

Person with Management or Control
OSHCLUB PTY LTD
RE: St Matthew's OSHClub

Email: [REDACTED]

Dear [REDACTED]

Decision to issue Administrative Action RE: NOT-00095201

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-00095201) relating to St Matthew's OSHClub SE-40020153 (the Service) operated by OSHCLUB PTY LTD PR-40004402 (the Provider).
2. The notification of incident advised that on 26 November 2024, the Service was out of ratio due to a last-minute staff cancellation.
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 27 November 2024, a notification of incident (NOT-00095201) was submitted to the Authority by the Provider advising that on 26 November 2024, a Randstad agency shift was cancelled last minute and unable to be backfilled, causing the Service to be out of ratio for the duration of the afternoon.
5. Please note, document referred to in paragraph 4 is not included. This document can be provided upon request.

Law

6. The Notification engaged the following provisions of the Law:

Section 169(1) of the Law - Offence relating to staffing arrangements

An approved provider of an education and care service must ensure that, whenever children are being educated and cared for by the service, the relevant number of educators educating and caring for the children is no less than the number prescribed for this purpose

Penalty: \$11 400, in the case of an individual

\$57 400, in any other case.

Decision

7. The Authority has noted the admission by the Provider of an offence under section 169 of the *Law* in this instance.
8. In relation to section 169 of the *Law*, the Authority is satisfied, that the Provider did not ensure that there was adequate staffing during operating hours of the Service on 26 November 2024.
9. The Provider must have a risk mitigation strategy in place at this Service, and any other Service they operate, to prevent reoccurrence of this incident.
10. 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.
11. 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.
12. 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.
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* 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>.
15. 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
Education and Care Regulation and Support
Education Directorate

19 December 2024