



Ms [REDACTED]
Person with Management or Control
Camp Australia Pty Limited
Level 1 207 Waverley Rd
MALVERN EAST VIC 3145

Email: [REDACTED]
[REDACTED]

Dear Ms [REDACTED]

Decision to Issue Compliance Notice

1. I am a delegate of the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance. The Authority is the regulator of education and care services in the ACT and has the responsibility of monitoring and enforcing compliance with the Education and Care Services National Law (the Law) and the Education and Care Services National Regulations (the Regulations).
2. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, recently conducted unannounced compliance audits at all education and care services in the ACT operated by Camp Australia Proprietary Limited PR-00002539 (the Provider).
3. The offences relate to three of the five services not having adequate staffing arrangements to meet the requirements of the Regulations and a Show Cause Notice was issued on 26 October 2023. Refer to Attachment A.
4. The Provider’s response was received on 16 November 2023, refer to Attachment B.
5. The Authority has reviewed the response to the Show Cause.
6. The Authority notes the Provider has taken responsibility and implemented actions to rectify the non-compliance, however, no evidence was submitted supporting the practices.
7. The decision to issue the Compliance Notice aims to seek evidence supporting the effectiveness of actions to support implementation undertaken by the Provider in regard to Section 169 (2) engaging 167 of the Law.
8. To this end, The Authority is satisfied that the Provider did not comply with the provisions of the Law and is requesting evidence supporting the provider’s actions as articulated within the Show Cause.
9. Web addresses for the Law and the Regulations are provided for your convenience at the end of this notice.

Background Facts

10. Between 19 July and 24 August 2023, the Authority conducted compliance audits of the five ACT services approved under the Provider.

11. It was determined by the Authority that there were reasonable grounds to suspect that an offence under sections 167 and 169 of the Law had, or may have, occurred at three of the five services and a decision was made to issue the Show Cause Notice.
12. A Show Cause Notice was issued on 26 October 2023, and the Authority received the Provider's response on 16 November 2023.
13. The Provider has not refuted the allegations and within the Provider's response implemented actions to rectify the non-compliance.

Allegation one

14. The Show Cause Notice response referenced educator [REDACTED] was appropriately qualified during the audit on 8 August 2023, refer to extract below.

Additionally, as noted in Record of Compliance Audit, on 8 August 2023, [REDACTED] was also in attendance as an educator at the Service. [REDACTED] is appropriately qualified because she:

- (a) *holds a Masters of Teaching, which required completion of the equivalent of at least 2 years of full-time study; and*
- (b) *has over 1 years' experience working with children over pre-school age, having been employed by Camp Australia as an educator since 25 October 2021; and*

A copy of her qualifications have been placed in her staff record.

15. The educators staff record did not contain evidence of any relevant qualifications on 8 August 2023, in breach of Regulation 147. This breach has been identified after the fact and the intelligence has been obtained via the Provider's response to the Show Cause Notice.
16. Staff records when requested to be sighted by Authorised Officers are required to pertain current information and include any relevant qualifications held by staff member.
17. The Provider is required to respond to the Authority's request for evidence in regard to Regulation 147, refer to Compliance Notice at Attachment C.
18. The evidence gathered by the Authorised Officer supports contraventions of the Law and Regulations have taken place. Further information follows and each contravention has been set out within this decision.
19. The Show Cause Notice response notes steps undertaken by Camp Australia to address non-compliance, refer to extract below.

1.4 Camp Australia also notes that it has taken the following steps to ensure ongoing compliance with the National Law at the Service:

1.4.1 On 8 September 2023 Camp Australia appointed [REDACTED] to be the new Service Manager at the Service. One of the responsibilities of the Service Manager is to work closely with the Regional Manager and Workforce Planning Camp Australia L1, 207-213 Waverley Rd. Malvern East, VIC 3145 email@campaustralia.com.au www.campaustralia.com.au p: 1300

105 343 f: (03) 8610 2044 Camp Australia Proprietary Limited ABN: 96 060 703 120 Team to ensure that rosters meet the required ratio of appropriately qualified educators to children attending the Service.

1.4.2 The General Manager and Camp Australia records team contacted all ACT educators to obtain copies of their current qualifications and transcripts to identify appropriately qualified educators. Copies of the documents obtained have been uploaded to each educator's employee file.

1.4.3 Implemented an ACT roster review meeting that occurs every 5 weeks, commencing 5 September 2023. That meeting will be attended by the Rostering business partner, Regional Manager, Operations Manager, and General Manager. This meeting aims to identify any qualification gaps in rosters and ensure the appropriate qualified educator-to-children ratio is met. This practice has helped to identify newly qualified educators who can be rostered to fill gaps across multiple services.

1.4.4 On her return from leave in August 2023, Operations Manager, [REDACTED] was appointed to work alongside the Rostering Business Partner to fill and review ACT rosters daily to ensure that the ratio of qualified educators to children is met. When known prior to session commencing that Camp Australia will not meet ratio, every attempt to comply will be made with educators being contacted to move from another service, cancel bookings to reduce the ratio and ask for school support to supervise children where possible.

1.5 Finally, since the compliance audit, [REDACTED] has met the requirements to become a 2nd qualified educator. She holds a Diploma in Leadership and Management. As at 22 September 2023, [REDACTED] had also completed 1 year of employment with Camp Australia

20. The Authority was not provided with any evidence aligning with the actions undertaken by the provider to be in practice ensuring compliance is met.
21. The Authority is seeking evidence supporting the actions undertaken by the provider ensuring compliance can be met in the future around rostering, staffing and qualifications.

Allegation two

22. The Show Cause Notice response stepped out actions undertaken to meet compliance with the Law, refer to extracts below.
 - i. In addition to the changes identified in paragraphs 1.4.3 - 1.4.4 above, Camp Australia has taken the following steps to ensure compliance with the National Law:
 - (a) Camp Australia has applied for a waiver while recruitment for a Diploma qualified educator is underway. This has been approved until April 2024.
 - (b) Camp Australia has ensured it has a central record of each Services' waiver conditions and the date of waiver expiry for those waivers. The administration team reviews the waiver records on a monthly basis to identify any waivers that are close to

expiry and escalates these to the relevant Regional Manager and General Manager to determine whether a new waiver should be applied for.

- ii. *2.6 In response to the incident on 11 August 2023, in addition to the changes identified in paragraphs 1.4.3 - 1.4.4 above, Camp Australia has taken the following steps to ensure compliance with the National Law:*

2.6.1 Educator, [REDACTED], who holds a Certificate III in Early Childhood Education and Care, is enrolling in a Diploma of Early Childhood Education and Care and is expected to completed that qualification in 2024. Consequently, Camp Australia will have an additional educator to support the Service care for pre-school aged children in situations where [REDACTED] is not able to attend the Service.

2.6.2 Camp Australia has included a requirement for an additional educator in the Service's roster to support the supervision of children. This person currently holds qualifications for school age children and recruitment is underway for an additional educator who holds a Diploma for pre school age children.

2.6.3 Camp Australia has reviewed its ACT educators' qualifications to identify the educators who hold a Diploma level qualification to support the Service in the event of the absence of people qualified to care for pre-school aged children. Having identified that there are no additional Diploma qualified educators, Camp Australia commenced recruitment for educators who hold a Diploma of Early Childhood Education and Care to increase the pool of available educators Camp Australia can call upon in the event of an absence.

- iii. *Camp Australia is committed to ensuring that it complies with its obligations under the National Law and Regulations and that it continues to provide high quality education and care services. Consequently, Camp Australia has also taken the following additional actions to ensure compliance with the National Law:*

4.1.1 Requested that its employees update their qualifications in their employee file. Camp Australia will conduct a review of educators' employee files at the roster review meetings referred to above. Every 6 months, employees will be reminded to update their employee files with any additional qualifications.

4.1.2 Camp Australia is introducing a new applicant tracking system (ATS) for its employees, to support their onboarding, engagement and management of their employee files. This system is currently being integrated into Camp Australia's current systems.

4.1.3 Continued to offer its referral program whereby staff are rewarded with \$500 for referring an educator who is subsequently employed by Camp Australia.

4.1.4 Implemented a \$1,500 sign-on bonus for new employees.

4.1.5 Expanded its recruitment strategy to specifically target a 'mature workforce' who may have previously worked in the childcare sector and are looking to re-join. The recruitment is focussed on those with relevant experience and qualifications such as retired teachers or childcare educators. 4.1.6 Committed to bi-annual meetings with the Directorate to discuss Camp Australia's operations, including Camp Australia's workforce. The purpose of this meeting will be to provide open and transparent

communication about the challenges facing Camp Australia, as well as the initiatives being undertaken to address those challenges and ensure compliance with the National Law.

23. The Authority was not provided with any evidence supporting the actions undertaken by the provider, no documentation was submitted highlighting the effectiveness of the methods validating the practice to ensure future compliance is met.
24. The Authority is seeking evidence supporting the actions implemented by the provider.

Allegation three

25. The Show Cause Notice response stepped out actions undertaken to meet compliance with the Law, refer to extracts below

- i. *3.3.1 Camp Australia previously had in place a waiver that allowed the Service to care for pre-school aged children without a Diploma qualified educator in attendance, however, that waiver expired on 9 May 2023.*
- ii. *3.3.2 Camp Australia's management team was unaware that the waiver had expired and missed the opportunity to apply for a new waiver.*
- iii. *3.3.3 Camp Australia has investigated the issue and identified that this was not seen by the previous nominated supervisor on their visits to the service. Camp Australia did not realise they needed to apply for a new waiver with the change of Coordinator that occurred in February 2023, as the waiver was in place at that time.*
- iv. *3.3.4 In addition to the changes identified in paragraphs 1.4.3 - 1.4.4 above, Camp Australia has taken the following steps to ensure compliance with the National Law:*
 - (a) Camp Australia has applied for a waiver while recruitment for a Diploma qualified educator is underway. This has been approved until April 2024.*
 - (b) Camp Australia has ensured it has a central record of each Services' waiver conditions and the date of waiver expiry for those waivers. The administration team reviews the waiver records on a monthly basis to identify any waivers that are close to expiry and escalates these to the relevant Regional Manager and General Manager to determine whether a new waiver should be applied for.*

26. The Authority was not provided with any evidence supporting the actions undertaken by the provider, no documentation was submitted highlighting the effectiveness of the methods validating the practice to ensure future compliance is met.
27. The Authority is seeking evidence supporting the actions implemented by the provider.

Law and Regulations

Legislative Provisions Relevant to Compliance Audit

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 cared for by the service from harm and from any hazard likely to cause injury.

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

An 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 126 - Centre-based services—general educator qualifications

- (1) The qualification requirements for educators at a centre-based service educating and caring for children preschool age or under are as follows—
 - (a) at least 50 per cent of the educators who are required to meet the relevant educator to child ratios for the service must have, or be actively working towards, at least an approved diploma level education and care qualification; and
 - (b) all other educators who are required to meet the relevant educator to child ratios for the service must have, or be actively working towards, at least an approved certificate III level education and care qualification.
- (1A) The qualification requirements in subregulation (1)(b) do not apply to an educator if the educator has been employed by an approved provider on a probationary basis for not more than 3 months, at one or more centre-based services operated by the approved provider.
- (2) The qualification requirements for educators at a centre-based service educating and caring for children over preschool age in a jurisdiction are the qualification requirements (if any) set out in Chapter 7 for that jurisdiction.

Regulation 147 – Staff members

The staff record must include the following information in relation to staff members—

- (a) the full name, address and date of birth of the staff member;
- (b) evidence—
 - i. of any relevant qualifications held by the staff member; or
 - ii. if applicable, that the staff member is actively working towards that qualification as provided under regulation 10;
- (c) evidence of any approved training (including first aid training) completed by the staff member;
- (d) if the education and care service is located in a jurisdiction with a working with children law or a working with vulnerable people law, a record of the identifying number of the current check conducted under that law and the expiry date of that check, if applicable, unless paragraph (e) applies;
- (e) except in the case of New South Wales, Queensland and Tasmania, if the staff member has provided proof of the staff member's current teacher registration under an

- education law of a participating jurisdiction, a record of the identifying number of the teacher registration and the expiry date of that registration;
- (f) in relation to Tasmania, a record of the identifying number of the staff member's current working with vulnerable people registration and the expiry date of that registration.

Compliance History

28. In determining appropriate compliance action, I have considered the compliance history of the Provider's services in the ACT relating to this Decision.

Decision

29. Considering the evidence obtained, the Response to the Notice, the Provider's compliance history in the ACT, and the objectives and guiding principles of the Law, I have determined that issuing a Compliance Notice would be appropriate and in the best interests of children.
30. The Authority is empowered to issue a compliance notice under section 177 of the Law.

177 – Compliance notices

- (1) This section applies if the Regulatory Authority is satisfied that an education and care service is not complying with any provision of this Law.
- (2) The Regulatory Authority may give the approved provider a notice (a compliance notice) requiring the approved provider to take the steps specified in the notice to comply with that provision.
- (3) An approved provider must comply with a compliance notice under subsection (2) within the period (being not less than 14 days) specified in the notice.

Penalty: \$6 000, in the case of an individual
 \$30 000, in any other case.

31. The compliance notice is [Attachment C](#) to this Decision letter. You are required to take the steps directed in the Notice to comply with the relevant provisions.
32. You must produce evidence of the steps required by the times indicated for each step within the Notice at [Attachment C](#).

Rights of Review

33. A decision to issue a compliance notice and a decision to impose a condition on a service approval are reviewable decisions as defined in Section 190 of the Law. Under section 191 of the Law, you may apply for an internal review of these decisions or either of them. Any application must be lodged within 14 days after you are notified of the decision (or, if not notified, within 14 days after becoming aware of the decision).

34. An application for review may be made by completing the form AR01 Application for Internal Review of Reviewable Decision which can be obtained from the ACECQA website.

Legislation

35. The Education and Care Services National Law applies to you as a provider and any service you operate. The National 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>
36. The National Law is made up of an Act and Regulations which can be viewed at: <http://www.acecqa.gov.au/national-law>, and <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>
37. Should you have any questions about this Decision, the Condition, or the Compliance Notice please contact me at delphine.coutin@act.gov.au

Yours Sincerely



Delphine Coutin
Assistant Director, Audit and Risk Management
Education and Care Regulation and Support
ACT Education Directorate

13 December 2023