Child Care and Education Services
Disciplinary Penalties Database

January 2005 – June 2017

Contents
CEO Of The Department Of Local Government And Communities, Horizons
Childhood Learning Centres Pty Ltd- by consent ............................................. 3
CEO Of The Department Of Local Government And Communities, The Catholic
Education Commission Of Western Australia Trustees Association (Inc)- by consent5
CEO Of The Department Of Local Government And Communities, Christian Youth
Camps Wa Inc- by consent .................................................................................. 6
CEO Of The Department Of Local Government And Communities, The Young Men's
Christian Association Of Perth Inc.- by consent ................................................ 7
Chief Executive Officer Of The Department Of Local Government and Communities
and Buzy Kidz Care Centre- by consent ............................................................. 7
Department Of Local Government And Communities and One Tree Community
Services- by consent .......................................................................................... 8
Department Of Local Government And Communities and North Perth Out Of School
Care Centre Inc- by consent ............................................................................... 9
Department of Local Government and Communities and Cachet Holdings Pty Ltd- by
consent .............................................................................................................. 10
Department of Local Government and Communities and Cachet Holdings Pty Ltd- by
consent .............................................................................................................. 13
Department of Local Government and Communities and Camp Australia Pty Ltd- by
consent .............................................................................................................. 15
CEO Of The Department Of Local Government And Communities and Ana-Lara
Skinner- by consent ......................................................................................... 18
CEO Of The Department Of Local Government and Communities and Raff
Investment Holdings Pty Ltd- by consent .......................................................... 21
Department Of Local Government And Communities and LPR Holdings Pty Ltd- by
consent .............................................................................................................. 23
Department of Local Government and Communities and Aquis Pty Ltd Trading As
Middle Swan Child Care Centre- by consent .................................................... 24
Department of Local Government and Communities and Oshclub Pty Ltd T/As
Sposci Oshclub- By consent .......................................................................................................................... 25
Department of Local Government and Communities and QJP Holdings Pty Ltd T/As
Pioneer Village After School Care- by consent ............................................................................................. 25
CEO of the Department of Local Government and Communities and Funtrain Enterprises Pty Ltd- by consent .......................................................................................................................... 26
Department of Local Government and Communities and Young Men's Christian Association of Perth Inc - by consent .......................................................................................................................... 28
Department of Local Government and Communities and Marilandy Pty Ltd - by consent.................................................................................................................................................................................. 30
Department of Local Government and Communities and Kahlia Holding Pty Ltd Trading as Ladybugs Out Of School Care ANZAC - by consent ................................................................. 32
Department of Local Government and Communities and Camp Australia Pty Ltd- by consent........................................................................................................................................................................... 33
Department Of Local Government and Communities and Ciilmooge Pty Ltd Trading As Ready Set Grow Family Day Care - by consent ................................................................................................. 35
Department of Local Government and Communities and Emma Jane Chapman- by consent.................................................................................................................................................................................. 38
Department of Local Government and Communities and Jaliz Enterprises Pty Ltd T/As Bluebird Afterschool & Vacation Care- by consent ................................................................. 39
Department of Local Government and Communities and The Salvation Army
(Western Australia) Property Trust - by consent .............................................................................................. 40
Department of Local Government and Communities and Embracing Children Karratha Pty Ltd & Michelle Louise Pisani- by consent ................................................................................................. 43
Department for Local Government and Communities and ES5 Pty Ltd- by consent 45
Department for Local Government and Communities and TCC (WA) Pty Ltd T/As Kidz Biz Sport and Recreation East Butler - by consent ............................................................................................ 47
Department for Local Government and Communities and Aalbubre Pty Ltd T/As Snugglepot Child Care Centre & Figredo - by consent ............................................................................................. 49
Department For Communities and Shemlex Pty Ltd T/As Buggles Child Care Maddington- by consent ......................................................................................................................................................... 50
Department for Communities and Safe N Sound Daycare Centre- by consent........................................... 52
Chief Executive Officer of Department For Communities and TCC (Wa) Pty Ltd trading as Kidz Biz Early Learning Centre Jindalee- by consent .................................................................................. 53
Chief Executive Officer of Department for Communities and Katie Blythe Pitchford Trading as Como Children- by consent.................................................................................................................. 54
**CEO Of The Department Of Local Government And Communities, Horizons Childhood Learning Centres Pty Ltd- by consent**

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 60 of 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education And Care Services National Law (WA) Act 2012</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>20 June 2017</td>
</tr>
<tr>
<td>Finding:</td>
<td>There is proper cause for disciplinary action against the Respondent (&quot;Horizons CLC&quot;) under section 188B of the Schedule to the Education and Care Services National Law (WA) Act 2012 (&quot;the National Law&quot;).</td>
</tr>
<tr>
<td>Conduct:</td>
<td>On 25 January 2017 Horizons CLC contravened section 165(1) of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service.</td>
</tr>
</tbody>
</table>
| Relevant Factors:  | Horizons CLC submits and the Department accepts the following matters in mitigation:  
1. The non-verbal autistic child has been with the Service for over a year. Horizons CLC has worked closely with his family over this time to accommodate his needs including an appreciation for his condition and what makes him feel comfortable such as allowing him to be barefoot in care and have freedom of movement around the room.  
2. Working closely with his family Horizons CLC accommodated their requests wherever possible putting on additional staff to care for him including on the day in question where ISS funding was not available. As he is non verbal and known to run as noted by the family, this was considered |
necessary and funded by Horizons CLC. The family has always acknowledged the support of Horizons CLC and since the incident recommended another family to our service who have an autistic child.

3. The owners of Horizons CLC have been operating child care services within Western Australia for 20 years without any issues around ensuring the health and safety of the children within our care.

4. Horizons CLC understand their obligations and have a good history of reporting all incidents and reported this event as soon as possible being the morning of the 26th which was a public holiday.

5. Consideration was constantly given to where the child was enrolled to ensure his safety being non verbal autistic and a history of running. On Monday the 23rd of January he was cared for in Horizon CLC’s Long Day Care as the excursion at Winterfold was considered a risk and an ISS support worker was available for him in the Long Day Care.

6. Given he was non verbal autistic and known to run, Horizon CLC’s Director had suggested to the family that he be cared for in the Long Day Care for this vacation care period. However in recognition that he was school aged and his families’ request for him to be part of the vacation care program he was cared for in the OSHC service where it was possible based on activities. Additional staff were employed at Horizon CLC’s expense with ISS funding not available in the Outside School Hours Care service.

7. A risk assessment and behaviour management plan was in place and made available to educators. Key action points in his management and care were a daily discussion between educators when he was with Horizon CLC as his behaviour could be challenging (ie climbing and running a lot).

8. Procedures were in place and well understood by all staff members to mitigate any risks given as a non verbal autistic child he was very mobile and liked to run a lot without him knowing or understanding potential outcomes of his actions. Not following those procedures led to this incident and as such disciplinary action was taken against the Certified Supervisor and her position terminated. In acknowledgment and despite it not being required, she has voluntarily handed her supervisors certificate back to the Department.

9. Staffing above ratio requirements were in place at the time of the incident and the mix of educators was balanced with qualified experienced educators. All children were intimately known to one or more staff members as regular educators.

10. In addition to the disciplinary action for the staff member noted, Horizons CLC has immediately taken a number of additional actions to prevent any further incidents including
making compulsory the pre-vacation care meetings, reorientating staff on policies and procedures and ensuring appropriate assessment together with funding being in place before consideration can be given to accepting into care autistic and other similar diagnosed conditions.

| Penalty: | Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Horizons CLC must pay to the Department a penalty of $12,000 for the breach of section 165(1) of the National Law |
| Costs:   | Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Horizons CLC must pay to the Department an agreed contribution of $1,000 toward the Department’s legal costs of these proceedings |

### CEO Of The Department Of Local Government And Communities, The Catholic Education Commission Of Western Australia Trustees Association (Inc)- by consent

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 86 of 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education And Care Services National Law (WA) Act 2012</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>9 June 2017</td>
</tr>
<tr>
<td>Finding:</td>
<td>There is proper cause for disciplinary action against the Respondent (“CECWATA”) under section 188B of the Schedule to the Education and Care Services National Law (WA) Act 2012 (“the National Law”).</td>
</tr>
<tr>
<td>Conduct:</td>
<td>On 2 February 2017 CECWATA contravened section 165(1) of the National Law by failing to ensure that children receiving education and care at its service were adequately supervised at all times the children were in the care of the service.</td>
</tr>
<tr>
<td>Relevant Factors:</td>
<td>CECWATA submits and the Department accepts the following matters in mitigation: 1. CECWATA promptly notified the Department of the incident and fully cooperated with the Department’s investigation; 2. Since the incident, CECWATA has installed a new swipe card mechanism on the gate to further secure its operation. All parents and staff have been issued with a swipe card, the use of which is now the only way to enter and exit the gate.</td>
</tr>
<tr>
<td>Penalty:</td>
<td>Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, CECWATA must pay to the Department a penalty of $8000 for the breach of section 165(1) of the National Law.</td>
</tr>
<tr>
<td>Costs:</td>
<td>Within 28 days of the date of this order, or within such other</td>
</tr>
</tbody>
</table>
time as agreed in writing between the parties within the 28 days, CECWATA must pay to the Department an agreed contribution of $1,000 toward the Department’s legal costs of these proceedings.

| CEO Of The Department Of Local Government And Communities, Christian Youth Camps Wa Inc- by consent |
| Matter No: | VR 222 of 2016 |
| Act: | Education And Care Services National Law (WA) Act 2012 |
| Date of Order: | 15 March 2017 |
| Finding: | There is proper cause for disciplinary action against the Respondent ("CYC") under section 188B of the Schedule to the Education and Care Services National Law (WA) Act 2012 ("the National Law"). |
| Conduct: | 1. On 12 October 2016 CYC contravened section 165(1) of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service |
| | 2. On 14 October 2016 CYC contravened section 174(2) of the National Law by failing to notify the Regulatory Authority in writing within the prescribed time of a complaint alleging either that the safety, health or wellbeing of a child or children was or is being compromised while that child or children is or are being educated and cared for by the approved education and care service; or that the National Law had been contravened. |
| | 3. On 12 October 2016 the CYC contravened regulation 136(1)(a), (b) and (c) of the Education and Care Services National Regulations 2012 ("the national regulations") by failing to ensure that at least one educator, who held a current approved first aid qualification and had undertaken current approved anaphylaxis management training and current approved emergency asthma management training, was in attendance at any place where children were being educated and cared for by the service, and immediately available in an emergency, at all times that children were being educated and cared for by the service. |
| Relevant Factors: | A number of procedures and policies have been implemented in relation to the alleged breaches. |
| Penalty: | 1. CYC is reprimanded for all contraventions. |
| | 2. Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 |
Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, CYC must pay to the Department toward the Department’s legal costs of these proceedings an agreed contribution of $1,000.

**CEO Of The Department Of Local Government And Communities, The Young Men’s Christian Association Of Perth Inc.- by consent**

| Matter No: | VR 221 of 2016 |
| Act:       | *Education And Care Services National Law (WA) Act 2012* |
| Date of Order: | 22 February 2017 |
| Finding: | There is proper cause for disciplinary action against the Respondent (YMCA) under section 188B of the Schedule to the Education and Care Services National Law (WA) Act 2012 (the National Law). |
| Conduct: | On 30 September 2016 YMCA contravened section 165(1) of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of that service. |
| Relevant Factors: | - |
| Penalty: | Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, YMCA must pay to the Department a penalty of $15,000. |
| Costs: | - |

**Chief Executive Officer of The Department of Local Government and Communities and Buzy Kidz Care Centre- by consent**

| Matter No: | VR 187 of 2016 |
**Act:**  
*Education And Care Services National Law (WA) Act 2012*

**Date of Order:** 5 December 2016

**Finding:** There is proper cause for disciplinary action against the respondent.

**Conduct:** On 4 July 2016 Buzy Kidz contravened s 167(1) of the National Law by failing to ensure that every reasonable precaution was taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause injury.

**Relevant Factors:** N/A

**Penalty:** Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Buzy Kidz must pay to the Department a penalty of $6,000 for the breach of s 167(1) of the National Law.

**Costs:** N/A

---

**Department Of Local Government And Communities and One Tree Community Services- by consent**

**Matter No:** VR 128 of 2016

**Act:**  
*Education And Care Services National Law (WA) Act 2012*

**Date of Order:** 14 November 2016

**Finding:** There is proper cause for disciplinary action against the respondent.

**Conduct:** On 27 June 2016, One Tree Community Services contravened s 165(1) of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service;

**Relevant Factors:** One Tree Community Services submits, and the Department accepts, that One Tree Community Services has taken the following steps in mitigation to address the incident and prevent future instances, including:

1. Recommending disciplinary action against the offending staff member, Debra Ross, in the form of a first and final warning, in light of her impeccable record;
2. Reviewing and amending the Service’s Risk Management Plan to include provision for a breakin;
3. Installing a whiteboard near the rear exit to record when daily morning checks have been completed, recording the person responsible and time;
4. Installing childproof padlocking systems on all outside gates;
5. Issuing all educators across the Service with a memorandum regarding completion of Work Health and Safety Checks, which were signed and placed in each employee’s file to confirm their understanding of their legal requirements and responsibilities;
6. Cautioning and reminding all educators about the importance of supervision and engaging directly with children during group times; and
7. Implementing and adopting new procedures in the event of a break-in at the service.

**Penalty:**
Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, One Tree Community Services must pay to the Department a penalty of $9,000, for the breach of s 165(1) of the National Law.

**Costs:**
Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, One Tree Community Services must pay to the Department a contribution toward the Department's legal costs of these proceedings assessed in the amount of $1,500.

---

**Department Of Local Government And Communities and North Perth Out Of School Care Centre Inc- by consent**

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 101 of 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education And Care Services National Law (WA) Act 2012</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>26 August 2016</td>
</tr>
<tr>
<td>Finding:</td>
<td>There is proper cause for disciplinary action against the respondent.</td>
</tr>
</tbody>
</table>
| Conduct:            | 1. On 19 April 2016 NORPOSC contravened section 165 (1) of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service.
2. NORPOSC contravened regulation 177(2) of the National Regulations by failing to take reasonable steps to ensure that the children's attendance record as set out in regulation 158 was accurate.
3. NORPOSC contravened section 173(1) of the National Law |
by failing to notify the regulatory authority in writing within the prescribed time of any appointment or removal of a person with management and control of an education and care service operated by the approved provider.

4. NORPOSC contravened section 162(1) of the National Law by failing to ensure that a "responsible person" as defined in subsection 162(1) (a), (b) or (c) was present at all times the service was operating.

5. NORPOSC contravened section 169(1) of the National Law by failing to ensure that the relevant number of educators educating and caring for the children present at the service on 19 April 2016 was no less than the number prescribed for that purpose.

<table>
<thead>
<tr>
<th>Relevant Factors:</th>
<th>N/A</th>
</tr>
</thead>
</table>
| Penalty:          | 1. NORPOSC is reprimanded for the contraventions.  
2. Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, NORPOSC must pay to the Department a penalty of $36,700 being:  
(a) $35,000 for the breach of section 165(1) of the National Law,  
(b) $1,500 for the breach of section 173(1) of the National Law, and  
(c) $200 for the breach of regulation 177(2) of the National Regulations. |
| Costs:            | Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, NORPOSC must pay to the Department a contribution toward the Department’s legal costs of these proceedings assessed in the amount of $3,000. |

---

**Department of Local Government and Communities and Cachet Holdings Pty Ltd- by consent**

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 82 of 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education And Care Services National Law (WA) Act 2012</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>19 July 2016</td>
</tr>
<tr>
<td>Finding:</td>
<td>There is proper cause for disciplinary action against the respondent.</td>
</tr>
</tbody>
</table>
**Conduct:**

1. Cachet Holdings holds and on all relevant dates below held a service approval under the National Law to operate an education and care service at ("the Service"), subject to the National Law and the *Education and Care Services National Law Regulations 2012* (WA) ("National Regulations").

2. On 19 January 2016 and 8 year old child enrolled at and attending the Service was left unsupervised at a public toilet block while on excursion to Yanchep National Park and his absence unnoticed for approximately 30 minutes until a member of the public found him and went to find the Respondent’s educators.

3. The toilet block was situated close to a car park. The excursion was located near a significant water hazard.

4. The child has a hearing impediment requiring the use of hearing aids, and this was known to the Respondent’s educators, but no additional supervision measures were put in place specifically to take account of these hearing issues.

5. There were 35 children on the excursion with 4 educators. While there were procedures for counting the total number of children at different times, the educators were not each assigned certain children to supervise and did not have a list of all or assigned children on the excursion that could be ticked off on a roll call.

6. Cachet Holdings thereby contravened section 165 of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service.

7. Because of the agreed contraventions of the National Law, grounds for disciplinary action exist under section 188B(2) of the National Law.

**Relevant Factors:**

Cachet Holdings submits and the Department accepts the following matters in mitigation:

8. Cachet Holdings notified the Department within 24 hours and commenced its own internal investigation.

9. On the morning of the incident, the Nominated Supervisor discussed the hearing impediment with the child's mother. No additional measures were necessary for the
excursion as the child has full hearing with his hearing aids and is fully able to manage these.

10. The child followed the safety procedure to wait with the children’s bags at the designated meeting point if separated from the group, which was in sight of the toilet block and the centre buses.

11. Following the incident, all OSHC Educators attended externally sourced supervision training. Cachet Holdings have provided additional support for the educators with a dedicated OSHC Coordinator for the service.

12. The respondent reviewed and updated the supervision policy, supervision procedures and risk assessment formats to include an action plan for unaccounted for children.

13. In-depth review of the company excursion procedure – Reinforced the use of coloured wristbands and coloured bibs for younger children. Implemented a roll call system for each educator on excursion. Each Educator allocated a group of children with a list of names to check off with emergency contacts for each child. Educators complete visual checks and roll calls throughout the excursion and at transition times, when leaving the excursion and upon arrival back at the service. Complete list of all children on the excursion given to each educator. Nominated supervisor to complete full roll call and check off children against list throughout the excursion.

14. The respondent conducted a companywide review to assess the need for excursions. To reduce the potential risks to children further, incursions will replace excursions for the time being.

15. The child remains enrolled at the service.

16. The respondent admitted liability in the early stages of the investigation and fully assisted with the Department’s investigation.

17. The respondent has shown genuine remorse for the incident and have shown the contravention did not occur through wilful misconduct, wilful neglect or mala fides on the part of the Service or its employees.
18. The respondent has demonstrated genuine contrition and a desire to ensure a similar contravention does not occur.

**Penalty:**
Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Cachet Holdings must pay to the Department a penalty of $9,500, for the breach of section 165 of the National Law.

**Costs:**
Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Cachet Holdings must pay to the Department a contribution toward the Department's legal costs of these proceedings assessed in the amount of $1,500.

---

**Department of Local Government and Communities and Cachet Holdings Pty Ltd- by consent**

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 73 of 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td>Education And Care Services National Law (WA) Act 2012</td>
</tr>
<tr>
<td>Date of Order:</td>
<td>19 July 2016</td>
</tr>
<tr>
<td>Finding:</td>
<td>There is proper cause for disciplinary action against the respondent.</td>
</tr>
<tr>
<td>Conduct:</td>
<td>Cachet Holdings contravened section 165 of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service.</td>
</tr>
</tbody>
</table>
| Relevant Factors:| 1. Cachet Holdings notified the Department within 24 hours and commenced its own internal investigation.  
2. On the morning of the incident, the child expressed his desire to return home to his mother who was home sick for the day.  
3. On the afternoon of the incident, the service supervision plan was reviewed to include recognition of the blind spot and implementation of additional safety measures, including locking the access gates between 9am and 2pm.  
4. Immediate changes made to the roster to rectify the shortcoming in the mornings. Re-evaluation of the rosters to realign the service with Company procedure. |
5. The respondent reviewed the supervision policy, supervision procedures and risk assessments to include an action plan for unaccounted for children.
6. Educators were supported and trained. In the following weeks, the respondent arranged an external training company to conduct an onsite service consultation, educating staff to look for risks, supervise the environment and the importance of the Regulations.
7. Externally sourced supervision training provided for all OSHC educators employed by the respondent.
8. Nominated Supervisor attended regulations training.
9. The child remained enrolled at the service, the respondent relocated him to the Long Day Care Centre whilst conducting a 4 year old risk assessment to ensure the service has an appropriate level of supervision and safety at all times.
10. The parent has requested the child return to the Broome North OSHC service.
11. The respondent admitted liability at the early stages of the investigation and have fully assisted with the Departments investigation.
12. The respondent has shown genuine remorse for the incident and have shown the contravention did not occur through wilful misconduct, wilful neglect or mala fides on the part of the Service or its employees.
13. The respondent has demonstrated genuine contrition and a desire to ensure a similar contravention does not occur.

**Penalty:**
Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Cachet Holdings must pay to the Department a penalty of $18,500, being:
(a) $8,500 for the breach of section 165 of the National Law; and
(b) $10,000 for the 5 breaches of section 169(1) of the National Law.

**Costs:**
Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Cachet Holdings must pay to the Department a contribution toward the Department’s legal costs of these proceedings assessed in the amount of $1,500.
Department of Local Government and Communities and Camp Australia Pty Ltd- by consent

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 107 of 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education And Care Services National Law (WA) Act 2012</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>1 March 2016</td>
</tr>
<tr>
<td>Finding:</td>
<td>There is proper cause for disciplinary action against the respondent.</td>
</tr>
</tbody>
</table>
| Conduct:  | The parties have agreed the following relevant facts:  
1. Camp Australia holds, and on all relevant dates below held, a service approval under the National Law to operate an education and care service at Cloverdale Primary School, 180 Fisher Street, Cloverdale, subject to the National Law.  
2. In the afternoon of 27 October 2015 at approximately 3.45pm, a seven-year-old child enrolled at and attending the service left the service on his own. The child was found at 4.10pm in the backyard of a member of the public near the school grounds, who contacted Cloverdale Primary School on noting the child’s school uniform.  
3. The child remained absent from and unsupervised by the service from 3.45pm until school staff came to the house of the member of the public to collect the child at 4.10pm.  
4. Camp Australia thereby contravened s 165(1) of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service.  
5. The facts set out in paragraphs 2 to 4 above constitute a serious incident as prescribed by regulation 12(d)(i) of the *Education and Care Services National Regulations 2012* (National Regulations) requiring notification to be made.  
6. Section 174(4) of the National Law required that notification be made within the prescribed time, and regulation 174(2)(a)(ii) of the National Regulations prescribed this to be within 24 hours of the incident or of the time the person became aware of the incident.  
7. On and after the afternoon of 28 October 2015, Camp Australia contravened s 174(2)(a) of the National Law by |
Relevant Factors:

<table>
<thead>
<tr>
<th>Relevant Factors:</th>
<th>applicant submits and the respondent accepts the following matters are circumstances of aggravation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>The child who left the service unsupervised was diagnosed as Down Syndrome, low-functioning, non-verbal and on the autism spectrum, and small for his age. He was particularly vulnerable.</td>
</tr>
<tr>
<td>2.</td>
<td>The child left the service unnoticed and ended up in the backyard of a member of the public near the school grounds. His route there likely crossed a road with traffic hazards. The child wandered into a stranger’s yard containing various potential hazards, including a large dog.</td>
</tr>
<tr>
<td>3.</td>
<td>As a result of the incident described above, the child’s parents immediately removed the child from care and have had to completely modify their work schedules in order to care for him after school, including having to now work night shifts and weekend shifts.</td>
</tr>
<tr>
<td>4.</td>
<td>Camp Australia has previously faced disciplinary action in the Tribunal for contraventions of both s 165(1) and s 174(2)(a) (VR 207/2014).</td>
</tr>
<tr>
<td>5.</td>
<td>Camp Australia has previously faced disciplinary action in the Tribunal for failures to immediately notify the Department of prescribed matters (<em>Chief Executive Officer of the Department for Communities and Camp Australia Pty Ltd</em> [2012] WASAT 56).</td>
</tr>
</tbody>
</table>

The respondent submits and the applicant accepts the following matters in mitigation:

<table>
<thead>
<tr>
<th>Mitigation Matters:</th>
<th>1. At the time of the incident, the fit-out of the service complied with relevant legislative and regulatory requirements.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>At the time of the incident, the prescribed minimum number of staff were present and on duty at the service.</td>
</tr>
<tr>
<td>3.</td>
<td>The staff on duty at the time of the incident were appropriately qualified.</td>
</tr>
<tr>
<td>4.</td>
<td>There was no regulatory requirement, at the time of the incident, for staff at the service to be specifically trained in dealing with children with special needs.</td>
</tr>
<tr>
<td>5.</td>
<td>Despite having been engaged with the coordinator in an activity at 3.40pm, the child left the service on his own sometime between 3.40pm and 3.45pm.</td>
</tr>
<tr>
<td>6.</td>
<td>The coordinator became aware that the child was missing at 3.45pm and immediately started looking for the child.</td>
</tr>
<tr>
<td>7.</td>
<td>The coordinator also engaged teachers from the school to assist with the search outside and in the immediate vicinity of the service.</td>
</tr>
<tr>
<td>8.</td>
<td>The child was located by a teacher from the school after 25 minutes at 4.10pm in a nearby backyard and brought back to the service.</td>
</tr>
</tbody>
</table>
9. The incident was reported by the service to Camp Australia’s operations administration team on 28 October 2015 and to the Department on 29 October 2015.

10. The reason for the delay in submitting the report to the Department was because Camp Australia’s operations manager (then operating across Western Australia and part of Victoria) used the incident to undertake ‘live’ training with the regional coordinator on how to complete and submit an incident form.

11. The respondent accepted responsibility for the incident and the late reporting of the incident at the earliest possible time by admitting the contraventions complained of by the applicant.

12. In response to the incident and in an effort to ensure that no further contraventions will occur, the respondent immediately carried out its own internal investigation after the incident and has taken the following steps:
   a) The operations manager at the time of the incident was issued with a warning in relation to the late reporting of the incident.
   b) The operations manager at the time of the incident has been replaced with an operation manager who permanently resides in Western Australia and is dedicated to dealing with services in Western Australia only.
   c) The regional coordinator at the time of the incident has been issued with a warning in relation to the incident.
   d) The coordinator for the service the time of the incident has been issued with a warning in relation to the incident.
   e) The coordinator for the service the time of the incident has been issued a Performance Improvement Plan which seeks to improve performance in the areas of notification and reporting procedures, children supervision protection and care.
   f) The coordinator for the service at the time of the incident has been replaced with the previous coordinator for this service who is experienced with the site and service.
   g) The respondent has prepared and implemented a new Safety and Supervision Plan for the service in question aimed specifically at preventing children from leaving the service unsupervised.
   h) Immediately following the incident, the coordinator met with the parent of the child to discuss the incident and proposed developing a Guidance Support Plan for the child.

i) Camp Australia has readdressed the importance of meeting appropriate Departmental notification and reporting timelines with all national regional and operations managers.

j) Camp Australia has implemented a program of ‘over reporting’ beyond that required under the National Law to
ensure future compliance with reporting requirements.

| Penalty: | **Penalty:** The following penalty was imposed: Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Camp Australia must pay to the Department a penalty of $30,000, being:  
  a) $20,000 for the contravention of s 165(1) of the National Law; and  
  b) $10,000 for the contravention of s 172(2)(e) of the National Law. |
| Costs:   | **Costs:** The following costs order was made: Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Camp Australia must pay to the Department a contribution toward the Department’s legal costs of these proceedings assessed in the amount of $4,000. |

---

**CEO Of The Department Of Local Government And Communities and Ana-Lara Skinner- by consent**

| Matter No: | VR 202 of 2015 |
| Act:       | Education And Care Services National Law (WA) Act 2012 |
| Date of Order: | 15 January 2016 |
| Finding:   | Proper cause exists for disciplinary action. |
| Conduct:   | The parties have agreed the following relevant facts:  
  1. Mrs Skinner is and was on all relevant dates below the nominated supervising officer at the education and care service operated by Raff Investment Holdings Pty Ltd as Tiny Beez Educations and Care Centre at 2 Alfred Road Claremont WA (‘the Service’), subject to the National Law and the Education and Care Services National Regulations 2012 (WA) (‘the National Regulations’).  
  2. On 23 July 2015 a twoyearold child, enrolled at the service and attending on 23 July 2015, left the Service sometime around 10 am unsupervised by any educator from the Service.  
  3. The child was seen by a member of the public driving her car while the child was walking alongside the road. The member of the public briefly parked her car and walked into the Service to alert it that the child was wandering unsupervised outside the Service. Educators from the Service retrieved the child with assistance from another member of the public.  
  4. The Respondent thereby contravened section 165(2) of the |
National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service.

5. Beyond the inadequate supervision while the child was alone outside the Service premises, the following factors demonstrates or contributed to the failure to adequately supervise:

5.1 Mrs Skinner placed the child with an older age group other than in accordance with regulation 123(5) of the National Regulations. For the child's age regulation 123 required a ratio of one educator to five children, but the child was placed in a group requiring only a ratio of one educator to 10 children.

5.2 Around the time the child went missing the child was outside with a group of 21 children with one educator who could not see any other educators outside.

5.3 The services had a gate in and out of the service with a self-closing mechanism that was loose and did not shut tight and lock without effort, and had a hole in its fence.

6. In her report on 24 July 2015 to the Regulatory Authority Mrs Skinner stated that a staff member noticed the front gate was slightly left open and noticed the child, as mentioned in paragraphs 6.1 and following above, just outside the service on Stubbs Terrace, and ran after her. Her report also stated that a lady in a car driving past pulled up to check if the child was all right. The report states that the child kept running towards a member of the public who succeeded in stopping the child.

7. The report contradicts the evidence of the member of the public as set out in paragraph 3 above, and contradicts the evidence of the staff member who ran after the child.

8. After the incident Mrs Skinner presented staff members with the account of the incident as recorded in paragraph 6 above and required them to memorize it and to give that account to the Regulatory Authority should they later be interviewed.

9. Mrs Skinner contravened section 295(1) of the National Law by giving the Regulatory Authority information the respondent knew was false or misleading in a material particular.

10. Because of the agreed contraventions of the National Law, grounds for disciplinary action exist under section 188B(2) of the National Law.

### Relevant Factors:

Mrs Skinner submits and the Regulatory Authority accepts the following matters in mitigation:

11. Regarding paragraph 5.1. the child’s mother had informed Mrs Skinner that her child and she had recently moved from country side Victoria, and the child had been through quite a
few changes, including leaving a daycare service, her home, family and friends and moved to a new state in WA. The mother believed her child was cognitively, physically, socially and verbally advanced for her age and asked to minimise the changes from toddlers to kindies, and could the child start in the kindies room. Mrs Skinner agreed with the parent and advised her child would be under observation. Mrs Skinner later got that information in writing from the mother.

12. Regarding paragraph 5.2. Raff Investment Holdings had above the prescribed staff to child ratios on that given day. The qualifications of the educators that day were one qualified teacher graduate, two Diploma levels in Early Childhood with over 5 years' experience, one Diploma level who had just graduated and one Certificate 3, in Children's Services, with over 3 years' experience. Mrs Skinner was sitting and working in her office at the time the incident occurred. At a debrief meeting with the staff on Thursday 23 July 2015 and Mrs Skinner was advised that three educators were outside with the 21 children.

13. Regarding paragraph 5.3. the gate was only installed in April 2015 and Mrs Skinner was not aware it was not shutting properly. Neither educators nor parents had informed Mrs Skinner of a problem with the gate. There was a gap underneath the back fence due to large downpour which washed a large amount of soil away which then created the gap. Both the gap under the fence and the problem with the gate were fixed by close of business 24 July 2015.

| Penalty: | Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Mrs Skinner must pay to the Department a penalty of $3,000, being:
|          | (a) $1,000 for the breach of section 165(2) of the National Law.
|          | (b) $2000 for the breach of section 295(1) of the National Law. |

| Costs:   | Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Mrs Skinner must pay to the Department a contribution toward the Department's legal costs of these proceedings assessed in the amount of $1,000. |
**CEO Of The Department Of Local Government and Communities and Raff Investment Holdings Pty Ltd- by consent**

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 201 of 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education And Care Services National Law (WA) Act 2012</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>15 January 2016</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause exists for disciplinary action.</td>
</tr>
</tbody>
</table>

**Conduct:**

1. Raff Investment Holdings holds and on all relevant dates below held a service approval under the National Law to operate an education and care service at 2 Alfred Road Claremont WA (‘the Service’), subject to the National Law and the Education and Care Services National Law Regulations 2012 (WA) (‘National Regulations’).

2. On 23 July 2015 a two year old child, enrolled at the service and attending on 23 July 2015, left the Service sometime around 10 am unsupervised by any educator from the Service.

3. The child was seen by a member of the public driving her car while the child was walking alongside the road. The member of the public briefly parked her car and walked into the Service to alert it that the child was wandering unsupervised outside the Service. Educators from the Service retrieved the child with assistance from another member of the public.

4. Raff Investment Holdings thereby contravened section 165 of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service.

5. Beyond the inadequate supervision while the child was alone outside the Service premises, the following factors demonstrates or contributed to the failure to adequately supervise:
   (a) The child was placed with an older age group other than in accordance with regulation 123(5) of the National Regulations. For the child’s age, regulation 123 required a ratio of one educator to five children, but the child was placed in a group requiring a ratio of one educator to 10 children.
   (b) Around the time the child went missing the child was outside with a group of 21 children with one educator who could not see any other educators outside.
   (c) The services had a gate in and out of the service with a self-closing mechanism that was loose and did not shut tight and lock without effort, and had a hole in its fence, both known to the respondent prior to 23 July 2015.

6. On and before 23 July 2015 the Service had a gate with
access from the relevant outdoor space out into the street that
could not be securely closed, and a hole in its perimeter fence.
7. Raff Investment Holdings thereby contravened
regulation 104(1) of the National Law by failing to ensure that
the outdoor space used by children at the education and care
service premises was enclosed by a fence or barrier that was
of a height and design that children preschool age or under
could not go through, over or under it.
8. The incident described in paragraph 1 above was a 'serious
incident', as defined by regulation 12 of the
National Regulations, for the purposes of section 174(2)(a) of
the National Law.
9. Such an incident had to be reported to the
Regulatory Authority within 24 hours of the incident or the
time that Raff Investment Holdings became aware of the
incident per regulation 176(2)(a)(ii) of the
National Regulations.
10. The member of the public identified in paragraph 3 above
notified the Regulatory Authority on 23 July 2015.
11. Raff Investment Holdings failed to notify the
Regulatory Authority, despite reminders by the Applicant’s
officers, until 5.16 pm on 24 July 2015, some 31 hours after the
incident.
12. From and after 10 am on 24 July 2015
Raff Investment Holdings thereby contravened
section 174(2)(a) of the National Law by failing to notify the
Regulatory Authority within the prescribed time of prescribed
information.
13. Because of the agreed contraventions of the National Law,
grounds for disciplinary action exist under section 188B(2) of
the National Law.

Relevant Factors:
The respondent submits and the applicant accepts the
following matters in mitigation:
14. Raff Investment Holdings had above the prescribed staff to
child ratios on that given day. The qualifications of the
educators that day were one qualified teacher graduate, two
Diploma levels in Early Childhood with over 5 years’
experience, one Diploma level who had just graduated and one
Certificate 3, in Children’s Services, with over 3 years’
experience.
15. With respect to the contravention of section 174(2)(a)
Raff Investment Holdings states that its nominated supervisor
was in shock, was primarily focussed on adequately debriefing
all staff, and believed Raff Investment Holdings had until the
close of business the following day to notify the
Regulatory Unit in writing of the incident. The nominated
supervising officer had received a one off phone call from the
Regulatory Authority’s officer around 2 pm on 24 July 2015,
and at the time the nominated supervising officer was on her way back to the Service from another service she owns in order to complete the report.

| Penalty: | Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Raff Investment Holdings must pay to the Department a penalty of $9,000, being:
(a) $8,000 for the breach of section 165 of the National Law.
(b) $1,000 for the breach of section 174(2)(a) of the National Law.
(c) A reprimand for the breach of regulation 104(1) of the Education and Care Services National Regulations 2012 (WA). |
| Costs: | Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Raff Investment Holdings must pay to the Department a contribution toward the Department’s legal costs of these proceedings assessed in the amount of $1,500. |

---

**Department Of Local Government And Communities and LPR Holdings Pty Ltd- by consent**

| Matter No: | VR 188 of 2015 |
| Act: | *Education And Care Services National Law (WA) Act 2012* |
| Date of Order: | 29 December 2015 |
| Finding: | Proper cause exists for disciplinary action. |
| Conduct: | The respondent admits it contravened section 165 of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service, and therefore that proper cause exists for disciplinary action. |
| Relevant Factors: | The respondent submits and the Department accepts the following matters in mitigation:
1. The respondent has held a licence from 1996 until this became a provider approval from 2012 and has operated from this facility since March 2009, during which there have been no facility upgrades.
2. The respondent has no previous history of any contraventions of the National Law nor of any ‘unauthorised child leaving a service’ it has operated.
3. The child left the Service in circumstances where he knew... |
that his mother had arrived to collect him and it was assumed he was in an enclosed play area where another educator was in fact present.
4. The respondent notified the Department of the incident within 24 hours.
5. The respondent co-operated with the Department’s investigation and carried out its own internal investigation.
6. Management plans specific to this child which had been developed before this incident were reviewed and enhanced after the incident occurred.
7. The respondent provided an additional staff member immediately after the incident to enable full time one-on-one supervision of the child and absorbed the cost of additional staff until funding was approved.
8. The respondent admitted liability at an early stage in these proceedings.
9. The contravention did not arise from any wilful misconduct or mala fides and there is little need for specific deterrence.
10. The respondent has demonstrated genuine contrition and a desire to ensure that a similar breach does not occur.

Penalty: Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, LPR Holdings must pay to the Department a penalty of $8,000 in respect of the breach of section 165(1) of the National Law.

Costs: Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, LPR Holdings must pay to the Department an agreed contribution toward the Department’s legal costs of these proceedings of $1,500.

Department of Local Government and Communities and Aquis Pty Ltd Trading As Middle Swan Child Care Centre- by consent

| Matter No: | VR 187 of 2015 |
| Act:       | Education and Care Services National Law (WA) Act 2012 (WA) |
| Date of Order: | 18 December 2015 |
| Finding:  | Proper cause exists for disciplinary action. |
| Conduct:  | Not specified in order |
Relevant Factors: -

Penalty: Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Aquis must pay to the Department a penalty of $7,000.

Costs: Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, the Respondent must pay to the Department a contribution toward the Department's legal costs of these proceedings assessed in the amount of $1,500.

---

Department of Local Government and Communities and Oshclub Pty Ltd T/As Sposci Oshclub- By consent

Matter No: VR 138 of 2015
Act: Education and Care Services National Law (WA) Act 2012 (WA)
Date of Order: 13 November 2015
Finding: Proper cause exists for disciplinary action
Conduct: Not specified in order
Relevant Factors: -
Penalty: Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, OSHClub must pay to the Department a penalty of $8,500 in respect of the breach of section 165(1) of the National Law.
Costs: Costs of $1,500

---

Department of Local Government and Communities and QJP Holdings Pty Ltd T/As Pioneer Village After School Care- by consent

Matter No: VR 137 of 2015
Act: Education and Care Services National Law (WA) Act 2012 (WA)
Date of Order: 13 November 2015
Finding: Proper cause exists for disciplinary action

Conduct: Not specified in order

Relevant Factors: -

Penalty: Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, QJP Holdings must pay to the Department a penalty of $8,000 in respect of the breach of s 165(1) of the National Law.

Costs: Costs of $1000

---

CEO of the Department of Local Government and Communities and Funtrain Enterprises Pty Ltd- by consent

Matter No: VR 109 of 2015

Act: Education and Care Services National Law (WA) Act 2012 (WA)

Date of Order: 29 July 2015

Finding: Proper cause exists for disciplinary action.

Conduct: 1. Funtrain Enterprises Pty Ltd (Funtrain Enterprises) holds, and on all relevant dates below held, a service approval under the National Law to operate an education and care service at the Alf Faulkner Hall at the corner of Ivanhoe and Mary Streets in Eden Hill ('the Service'), before and after school hours and also during school vacation periods, subject to the National Law and Regulations.  
2. On 15 April 2015, the Service conducted an excursion to the SciTech facility at City West, West Perth, leaving the Service address around 10am and returning to it around 1pm.  
3. A child aged five years and three months was left behind at Scitech until Scitech staff advised the Service around 1:30 to 2:00pm. A staff member from the Service collected the child from Scitech sometime after 2pm. The child had been left without any form of supervision for at least 90 minutes in a place accessible to the general public.  
4. No roll call was made just before leaving Scitech, although the staff did conduct a head count.  
5. There were no head counts of children on the buses used to transport the children, or after return to the Service.  
6. Children did not wear any distinctive clothing to distinguish them from other children at Scitech to aid in supervision.  
7. No consideration was given to whether the excursion
required a higher staff/volunteer ratio to children than that usually required for education and care at the Service premises, as prescribed by the risk assessment required by reg 101(2)(f) of the *Education and Care Services National Regulations 2012* (WA).

8. Funtrain Enterprises thereby contravened s 165(1) of the National Law by failing to ensure that all children being educated and cared for by the Service were adequately supervised at all times the children were in the care of the Service. Funtrain Enterprises admits this provides proper cause for disciplinary action against it.

9. Funtrain Enterprises submits, and the Department accepts, the following matters in mitigation.

10. Funtrain Enterprises has no previous history of any contraventions of the National Law, nor of any child being left behind at an excursion.

11. Funtrain Enterprises immediately notified the Department of Education and Care Regulatory Unit after becoming aware of the incident.

12. Contact was made with the mother of the child as soon as the incident was notified to the licensee, on the day of the incident. An apology was provided to the mother and advice given that an emergency staff meeting would be convened the following morning and appropriate changes would be made to prevent a similar incident happening again.

### Relevant Factors:

1. Funtrain Enterprises co-operated with the Department's investigation and carried out its own internal investigation. As a result of Funtrain Enterprises' internal investigation, the following policies and procedures on excursions were implemented:
   
   - Policies and procedures for excursions were updated and expanded.
   - The Risk Assessment Procedure has been improved.
   - Funtrain Enterprises has purchased fluoro vests for children to be worn at all times whilst out of the Centre. Staff vests have also been purchased.
   - Funtrain Enterprises has implemented a procedure requiring orange wristbands with the Centre's name and contact telephone numbers to be worn by all children at all times during excursions.
   - Funtrain Enterprises has implemented the following roll call procedures for excursions:
     
     - a roll call is conducted prior to boarding the bus;
     - a head count and roll call is conducted for each bus;
     - a head count and roll call is conducted on arrival; and
     - a head count and roll call is conducted prior to departure; and
     - another head count is conducted once the bus is boarded; and
(vi) a roll call is conducted on arrival back to the Centre.
(f) A new procedure has been implemented whereby staff members are allocated children on the excursion and children are aware which staff member they are responsible for.
2. At the staff meeting the following morning after the incident, all staff members involved were issued a formal verbal warning, and the issues were discussed and new procedures developed to prevent any further incidents.
3. Funtrain Enterprises admitted liability at an early stage of these proceedings.
4. The contravention did not arise from any wilful misconduct or mala fides.
5. Funtrain Enterprises has demonstrated genuine contrition and a desire to ensure that a similar breach does not occur in the future.

**Penalty:**
Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Funtrain Enterprises must pay to the Department a penalty of $8,000 in respect of the breach of s 165(1) of the National Law.

**Costs:**
Within 28 days of the date of this order, or within such other time as agreed in writing between the parties within the 28 days, Funtrain Enterprises must pay to the Department an agreed contribution toward the Department's legal costs of these proceedings of $1,500.

---

**Department of Local Government and Communities and Young Men's Christian Association of Perth Inc - by consent**

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 25 of 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education and Care Services National Law (WA) Act 2012</em> (WA)</td>
</tr>
<tr>
<td>Date of Order:</td>
<td>2 April 2015</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
<tr>
<td>Conduct:</td>
<td>(i) The Applicant is the Regulatory Authority for the purposes of the Schedule to the Education and Care Services National Law (WA) Act 2012 (National Law) - per s8 of the Education and Care Services National Law (WA) Act 2012. (ii) The respondent holds and on all relevant dates below held a service approval under the National Law to operate an education and care service at Princess Margaret Hospital, in Hay Street, Subiaco (Service), during school vacation periods,</td>
</tr>
</tbody>
</table>
(iii) As the Service is located in Western Australia, the respondent is a "person linked to a WA service" as defined by s188A of the National Law.

(iv) The applicant alleged grounds for disciplinary action exist under section 188B(2) of the National Law because of the respondent's failure to comply with the National Law as applying in Western Australia.

Specifically:

(v) On 30 September 2014 the respondent contravened s165 of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service:

(a) On 30 September 2014 the Service conducted its first care session of the September/October school holidays with an excursion.

(b) Parents had authorised the children to attend an excursion at Kings Park Lottery West Playground, and a risk assessment had been conducted regarding that destination. However the bus chartered for transport instead dropped the children and educators at the Kings Park Synergy Parklands and left before educators became aware it was not the authorised destination. The Service’s nominated supervising officer decided that the excursion would continue at the unauthorised destination.

(c) The Kings Park Lottery West Playground is fully enclosed by a fence and contains no water hazards. The Kings Park Synergy Parklands is not enclosed and contains a significant water hazard.

(d) At approximately 11:40 am educators realised one of the enrolled children was missing. The child was known to have required additional supervision. The child was located more than 20 minutes later on the opposite side of the Parklands from where the other enrolled children were being supervised, with a family unconnected with the Service. The child had not been supervised by the Service during that period.

## Relevant Factors:

| Penalty: | Penalty of $9,000. |
| Costs:   | Costs of $1,500. |
# Department of Local Government and Communities and Marilandy Pty Ltd - by consent

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 14 of 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education and Care Services National Law (WA) Act 2012</em> (WA)</td>
</tr>
<tr>
<td>Date of Order:</td>
<td>4 March 2015</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
</tbody>
</table>
| Conduct:         | (i) The respondent holds and on all relevant dates below held a service approval under the *Education and Care Services National Law (WA) Act 2012* to operate an education and care service ("the Service") from the Wandina Primary School located on Ajax Drive, Wandina in Western Australia, subject to the Education and Care Services National Law (WA) Act 2012.  
(ii) At around 5 pm on 10 October 2014 a 5 1/2 year old child diagnosed with Autism, enrolled at and attending the Service, left the Service without being observed and unsupervised by any adult. The respondent was aware of the child’s behavioural issues and had secured special needs support funding for the provision of an extra educator to assist with supervision of the child and another child with special needs. However, at the time of the incident the extra educator had completed their shift for the day, fulfilling the funded 8 hours for the day and were no longer on the premises.  
(iii) The child remained unsupervised outside the Service until found and collected approximately 30 minutes later by a parent of another child enrolled at the Service. The child was found running in the middle of the southbound traffic lane of Ocean Queen Drive, with other older children on the road appearing to shield the child from traffic and with traffic manoeuvring around the children. The father stopped and picked up the child. The child appeared scared and confused. He rang the Long Day Care service and told the educator who answered the phone that he had the child in question. The mother of the child collected her child from the other father’s place and returned to the Service briefly before going home.  
4. The respondent contravened section 165 of the Education and Care Services National Law (WA) Act 2012 by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service. |
| Relevant Factors:| (i) At 8.10 am on the day of the incident the Nominated Supervisor had met with the Parent of the child in question in regards to concerns of the safety of her child at the Service. It |
was suggested that alternative care would eventually need to be sought.
(ii) The respondent’s educators were aware the child had previously managed to briefly leave the Service on a separate occasion, however an educator had her in their sights at all times as they intervened.
(iii) At the time of the incident, the prescribed number of staff were present and on duty at the Service.
(iv) The fit out of the Service complied with relevant legislative and regulatory requirements.
(v) The child’s mother when attending a short time after to collect her child, noticed that the gate into the Service was unlocked and open. At this time, staff had already discovered that the child in question was missing and were searching the school grounds for them. A staff member, who was off duty and walking their dog, joined the search and rang the Nominated Supervisor and the Assistant Coordinator (who is also a Supervising Officer) who were both off duty, to notify them so they could assist with the search for the child in question. They also rang the Long Day Care Service and asked for any spare staff members to come to the school immediately to assist in the search.
(vi) Immediately after close of business on the day in question, the Nominated Supervisor met with all staff that were working at the time and involved in the search of the incident to complete the ‘Notification of a Serious Incident’ paperwork and submitted this immediately to the Regulatory Unit.
(vii) The following day, the Nominated Supervisor rang the parents of the child in question to see how they and their child were doing and to express their apologies again.
(viii) The following week Management spoke to the Parent offering alternate care at the Long Day Care Service until the Parent could make alternative arrangements for the child in question. The Parent was unsure of their future care arrangements and said they would be in touch.
(ix) After several weeks of the twin sibling attending, the parent found alternative care and left the Service.
(x) The Service fully cooperated with the Regulatory Unit in its investigations.
(xi) The Service believes it demonstrated a genuine desire and effort to ensure the breaches will not be repeated by: having signs formulated for the school gates, changing the entrance gate into the school to a smaller side access gate further away from the licensed area for the Service and purchasing ‘high vis’ vests for the children to wear whilst in the care of the Service.
(xii) The Services ‘Supervision and Awareness’ Policy and ‘Inclusion of Children with Additional Needs’ Policy were reviewed and changed.
(xiii) A Risk Assessment was formulated to be used upon enrolment of a child with additional needs. This enables the Nominated Supervisor and Room Leaders to decide if the possible enrolment, will affect the current group of children enrolled in regards to their holistic needs and ensure the Service can cater for the enrolling child safely and appropriately.
(xiv) The Service admitted liability at an early stage in the State Administrative Tribunal proceedings.

<table>
<thead>
<tr>
<th>Penalty:</th>
<th>Penalty of $8,500.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costs:</td>
<td>Costs of $1,000.</td>
</tr>
</tbody>
</table>

**Department of Local Government and Communities and Kahlia Holding Pty Ltd Trading as Ladybugs Out Of School Care ANZAC - by consent**

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 1 of 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education and Care Services National Law (WA) Act 2012 (WA)</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>11 February 2015</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
<tr>
<td>Conduct:</td>
<td>Kahlia Holdings admits it contravened section 165 of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service, and therefore that proper cause exists for disciplinary action.</td>
</tr>
</tbody>
</table>
| Relevant Factors: | (i) Kahlia Holdings has no previous history of any contraventions of the National Law nor of any child "leaving a service" it has operated.  
(ii) The children were being supervised in a mixed play area, with children from both in and out of the Service, because of school teachers’ request for the children to be removed from a gated and fenced area outside the classrooms to an unfenced oval area because of noise caused by the children.  
(iii) The approved licensed area lacked secure fencing, in that the licensed area was not completely enclosed by fencing. However at the time of the incident the relevant area complied with the National Law.  
(iv) The child left the Service immediately following an incident in which the child had injured an unenrolled female child and while the injured child was being attended to by educators. |
Upon being located by an educator and while returning to the Service, the educator asked the child why he had run off. The child made no reply but asked the educator "Are you going to lock me in the shed too?" The educator asked "Why, who locks you in the shed?" and the child replied "My Mum".

On the balance of probabilities the child ran off because he perceived that he was going to get in trouble for injuring the other child.

Kahlia Holdings immediately notified the child’s mother of the incident and the child was collected by the child’s grandmother.

Kahlia Holdings notified the Department of the incident verbally within hours.

Kahlia Holdings co-operated with the Department’s investigation and carried out its own internal investigation. It requested the school principal to authorise Kahlia Holdings to resume using the enclosed and fenced area from which teaching staff had asked the respondent to remove the children for reasons of noise; interviewed relevant staff and met with the child’s parent and staff.

Specific behaviour management plans were put in place for the child after the incident occurred.

Kahlia Holdings admitted liability at an early stage in these proceedings.

The contravention did not arise from any wilful misconduct or mala fides and there is little need for specific deterrence of Kahlia Holdings.

Kahlia Holdings has demonstrated genuine contrition and a desire to ensure that a similar breach does not occur.

Kahlia Holdings did not renew the contract for out-of-school-care at Anzac Terrace Primary School because the Principal would have required the OSHC service area to be moved to an unfenced area without adjoining toilets and Kahlia Holdings did not wish to be exposed to the additional supervision risk this would entail.

Penalty: Penalty of $6,000.

Costs: Costs of $1,500.

Department of Local Government and Communities and Camp Australia Pty Ltd- by consent

Matter No: VR 207 of 2014

Act: Education and Care Services National Law (WA) Act 2012 (WA)
<table>
<thead>
<tr>
<th>Date of Order:</th>
<th>21 January 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
</tbody>
</table>
| Conduct:      | (i) Camp Australia holds and on all relevant dates below held a service approval under the National Law to operate an education and care service at Richmond Primary School, 50 Osborne Road, East Fremantle ('the Service'), subject to the National Law.  
(ii) In the afternoon of 6 August 2014 an eight-and-a-half year old child enrolled at and attending the Service left the Service and walked home on his own. His home was approximately 1.4 kms away, and the walk home involved crossing major roads. His absence was not noted for approximately 15 minutes.  
(iii) The child remained absent from and unsupervised by the Service until the child’s mother contacted the Service to advise it of her child’s whereabouts. She returned the child to the Service.  
(iv) Camp Australia thereby contravened section 165 of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times the children were in the care of the service.  
(v) The facts set out in paragraphs 2 and 3 above constitute a serious incident as prescribed by regulation 12(d)(i) of the Education and Care Services National Regulations 2012, requiring notification of that serious incident to have been made.  
(vi) Section 174(4) of the National Law required that notification to be made within the prescribed time, and regulation 174(2)(a)(ii) prescribed this to be within 24 hours of the incident or of the time the person became aware of the incident.  
(vii) The acting co-ordinator of the Service was aware of the incident on the day it occurred and contacted more senior management of the respondent the following day.  
(viii) Camp Australia notified the Department on 11 August 2014.  
(ix) Camp Australia thereby contravened section 174(2)(a) of the National Law by failing to notify the Applicant within the prescribed time that a serious incident had occurred at the Service. |
| Relevant Factors: | (i) At the time of the incident, the prescribed number of staff were present and on duty at the Service.  
(ii) The fit-out of the Service complied with relevant legislative and regulatory requirements.  
(iii) The child involved in the incident remained enrolled at the Service in the following period. |
(iv) Camp Australia immediately carried out its own internal investigation after the incident.
(v) Camp Australia immediately modified its supervision plan to ensure that no further or future contravention will take place.
(vi) Following Camp Australia’s investigation, it removed a staff member from the Service, and reallocated her to an alternative site more suited to her skillset.
(vii) Camp Australia undertook complete retraining of the Service staff.
(viii) Camp Australia has used the specifics of the incident as a case study for national training (including strategic one-on-one training with each Regional Manager and service nationally), implemented across Term 4, 2014 and Term 1, 2015.
(ix) Camp Australia has undertaken a partial relocation of a Victorian-based Operations Manager to Western Australia to undertake the following additional staff training:
   (a) staff inductions (for new staff and refresher activities for existing staff);
   (b) coordinator training (for new staff and refresher activities for existing staff); and
   (c) safety and supervision workshops for coordinators.
(x) Camp Australia has readdressed the importance of meeting appropriate Departmental notification timelines by:
   (a) discussing and emphasising this requirement with all national Regional and Operations Managers; and
   (b) implementing internal procedural improvements to ensure notification timelines are met.

Penalty: Penalty of $8,000, being $7,000 in respect of the breach of section 165(1) and $1,000 in respect of the breach of section 174(2)(a) of the National Law.

Costs: Costs of $1000.

---

**Department Of Local Government and Communities and Ciilmooge Pty Ltd Trading As Ready Set Grow Family Day Care - by consent**

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 193 of 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education and Care Services National Law (WA) Act 2012 (WA)</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>12 January 2015</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
</tbody>
</table>
Conduct:

(i) On 3 September 2014 an authorised officer of the Department posted to Ciilmooge by registered mail a notice under section 206(2) of the National Law ("the Notice") requiring the production, by 5pm on 17 September 2014, a copy, preferably in an electronic Microsoft Excel format, of the register of all family day care educators engaged by or registered with Ciilmooge.

(ii) The Notice was posted to the address registered with the Australian Securities and Investments Commission ("ASIC") as Ciilmooge's registered office, and also recorded as Ciilmooge's postal address on its application to the Department for approval.

(iii) The authorised officer also sent a copy of the Notice by email to an internet address provided and used on behalf of Ciilmooge for communications with the Department.

(vi) Section 269 of the National Law obliges Ciilmooge to keep such a register, which must contain prescribed information in respect of each family day care educator engaged by or registered with a family day care service, and to provide any information on that register to the Department on request.

(v) Ciilmooge failed to respond to the notice until after this application was served on 27 October 2014, providing the required information from its register on 31 October 2014.

Relevant Factors:

(i) The sole director of Ciilmooge, Mr Mohamud Abdullahi, first became aware of the Notice on 27 October 2014, after service of this application. The email referred to in paragraph 3 above was undetected at the time it was sent, partly due to the volume of emails received by the business. Ciilmooge never received the posted copy of the Notice, as Ciilmooge no longer used the address still recorded with ASIC as its registered office, and the occupant at that address presumably did not collect or forward any mail sent to Ciilmooge at that address.

(ii) The approved provider was approved on 24 September 2013 as Ready Set Grow Family Day Care Pty Ltd and the service was approved as of 12 February 2014.

(iii) On 13 November 2013 Mr Abdullahi notified the Department of the approved provider's change of name from Ready Set Grow Family Day Care Pty Ltd to Ciilmooge and submitted the appropriate form PA03 to change Ciilmooge's physical and postal address to 1 Ellerby Way, Koondoola. He also notified that Faisa Mohamed was no longer a director of Ciilmooge.

(iv) On 26 February 2014 Mr Abdullahi emailed notification forms S01 and S12 to change the principal office address for Ready Set Grow to 4/168 Guildford Rd, Maylands. On 4 March 2014 the Department posted to 1 Ellerby Way, Koondoola an acknowledgement of that change and enclosed an amended service approval certificate showing the new service office
address.
(v) On 28 March 2014 the Department issued a notice to Cilmooge requesting details from its register of family day care educators. The notice was posted to 1 Ellerby Way, Koondoola and also emailed. Mr Abdullahi contacted the Department to advise that the service was not yet operating.
(vi) On 28 May 2014 Mr Abdullahi emailed the Department to advise that Ready Set Grow Family Day Care had started operating as of 26 May 2014 and that "I will be forwarding educator register very soon".
(vii) The Notice was sent on 3 September 2014. After service of the application on 27 October 2014 Cilmooge provided the requested information - on 31 October 2014. Mr Abdullahi for Cilmooge was unable to respond sooner after service of the application due to undergoing and recovering from medical procedures.
(viii) On 27 October 2014 Cilmooge also submitted two notifications on forms SA03 and SA12 to update the principal address to 4/168 Guildford Rd, Maylands, with the declarations by Mr Abdullahi on behalf of Cilmooge on both forms still showing 1 Ellerby Way, Koondoola.
(ix) Mr Abdullahi notes that Cilmooge’s intent in submitting the forms regarding the change of service and principal address was to ensure the Department sent all notices and correspondence to Cilmooge to the principal office address. The Department’s practice is to send all notices and correspondence to the approved provider’s address, which in many cases is a different address to the service or principal office address. Prior to service of the application Cilmooge had not submitted the appropriate form to update the approved provider’s address.
(x) Since the mediation on 28 November 2014 Cilmooge has updated all address and contact details with both the Department and ASIC.
(xi) Cilmooge has put procedures in place to ensure emails from the Department are received and acted upon promptly.
(xii) The Department cannot unilaterally update its forms and procedures, as these are set by national agreement with other jurisdictions. Since the mediation the Department has raised at a national meeting the issues raised by this application including whether the various forms could be drafted with greater clarity.

Penalty: Fine of $1,500.
Costs: No order as to costs.
<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 120 of 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education and Care Services National Law (WA) Act 2012 (WA)</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>24 September 2014</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
</tbody>
</table>
| Conduct:         | (i) The respondent holds and on all relevant dates below held a service approval under the National Law to operate an education and care service from the Beldon Primary School, 10 Pacific Way Beldon ("the Service"), subject to the National Law.  
(ii) The Service conducted an excursion to Rotary Park located at Scenic Drive Wanneroo, leaving the approved premises by around 10:15am. Three vehicles, each in two separate transport trips, were used to transport the 40 children, 8 educators and 2 volunteers. The vehicles transported the children back to the Service in the same manner by around 3pm. No educators or volunteers remained at Rotary Park.  
(iii) At around 4:30pm a mother of a seven and a half year old child came to collect the child from the Service at which time the Service educators realised the child was not present. An educator returned to Rotary Park and at around 5pm found the child sitting alone on a bench at the park.  
(iv) The respondent contravened section 165 of the National Law by failing to ensure that all children being educated and cared for by the Service were adequately supervised at all times while the children were in the care of the Service, and that therefore proper cause exists for disciplinary action against the respondent pursuant to section 188B(1)(a) of the National Law. |
| Relevant Factors:| (i) Since the incident, as well as regular roll calls throughout the day and on leaving the excursion, a roll call is now done on returning to the centre. The respondent has implemented a system to ensure visual checks on every child are completed numerous times throughout the day;  
(ii) the respondent has implemented a buddy system with the children so they are in pairs and look out for their partner. The respondent now assigns a staff member to a small group of children on all excursions, as previously done only for excursions where small groups were needed. The staff members have a list of children in their group;  
(iii) the respondent ensures maintenance of a specific watch list system for children at higher risk due to additional needs and medical, physical, and behavioural issues. The respondent |
ensures that she over-staffs (above the minimum childcare licencing ratios) for all times for extra supervision as stated in the respondent’s supervision policy; (iv) the respondent uses visual aids (coloured materials) to group the children travelling on buses; (v) the respondent ensures every staff member on excursions has a bus list so all staff know who should be on the bus; (vi) the respondent now takes the walkie talkies to use daily in centre on excursions as well, to keep communications open between staff and (vii) the respondent continually keeps trialling visual identification aides to find the best solution to ensure the children’s safety.

<table>
<thead>
<tr>
<th>Penalty:</th>
<th>Penalty of $1,500.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costs:</td>
<td>Costs of $1,000.</td>
</tr>
</tbody>
</table>

### Department of Local Government and Communities and Jaliz Enterprises Pty Ltd T/As Bluebird Afterschool & Vacation Care- by consent

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 87 of 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td>Education and Care Services National Law (WA) Act 2012 (WA)</td>
</tr>
<tr>
<td>Date of Order:</td>
<td>16 July 2014</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
<tr>
<td>Conduct:</td>
<td>(i) Jaliz at the time of the allegation the subject of these proceedings was the approved provider of an education and care service known as Bluebird Afterschool and Vacation Care, located at Busselton Baptist Community Church, corner Queen Elizabeth Avenue and Recreation Lane in Busselton ('the service'). Jaliz is and was on all relevant dates an approved provider for the purpose of the national law and holds and held on all relevant dates a service approval to operate the service. (ii) The proceedings relate to an incident which occurred on 12 February 2014, when a child aged 7 years enrolled and attending the service left the service on her bicycle unsupervised and without being observed and remained absent and unsupervised outside the service for between 30 and 40 minutes before being located by her mother, who had attended the service to collect her child to find her missing. (iii) The child had spoken with educators about a desire to leave the service and had been seen wearing a backpack,</td>
</tr>
</tbody>
</table>
helmet and shoes and sitting on the bicycle.
(iv) Jaliz contravened section 165 Schedule to the Education and Care Services National Law (WA) Act 2012 by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times while the children were in the care of the Centre, and so proper cause exists for disciplinary action against Jaliz pursuant to section 188B(1)(a) of the Schedule to the Education and Care Services National Law (WA) Act 2012.

Relevant Factors:
(i) Within 24 hours, Jaliz notified the CEO of the incident and fully cooperated with the CEO’s investigation;
(ii) within 24 hours, the service suspended two employees who were involved in the investigation and subsequently terminated those employees;
(iii) the child re-enrolled at the service following the incident.
(iv) the service admitted liability at an early stage in the proceedings;
(v) the Service immediately carried out its own internal investigation, including meeting with the parent of the child to explain what had happened and accept responsibility for the incident;
(vi) the Service immediately modified its supervision plan to ensure no further contravention will take place;
(vii) the incident did not arise from any wilful misconduct;
(viii) there was the required number of staff on duty at the service;
(ix) the fit-out of the service complied with legislative requirements; and
(x) the Service and its staff have demonstrated genuine contrition and a desire and effort to ensure that the breach will not be repeated.

Penalty: Penalty of $7,000.
Costs: Costs of $1,500.
**Conduct:**

(i) The Salvation Army at the time of the allegations operated, and continues to operate, an education and care service at 14 - 18 Lavant Way, Balga (Service).

(ii) The Salvation Army is and was on all relevant dates an approved provider for the purpose of the National Law and holds and held on all relevant dates a service approval to operate an education and care service.

(iii) The proceedings relate to an incident which occurred on 5 September 2013 between 1.45 pm and 2.10 pm, when a child aged 4 years left the Service unsupervised and unaccompanied by an educator or any other authorised adult (Incident).

(iv) The child first climbed onto pool fencing by placing his foot on a planter box on the other side of the fence and lifted the vertical magna latch attached to the gate. The child then managed to swing himself up onto a second pool fence gate to reach the latch on the other side of the gate. The child then walked through an open gate (intentionally left open by the gardener who was working in the garden at the time) and climbed over a perimeter wall using a compost bin which had been placed adjacent to the wall.

(v) At 2.50pm the Police telephoned the Service advising that the child had been located by a member of the public walking alone along the west side of Princess Road, Westminster under the Reid Highway overpass not far from the Service. The member of the public took the child to a medical centre located nearby, and stayed with the child until the Police came to collect the child. After attempting to contact the child’s parents, the Police elected to return the child to the Service. The child was returned to the Service at 3.30 pm.

(vi) The Salvation Army contravened s 165 of the National Law by failing to ensure that all children being educated and cared for by the Service were adequately supervised at all times while the children were in the care of the Service and that proper cause exists for disciplinary action against the approved provider.

<table>
<thead>
<tr>
<th>Relevant Factors:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Subsequent to the Incident:</td>
</tr>
<tr>
<td>(i) The Salvation Army notified the Department of the Incident on the day of the Incident and provided the Department with all required forms by 7.20 pm that same day, 5 September 2013.</td>
</tr>
<tr>
<td>(ii) The Salvation Army notified the child’s mother and grandmother (primary care giver) of the Incident on the same day;</td>
</tr>
<tr>
<td>(iii) Within 24 hours of the Incident, the Salvation Army conducted a comprehensive internal investigation;</td>
</tr>
<tr>
<td>(iv) All staff received a memorandum reminding them of the importance of safety and supervision of children;</td>
</tr>
<tr>
<td>(v) The staff member involved received a written warning and</td>
</tr>
</tbody>
</table>
is required to attend weekly monitoring sessions;
(vi) The Salvation Army at all times fully cooperated with the Department’s investigation;
(vii) The Salvation Army promptly accepted responsibility for the Incident and considered what measures could and would be taken to ensure a similar incident could not occur in future;
(viii) By 7 September 2013 a risk assessment of each room of the Service had been completed and all plant and equipment able to be used as a climbing structure in close proximity to a fence or wall had been moved in order to remove the risk of a child using them to scale a fence or wall;
2. Since the Incident,
(i) a new supervisory procedure relating to lunch, outdoor play, head counts and disciplinary process has been implemented - this includes not allowing children access to the external veranda area during sleep time when only one educator is present;
(ii) the Service has provided additional in-service training, guidance and supervision for staff;
(iii) a three verbal warning policy has been implemented which provides that, if a Service manager or any educator is concerned that a team member is not providing adequate supervision, a verbal strike/warning will be given, and after three strikes, formal disciplinary action will be taken; and
(iv) The child and his sibling remain enrolled at the Service following the Incident.
3. The Salvation Army submits and the Department accepts that:
(i) the Salvation Army admitted liability at an early stage in the State Administrative Tribunal proceedings;
(ii) the contravention did not arise from any wilful misconduct, wilful neglect or mala fides on the part of the Service or any of its employees;
(iii) at the time of the Incident the required number of contact staff were present in the relevant area;
(iv) earlier in 2013 the Service was rated by the Department’s Regulatory Unit as "Exceeding National Quality Standards" when assessed under the National Law; and
(v) The fit-out of the Service, including the outdoor fencing, complied with relevant legislative and regulatory requirements.
4. The Service has demonstrated genuine contrition over the Incident, and a genuine desire to ensure that the breaches will not be repeated. As such, there is little need for specific deterrence in respect to the Service.

**Penalty:** Penalty of $6,000.

**Costs:** Costs of $1,500.
**Department of Local Government and Communities and Embracing Children Karratha Pty Ltd & Michelle Louise Pisani- by consent**

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 206 of 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education and Care Services National Law (WA) Act 2012 (WA)</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>15 April 2014</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
</tbody>
</table>

**Conduct:**

The First respondent

(i) At all material times Embracing Children was a body corporate within the meaning of that term in the Act.

(ii) At all material times Michelle Pisani was in management and control of Embracing Children as she was its sole director, its secretary and sole shareholder.

(iii) At no time between 1 August 2012 and 10 October 2012 was Embracing Children an approved provider of education and care services pursuant to the Act. On 11 October 2012 Embracing Children was approved as a provider of education and care services.

(iv) At no time between 1 August 2012 and 1 February 2013 was Embracing Children an approved provider with respect to an education and care service pursuant to the Act.

(v) Between 1 August 2012 and 1 February 2013 Embracing Children provided an education and care service within the meaning of the Act (the Service), as follows:

(a) during the period the Service was provided at various premises in Karratha Western Australia;

(b) during the period the Service was provided under the business names of Embracing Children Stomping Elephants, Embracing Children Roaring Lions, and Embracing Children Tall Giraffes, which business names were owned by Embracing Children;

(c) Embracing Children employed various people during the period (the employees) to work in the Service;

(d) during the period Embracing Children paid the rent for the premises and for the amenities to those premises and provided all the necessary food, clothing, toys and general supplies for the children to whom the Service was provided; and

(e) during the period Embracing Children was paid fees for the Service by various persons to whose children the Service was provided.

(iv) Embracing Children failed to comply with section 103(1) of the National Law by providing an education and care service
when it was not an approved provider in respect of that
service within the meaning of the National Law, and proper
cause exists for disciplinary action against it pursuant to
section 188B(1)(a) of the National Law.
The Second respondent
(i) Michele Pisani was the sole director and shareholder of
Embracing Children.
(ii) Michelle Pisani caused Embracing Children to employ the
employees by undertaking the advertising for, interviewing of
potential employees and made the decisions as to who should
be employed.
(iii) Michelle Pisani gave instructions to the employees in the
course of their day to day duties.
(iv) Michelle Pisani liaised with an approved provider, Patatap
Pty Ltd, trading as Elite Childcare Solutions (Elite Childcare),
to have some of the employees treated as Family Day Care
Educators or Family Day Care Educators Assistants as
members of Elite Childcare’s education and care service within
the meaning of those terms in the Act and paid a membership
fee to Elite Childcare on behalf of those employees.
(v) Michelle Pisani caused Embracing Children to pay an
ongoing commission or management fee to Elite Childcare for
the ongoing treatment of the Family Day Care Educators or
Family Day Care Educators Assistants as alleged members of
Elite Childcare’s education and care service.
(vi) Michelle Pisani operated bank accounts for Embracing
Children and undertook on its behalf the payment of the rent,
car expenses, food and other goods and services, received fees
for the Services and remissions of government subsidies
relating to the Services.
(vii) Michelle Pisani was the person with the management and
control of Embracing Children during the period when
Embracing Children failed to comply with the National and
failed to exercise due diligence to prevent that failure, and so
proper cause exists for disciplinary action against her
pursuant to section 188B (1)(b) of the National Law.

Relevant Factors:

(i) Michelle Pisani has no prior record of noncompliance when
dealing directly with the Department, both under the previous
legislation Child Care Services Act 2007 (WA) and Child Care
Services (Family Day Care) Regulations 2006 (WA) and under
the current Education and Care Services National Law (WA)
Act 2012 and the Education and Care National Regulations
2012’ (WA).
(ii) Michelle Pisani sincerely regrets any financial or other
damage caused to the families and children involved,
(iii) Embracing Children and Michelle Pisani will undertake
the following assurances and preventive actions:
(a) they will focus on providing centre-based education and
(c) Embracing Children has a service approval in its own right, and Michelle Pisani believes Embracing Children and she can confidently and competently assume the responsibility for all their actions in relation to meeting regulatory requirements, as well as the actions of the educators Embracing Children employs; and
(d) Embracing Children will communicate directly with both federal and state departments and their authorised officers in its capacity as an approved service provider operating an approved service, thereby obviating any third party distortions.

Penalty:
1. First respondent - penalty of $5,000 for breach of section 103(1) of the National Law.
2. Second respondent - penalty of $1,000, for breach of section 103(1) of the National Law

Costs:
Costs of $10,000.

Department for Local Government and Communities and ES5 Pty Ltd- by consent

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 220 of 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td>Education and Care Services National Law (WA) Act 2012 (WA)</td>
</tr>
<tr>
<td>Date of Order:</td>
<td>18 March 2014</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
<tr>
<td>Conduct:</td>
<td>(i) ES5 at the time of the allegations the subject of these proceedings was the approved provider of an education and care service known as Buggles Child Care, Brookfield Place, Perth ('the Centre'). ES5 is and was on all relevant dates an approved provider for the purpose of the National Law and holds and held on all relevant dates a service approval to operate an education and care service. (ii) The proceedings relate to an incident which occurred on 17 July 2013, when a boy aged 2 years and 7 months left the Centre unsupervised via a lift and made his way to an underground car park and was located a short time (approximately 10 minutes) later, and returned to the Centre</td>
</tr>
</tbody>
</table>
by a security guard. As a result of this incident, the Centre advised the Department which investigated the operations of the Centre and made the following allegations which ES5 admits.

(iii) ES5 contravened section 165 of the National Law by failing to ensure that all children being educated and cared for by the service were adequately supervised at all times while the children were in the care of the Centre and that proper cause exists for disciplinary action against the approved provider.

| Relevant Factors: | 1. Subsequent to the incident:
(i) within 24 hours, the Service notified the CEO of the incident and fully cooperated with the CEO’s investigation;
(ii) on the day of the incident, the Centre carried out its own internal investigation, including meeting with the parents of the child, to fully and openly explain what had happened, accepting responsibility for the incident and discuss what measures would be taken to ensure a similar incident could not occur;
(iii) within 1 week, a child safe fence and gate was installed outside the lift at the car park level so that if children leave the Centre via the lift they are prevented from going into the car park; and
(iv) the child remained enrolled at the Centre following the incident.
2. ES5 submits and the Department accepts that:
(i) the Centre admitted liability at an early stage in the State Administrative Tribunal proceedings;
(ii) the Centre immediately carried out its own internal investigation, including meetings with the parents of the children, to explain what had happened and accepting responsibility for the incident;
(iii) the Centre immediately implemented works to modify the door hardware and install fencing to ensure no further contravention will take place;
(iv) the contraventions did not arise from any wilful misconduct or mala fides:
(v) the Centre staff genuinely believed that a swipe (security) card was required for downward lift travel (as it is for upward travel);
(vi) there was the required number of contact staff in the relevant area of the Centre;
(vii) the fit-out of the Centre (including the door hardware) complied with legislative requirements; and
(viii) At the time of the incident the Centre was otherwise in compliance with the National Law.
3. The Centre has demonstrated genuine contrition and a desire and effort to ensure that the breaches will not be
There is little need for specific deterrence of the Centre.

**Penalty:** Penalty of $6,000.

**Costs:** Costs of $1,500.

<table>
<thead>
<tr>
<th>Department for Local Government and Communities and TCC (WA) Pty Ltd T/As Kidz Biz Sport and Recreation East Butler - by consent</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Matter No:</strong> VR 217 of 2013</td>
</tr>
<tr>
<td><strong>Act:</strong> <em>Education and Care Services National Law (WA) Act 2012</em> (WA)</td>
</tr>
<tr>
<td><strong>Date of Order:</strong> 13 March 2014</td>
</tr>
<tr>
<td><strong>Finding:</strong> Proper cause for disciplinary action exists</td>
</tr>
</tbody>
</table>
| **Conduct:** (i) TCC at the time of the allegations the subject of these proceedings was the approved provider of an education and care service known as Kidz Biz East Butler (the ‘Centre’). The Centre is located at the East Butler Primary School, 7 Amersham Crescent, East Butler. TCC is and was on all relevant dates an approved provider for the purpose of the National Law and holds and held on all relevant dates a service approval to operate an education and care service. (ii) The proceedings relate to an incident which occurred between 4:45pm and 4:55pm on 17 July 2013 when two children in the care of the service, each 6 years of age, left the service unsupervised and unaccompanied by an educator or any other authorised adult. (iii) The children were located by a member of the public on the median strip in the middle of a dual carriageway some two kilometres from the service about half an hour after their absence had been noticed. (iv) The member of the public took the children to Clarkson police station and the police returned the children to the service around 6:20pm that evening. (v) On and before 17 July 2013 the service was not being conducted from the approved premises, being the undercover assembly area within the school, but from an adjacent school staffroom located approximately 60 metres from the undercover area. (vi) On 25 July 2013 the Education and Care Regulatory Unit received the necessary notification of the change to the education and care service premises, which was more than 7 days after different premises were being used, and so more than 7 days after any proposed change. (vii) TCC contravened section 165 of the National Law by...
failing to ensure that all children being educated and cared for by the service were adequately supervised at all times while the children were in the care of the Centre and that proper cause exists for disciplinary action against the approved provider. Further, TCC contravened section 173 of the National Law by failing to notify the Department within the prescribed time of the change to the premises of the education and care service.

<table>
<thead>
<tr>
<th>Relevant Factors:</th>
<th>1. Subsequent to the incident:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(i) Within 24 hours, the Service notified the CEO of the incident and fully cooperated with the CEO's investigations.</td>
</tr>
<tr>
<td></td>
<td>(ii) On the day of the incident, the Centre carried out its own internal investigation, including meeting with the parents of the children, to fully and openly explain what had happened, accepting responsibility for the incident and discuss what measures would be taken to ensure a similar incident could not occur.</td>
</tr>
<tr>
<td></td>
<td>2. TCC submits and the Department accepts that:</td>
</tr>
<tr>
<td></td>
<td>(i) The Centre admitted liability at an early stage in the State Administrative Tribunal proceedings.</td>
</tr>
<tr>
<td></td>
<td>(ii) The Centre immediately carried out its own internal investigation, including meetings with the parents of the children, to explain what had happened and accepting responsibility for the incident.</td>
</tr>
<tr>
<td></td>
<td>(iii) The contraventions did not arise from any wilful misconduct or mala fides</td>
</tr>
<tr>
<td></td>
<td>(iv) There was the required number of contact staff in the relevant area of the Centre.</td>
</tr>
<tr>
<td></td>
<td>(v) That on 25 July 2013 the Department received the necessary written notification of the change to the education and care services premises, which was more than seven days after different premises were being used, and more than 7 days after any proposed change. The service was not being conducted from the approved premises due to concerns for the safety and wellbeing of the children at the service because of the insufficient heating. The principal of East Butler Primary School, Andy Gorton, offered the use of the school staffroom whilst the respondent was waiting for someone to come out and complete the work order for heating in the assembly area (the approved premises).</td>
</tr>
<tr>
<td></td>
<td>(vi) At the time of the incident the Centre was otherwise in compliance with the National Law.</td>
</tr>
<tr>
<td></td>
<td>(vii) The Centre has demonstrated genuine contrition and a desire and effort to ensure that the breaches will not be repeated. There is little need for specific deterrence of the Centre.</td>
</tr>
</tbody>
</table>
|                  | (viii) The purpose of disciplinary proceedings is not punishment of the person against whom the proceeding is
brought, but rather protection of the public, in this case, children who receive education and care services and their parents.

**Penalty:**
Penalty of $6,000

**Costs:**
Costs of $1,500.

---

### Department for Local Government and Communities and Aalubre Pty Ltd T/As Snugglepot Child Care Centre & Figredo - by consent

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 146 of 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Education and Care Services National Law (WA) Act 2012 (WA)</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>8 October 2013</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
</tbody>
</table>

**Conduct:**
(i) AALUBRE is and was at all relevant times the approved provider of an education and care service known as Snugglepot Child Care Centre Armadale located at 48 Poad Road, Armadale, Western Australia ("the Centre").
(ii) Mrs Figredo is and was at all relevant times the nominated supervisor at the service, and was and is also a joint director and shareholder of the First respondent.
(iii) On 6 March 2013 among other children, two siblings aged 8 and 4 attended the Centre from 2:30pm.
(iv) Between 4:15pm and 5:00pm Mrs Figredo took the two siblings with her in a car while picking up other children from a primary school some 5 kilometres from the Centre.
(v) The siblings’ leaving from the Centre – had not been authorised by the siblings’ parents or any authorised nominee named in the siblings’ enrolments records; was not for any medical or emergency reason; and was not an excursion in accordance with the Regulations.
(vi) The siblings’ mother arrived at the Centre around 4:30pm to collect her children and could not locate her children or information about where they had gone.

**Relevant Factors:**
(i) AALUBRE’s designated driver for transport of children from schools to the Centre gave permission for a school student to stay at school longer rather than to come to the Centre with the driver. When the driver returned to the Centre she found that her child was running a temperature. She decided to take her child home and then let the Centre know that the student was still at school and needed to be picked up.
(ii) Of all the carers at the Centre Mrs Figredo was the only one who had the relevant driver’s license and knowledge of the school.
(iii) Mrs Figredo decided to take the siblings with her because she was concerned of the siblings would have been extremely upset being left at the Centre with new carers with whom she wasn't familiar.

(iv) Since the incident the subject of this application, AALUBRE has put new procedures in place to prevent a similar occurrence. Additional forms and authorisation records have been updated in relation to the school runs and procedures to be followed and documented by relevant staff. AALUBRE has ensured additional training for staff, and reviewed its procedures for local excursions and school runs and their implementation, to ensure the breaches will not be repeated.

(v) Two staff have been employed to undertake the school runs and the relief staff list has been updated.

(vi) Parents have been notified of this incident and the consequences that Centre faces over them. Procedures have been put in place to notify the Centre supervising officer if any changes occur that will affect the running of the procedures that are in place.

| Penalty: | 1. Second respondent - reprimanded under section 188B(3)(a) of the National Law (no monetary penalty sought only because the Second respondent is a joint director and shareholder in the First respondent).
2. First respondent - Penalty of $2,000. |
| Costs: | Costs of $1,500. |

---

**Department For Communities and Shemlex Pty Ltd T/As Buggles Child Care Maddington- by consent**

| Matter No: | VR 200 of 2012 |
| Act: | *Child Care Services Act 2007 (WA)* |
| Date of Order: | 28 February 2013 |
| Finding: | Proper cause for disciplinary action exists |
| Conduct: | (i) Shemlex at the time of the allegations the subject of these proceedings was the licensee of a child care centre known as Buggles Child Care, Maddington ('the Centre'). Shemlex is and since 1 August 2012 has been the approved provider of the Centre pursuant to the Education and Care Services National Law (Western Australia).
(ii) The proceedings relate to an incident which occurred on 24 July 2012, when a 4 year old boy left the Centre unsupervised, possibly by climbing over the perimeter fence, and was located a short time (approximately 5 minutes) later, |
100-150 metres from the Centre. As a result of this incident, the Department investigated the operations of the Centre on that day and made the following allegations which Shemlex admits.

(iii) Shemlex contravened regulation 96 of the Regulations by failing to ensure that an enrolled child did not leave the licensed place during a care session unless in the care of the child's parent or a person authorised by the child's parent or in the care of a person authorised by the licensee or supervising officer.

(iv) Shemlex contravened regulation 81A(1)(a) of the Regulations in that, where there were fewer than 13 children enrolled in a care session including at least one child who had not reached 24 months of age, it failed to ensure that for every 4 or fewer than 4 children present at the care session there was one contact staff member on duty.

(v) Shemlex contravened regulation 81(1)(a) of the Regulations in that it failed to ensure that for every 4 or fewer than 4 children who had not reached 24 months of age present at the care session there was one class A*, B* or C, D or E contact staff member on duty.

(vi) Shemlex contravened regulation 81(1)(b) in that it failed to ensure that for every 12 or fewer than 12 children who had not reached 24 months of age present at the care session the contact staff members required by subregulation 81(1)(a) included a class A*, B* or C contact staff member.

(vii) Shemlex contravened regulation 81(2)(a) in that it failed to ensure that for every 5 or fewer than 5 children who had reached 24 months of age but not reached 36 months of age present at the care session there was one class A, B or C, D or E contact staff member on duty.

**Relevant Factors:**

(i) Subsequent to the incident the Centre has made a number of changes to its facilities and procedures to rectify the issues.

(ii) Shemlex submits that:

(a) The Centre admitted liability at an early stage in the State Administrative Tribunal proceedings.

(b) The Centre carried out its own internal investigation, including meetings with the parents of the children to fully and openly explain what had happened, accepting responsibility for the incident, immediately implemented works to modify the fence and thereafter restructured its procedures to ensure that no further contravention will take place in the Centre or in any of the other Child Care centres in the group.

(c) The contraventions did not arise from any wilful misconduct or mala fides.

(iii) The child's departure from the Centre could not have been foreseen, there was the required number of contact staff in the relevant area of the Centre and the fencing complied with the
Regulations.
(iv) The ratios were not met as there was on the day of the incident a slightly greater number of children than anticipated who were signed into the Centre prior to 8.15 am.

(v) The Centre was otherwise in compliance with the Regulations.
(vi) In addition to the Centre, Shemlex operates 9 other Child Care centres in Western Australia.
(vii) As a result of the incident, Shemlex has taken various steps across all of the Child Care Centres in the group.
(viii) The Centre has demonstrated genuine contrition and a desire and effort to ensure that the breaches will not be repeated. There is little need for specific deterrence of the Centre.

Penalty: Penalty of $7,500 - penalties of $1,500 for each breach of regulations 96, 81A(1)(a), 81(1)(a), 81(1)(b) and 81(2)(a).

Costs: Costs of $1,200.

---

### Department for Communities and Safe N Sound Daycare Centre- by consent

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 115 of 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Child Care Services Act 2007 (WA)</em></td>
</tr>
<tr>
<td>Date of Order:</td>
<td>20 December 2012</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
<tr>
<td>Conduct:</td>
<td>Breaches of conditions of the respondent's licence in respect of maximum children permitted to attend a care session and by failing to ensure a proper record of attendance for care sessions on certain days.</td>
</tr>
<tr>
<td>Relevant Factors:</td>
<td>(i) The Licensee has never previously been prosecuted or faced any formal sanction for a breach of child care regulatory requirements, including regulation 70; (ii) the Licensee, who has no legal experience whatsoever, held a genuine belief that the proper interpretation of regulation 70 was that only parents/guardians were able to edit the Attendance Book; (iii) the Licensee made regular attempts to remind parents/guardians of the requirement to sign in and sign out children from the Centre, including considerable signage around the Centre and newsletters distributed to parents/guardians; and (iv) the Licensee maintained the Whiteboard Record as a secondary source of attendance records in the event of any...</td>
</tr>
</tbody>
</table>
chief executive officer of department for communities and TCC (Wa) Pty Ltd trading as Kidz Biz Early Learning Centre Jindalee- by consent

Matter No: VR 62 of 2012

Act: Child Care Services Act 2007 (WA)

Date of Order: 19 June 2012

Finding: Proper cause for disciplinary action exists

Conduct: The respondent contravened regulations 23(1) and 61(1) of the Child Care Services (Child Care) Regulations 2006 ("the regulations") as follows:

(i) the respondent is the licensee of a child care centre known as Kidz Biz Early Learning Centre, Jindalee (the 'Centre'). The Centre is located on Cockleshell Brace;
(ii) on Tuesday 13 December 2011, work commenced on the installation of an underground bore at the Centre.
(iii) the bore installation work was not completed that day and was to be finished on the following Friday (16 December).
(iv) as a result of the incomplete work, there was a small gap created under the emergency gate from the playground inside the Centre leading to the Centre car park.
(v) the gap was inspected by the Centre Coordinator and another staff member, who both determined (mistakenly) that it was too small for a child to pass through.
(vi) it was from this gap that two children managed to leave the Centre.
(vii) the two boys were 3½ and 4½ years of age;
(viii) immediately before they left the Centre, the boys had been playing in the outdoor area with a group of kindergarten aged children;
(ix) it is not known what time the children left the Centre. They were noted as checked in at 9.00am and their absence was first observed at between about 9.15 and 9.37. A search for the children, outside the Centre began within 1 or 2 minutes;
(x) the children were located at 9.51am in the sand mounds at the end of Cockleshell Brace; and
(xi) The children were able to walk 200 metres down the evacuation or other safety issues arising.

Penalty: Penalties totaling $3,900.

Costs: Costs of $1,100.
street before they were located. The children were unharmed.

| Relevant Factors: | (i) The respondent immediately advised the CEO of the incident and fully cooperated with the CEO's investigation.  
(ii) The respondent has admitted liability at an early stage in the State Administrative Tribunal proceedings.  
(iii) The respondent carried out its own internal investigation, including meetings with the parents of the children to fully and openly explain what had happened, accepting responsibility for the incident, immediately remedied the gap under the gate and thereafter restructured its procedures to ensure that no further contravention will take place.  
(iv) The contravention of regulation 61(1) arose from a genuine mistaken interpretation of the statutory requirement, not from any wilful misconduct or mala fides.  
(v) The respondent has demonstrated genuine contrition and a desire and effort to ensure that the breaches will not be repeated. The Respondent believes there is little need for specific deterrence from engaging in the same conduct again. |
| Penalty: | Penalty of $7,000 - $6,000 in respect of the breach of regulation 23 and $1,000 in respect of the breach of regulation 61(1) of the Child Care Services (Child Care) Regulations 2006. |
| Costs: | Costs of $1,408. |

**Chief Executive Officer of Department for Communities and Katie Blythe Pitchford Trading as Como Children- by consent**

| Matter No: | VR 58 of 2012 |
| Act: | *Child Care Services Act 2007 (WA)* |
| Date of Order: | 14 May 2012 |
| Finding: | Proper cause for disciplinary action exists |
| Conduct: | (i) The respondent holds and at 11 November 2011 held a licence to operate a child care service at 47 Birdwood Avenue Como subject to the Regulations.  
(ii) At approximately 3:50pm on Friday 11 November 2011 three enrolled children, between 4 and 5 years of age, left the service unnoticed and unsupervised. They were last seen by a staff member between 3:30 and 3:45pm. At 4.30pm the father of one of the children arrived and his son could not be found onsite.  
(iii) A gate through the fence on the northwest side of the service was found to be unlocked and open.  
(iv) The licensee informed investigators that the gate had been padlocked but that one week prior to the incident workmen... |
had been at the service and the padlock has been removed. The licensee had not replaced the padlock.

(v) A member of the public, a relief primary school teacher found the children walking along South Street while she was driving at approximately 3:50pm.

(vi) The primary school teacher called the police, and remained with the children until they were collected by a contact staff member who was driving in the Como/Kensington area looking for the enrolled children. The contact staff member returned the children to the child care service.

| Relevant Factors: | (i) The respondent was not in attendance at the service at the time of the incident.  
(ii) Upon being advised of the incident by telephone, the respondent immediately instructed the Manager to advise the police and the Department for Communities.  
(iii) The respondent arrived at the service approximately 10 minutes after receiving the telephone call.  
(iv) The parents of each missing child were immediately contacted and made aware of the situation.  
(v) In the week after the incident, the respondent arranged a debriefing session with parents of each of the children to discuss their concerns.  
(vi) By email dated 14 December 2011, parents with children at the service were notified of the incident, and were invited to contact the respondent should they wish to discuss the matter further.  
(vii) The respondent has made herself and her staff available at all times to the investigating officers at the Department of Communities.  
(viii) The respondent has instituted the following changes in light of the incident:  
\( a \) The gate used by the children to leave the service has now been permanently padlocked, and is no longer a point of entry for tradespeople;  
\( b \) After consultation with service staff, new supervisory procedures have been put in place to ensure more frequent head counts of children.  
\( c \) Supervisory and safety procedures are now discussed at each staff meeting. |

<p>| Penalty: | Penalty of $1,700. |
| Costs: | Costs of $1062.75 |</p>
<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 57 of 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Child Care Services Act 2007</em> (WA)</td>
</tr>
<tr>
<td>Date of Order:</td>
<td>24 April 2012</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
<tr>
<td>Conduct:</td>
<td>Inadvertent failure to notify CEO of injury to child</td>
</tr>
<tr>
<td>Relevant Factors:</td>
<td>The principal of the respondent was not aware of the seriousness of the injury to the child. While he followed up with staff, an oversight resulted in a failure to notify the applicant.</td>
</tr>
<tr>
<td>Penalty:</td>
<td>Penalty of $2,000.</td>
</tr>
<tr>
<td>Costs:</td>
<td>Costs of $995.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Matter No:</th>
<th>VR 3 of 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td><em>Child Care Services Act 2007</em> (WA)</td>
</tr>
<tr>
<td>Date of Order:</td>
<td>23 March 2012</td>
</tr>
<tr>
<td>Finding:</td>
<td>Proper cause for disciplinary action exists</td>
</tr>
<tr>
<td>Conduct:</td>
<td>Camp Australia Pty Ltd had committed 13 contraventions of the child care services legislation relating to the failure to ensure that a 'supervising officer' was present at each of seven child care facilities, and further, the failure to immediately notify the Chief Executive Officer in writing when the supervising officers at six facilities resigned.</td>
</tr>
</tbody>
</table>
| Relevant Factors: | 1. Aggravating circumstances:  
(i) contraventions continued for substantial periods of time; and  
(ii) contraventions continued despite written warnings in relation to five facilities  
2. Mitigating circumstances:  
(i) admission of contravention and cooperation with investigation;  
(ii) Early admission of liability in proceeding;  
(iii) Severe skills shortage in child care sector;  
(iii) Long history of statutory compliance; |
<table>
<thead>
<tr>
<th>Finding</th>
<th>Matter No:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(iv) No evidence of failure to promote best interests of children; and</td>
<td>Act:</td>
</tr>
<tr>
<td>(v) Provision of essential service.</td>
<td><em>Education And Care Services National Law (WA) Act 2012</em></td>
</tr>
<tr>
<td>Penalty: Penalty of $52,500.</td>
<td>Date of Order:</td>
</tr>
<tr>
<td>Costs: Costs of $2066.</td>
<td>Finding:</td>
</tr>
<tr>
<td></td>
<td>Conduct:</td>
</tr>
<tr>
<td></td>
<td>Relevant Factors:</td>
</tr>
<tr>
<td></td>
<td>Penalty:</td>
</tr>
<tr>
<td></td>
<td>Costs:</td>
</tr>
</tbody>
</table>