



Ms [REDACTED]  
Person with Management and Control  
Camp Australia Pty Limited  
RE: Camp Australia – Covenant Christian College OSHC

Email: [REDACTED]

Dear Ms [REDACTED]

### **Decision to issue Administrative Action**

1. The ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, is satisfied that Camp Australia Pty Limited, PR-00002539 (the Provider) was not complying with the provisions of the *Education and Care Services National Law (ACT)* (the Law) in respect to admissions made via several Notifications of Incident relating to the operation of Camp Australia – Covenant Christian College OSHC SE-40011723 (the Service).
2. Web addresses to 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 24 September 2020, the Authority issued the Provider statutory compliance action, which included imposing a condition on the Service’s approval as follows:  
  
*“For each day on which the Service is educating and caring for children, the Provider must roster one additional educator, for every 1 to 28 children booked in to attend the Service on that same day, in excess of the educators required to meet the minimum number prescribed by Regulation 123 (including provision of cover for all breaks or other times an educator is not working directly with children as defined by Regulation 13).”*
4. The condition came into force 14 days after the issue of the enforcement action of 24 September 2020 – being 7 October 2020.
5. On 18 February 2021, the Authority received a Notification of Incident (NOT-40511987) from the Provider advising that the Service was unable to meet the conditions of its approval by failing to have +1 over ratio educators in attendance. Refer Notification at [Attachment A](#).
6. On 1 March 2021, the Authority received a Notification of Incident (NOT-40515198) from the Provider advising that the Service was unable to meet the conditions of its approval by failing to have +1 over ratio educators in attendance. Refer Notification at [Attachment B](#).
7. On 16 March 2021, the Authority received a Notification of Incident (NOT-40520109) from the Provider advising that the Service was operated with only a second qualified educator for before school care on 15th March 2021. The service operated with two educators and two children. Both children were school aged. The non-compliance was discovered after the session had finished, during a review of rosters. Refer Notification at [Attachment C](#).

8. On 5 April 2021, the Authority received a Notification of Incident (NOT-40526950) from the Provider advising that the Service was operated without the mandated educators that is required on the service approval condition. The service operated with 13 children and 2 educators, and the Provider advised that they are currently experiencing a staffing shortage. Refer Notification at Attachment D.

## Law

9. The Notifications engage the following provisions of the *Law*:

### **Section 51 of the *Law* – Conditions on service approval**

- (1) A service approval is granted subject to the condition that the education and care service is operated in a way that –
- a) Ensures the safety, health and wellbeing of children being educated and cared for by the service; and
  - b) Meets the educational and developmental needs of the children being educated and cared for by the service.
- (5) A service approval is granted subject to any other conditions prescribed in the national regulations or imposed by –
- a) This Law; or
  - b) The Regulatory Authority
- (8) An approved provider must comply with the conditions of a service approval held by the approved provider.

### **Section 169(2) of the *Law* – Offence relating to staffing arrangements**

The approved provider of an education and care service must ensure that each educator educating and caring for children for the service meets the qualification requirements relevant to the educator's role as prescribed by the national regulations.

### **Regulation 261 - General qualifications for educators—children over preschool age—centre-based services**

- (1) For the purposes of regulation 126(2), the qualification requirement for educators at a centre-based service educating and caring for children over preschool age is at least 1 qualified educator for every 33 children.
- (2) If a qualified educator is absent from a centre-based service for not more than 2 weeks, the service may meet the requirement under subregulation (1) by providing that—
- (a) the qualified educator to child ratio is met by an educator other than a qualified educator; and
  - (b) at least 1 qualified educator is on duty at all times that children are in attendance at the service premises.
- (3) If a qualified educator resigns, the service may meet the requirement under subregulation (1) for up to 4 weeks after the resignation by providing that—
- (a) the qualified educator to child ratio is met by an educator other than a qualified educator; and
  - (b) at least 1 qualified educator is on duty at all times that children are in attendance at the service premises.

- (4) During school holidays and on pupil free days a centre-based service may meet the requirement under subregulation (1) by providing the relevant number of full-time equivalent qualified educator positions if—
  - (a) at least 1 qualified educator is on duty at all times that children are in attendance at the service premises outside the hours of the full-time equivalent positions; and
  - (b) the educator to child ratio is met by the educator referred to in paragraph (a) and educators other than qualified educators outside the hours of the full-time equivalent positions.
- (5) In this regulation **qualified educator** means an educator who is qualified in accordance with regulation 262.

**Regulation 262 - Required qualifications to be a qualified educator for children over preschool age**

- (1) The first educator required to meet the qualified educator to child ratio for children over preschool age must—
  - (a) hold a qualification that is published under regulation 137(2) in the list of approved qualifications for the first qualified educator working with children over preschool age for the Australian Capital Territory; or
  - (b) comply with the following—
    - (i) be enrolled in a course for a qualification that is included in the list referred to in paragraph (a); and
    - (ii) be able to demonstrate that he or she is continuing to study for that qualification; and
    - (iii) be approved by the Regulatory Authority to work as a qualified educator for children over preschool age.
- (2) All other educators required to meet the qualified educator to child ratio must—
  - (a) hold any qualification that is included in the list referred to in subregulation (1)(a); or
  - (b) hold a qualification that is published under regulation 137(2) in the list of approved qualifications for the second and subsequent qualified educators working with children over preschool age for the Australian Capital Territory.

**Reasons for Decision**

10. Having considered all the information provided in the Notifications, the Authority is satisfied that the Provider has failed to comply with the *Law*.
11. The information contained in the Notifications is an admission of a breach of section 51(8) of the *Law* – specifically in regard to NOT- 40526950. Furthermore, the information contained in NOT- 40520109 is an admission of a breach of section 169(2) of the *Law*, as the qualification requirements prescribed under *Regulations* 261 and 262 were not met.
12. In deciding if compliance action should be taken the Authority has considered that the Provider has advised of appropriate steps via booking caps being implemented for Term 2 which will not be lifted until the Provider has confidence that there are sufficient available educators to allow for further bookings to be made.
13. Furthermore, the Authority has considered that the Provider has been proactive in monitoring internally its compliance with the service approval condition and has advised the Authority

voluntarily of the identified non-compliance. Accordingly, the Authority will not be initiating statutory compliance action in this instance.

14. This decision, however, is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, in particular the obligations to ensure that the conditions of the service approval are always adhered to ensure that all children are adequately supervised at all times, and that every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.
15. This decision will be recorded on your service file and may be considered in any future applications for approvals, amendments or waivers. This decision may also be considered in determining any future regulatory action, should there be future breaches of the *Law* or *Regulations*.
16. Please be aware that any further contraventions of section 51(8) of the *Law* will be addressed via stronger statutory action.

#### **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>.
18. 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>
19. Should you have any queries regarding this Decision please contact me on (02) 6205 4309 or email [Janine.fairburn@act.gov.au](mailto:Janine.fairburn@act.gov.au).

Yours sincerely



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