment.

Refer Attachment B – Provider Response with Additional Information

**Law**

6. Provisions of the *Law* relevant to the notification assessment are:

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

- (1) The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared 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

### **Section 174(2)(a)**

174 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 an approved education and care service operated by the approved provider—

- (a) any serious incident at the approved education and care service;
- (b) any complaints alleging—
  - (i) that a serious incident has occurred or is occurring while a child was or is being educated and cared for by the approved education and care service; or
  - (ii) that this Law has been contravened;
- (c) information in respect of any other prescribed matters.

Penalty: \$4500, in the case of an individual. \$22 900, in any other case.

### **Reasons**

7. Upon considering all evidence for assessment, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence to substantiate an offence under sections 167 and 174 of the *Law* in this instance.
8. The Authority is satisfied that failure to adhere to the Provider's own Outdoor Risk Assessment dated 20 January 2022, contributed to [REDACTED] falling from the tree and breaking his arm. The Risk Assessment provided in Attachment C, states that children are "*not to climb on tree at any point of time for the purpose of play*" at page 2.
9. The Authority is satisfied that the Provider failed to notify the Regulatory Authority of the incident within the legislated timeframe, whereby the incident occurred on 22 February 2024 and the Provider did not advise the Regulatory Authority until 2 April 2024.
10. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the steps taken by the Provider to mitigate risk of a similar incident, the Authority has decided to issue this administrative action rather than statutory compliance actions.

11. This Decision is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, in particular the obligation to protect children from harm and any hazard likely to cause injury.
12. Furthermore, this Decision is issued to remind the Provider of their reporting obligations under s174 of the *Law*.
13. 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**

14. 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>.
15. 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>
16. If you have any questions in relation to this Decision, please contact me by email at [nicole.withers@act.gov.au](mailto:nicole.withers@act.gov.au).

Yours sincerely



Nicole Withers  
Assistant Director  
Children's Education and Care Assurance  
Education and Care, Regulation and Support

10 May 2024