

Early Childhood Education Directorate Convictions and Significant Enforcement Actions

Person with management or control	Jan Shang
Service Name	Joys Child Care
Type of Service	Family day care service
Action Taken	<p>Prosecution action against Mr Jan Shang for:</p> <ul style="list-style-type: none"> • one offence of providing an education and care service without a service approval - section 103(1)(a) and (b) of the <i>Children (Education and Care Services) National Law (NSW)</i>; • one offence of advertising education and care services for a service that was not an approved service - section 104 of the <i>Children (Education and Care Services) National Law (NSW)</i>; • one offence of obstructing an authorised officer in the exercise of his powers under the National Law – section 207 of the <i>Children (Education and Care Services) National Law (NSW)</i>; • one offence of failing to comply with requirements made by an authorised officer under Schedule 2 of the National Law – section 208 of the <i>Children (Education and Care Services) National Law (NSW)</i>; and • one offence of failing to comply with a requirement under section 215 of the National Law – section 217 of the <i>Children (Education and Care Services) National Law (NSW)</i>
Date of conviction	24 June 2019
Sentence	Convicted at Parramatta Local Court and fined a total of \$34,000

Proven offence:

Mr Jan Shang was the director of Joys Child Care Limited and the public officer of the Chinese Students Association. At all times, Mr Shang exercised control over the education and care service.

Joys Child Care Limited was an approved provider, which operated an approved family day care service known as Joys Child Care. The Chinese Students Association (“CSA”) was the holding entity of Joys Child Care, although CSA never held a provider approval in its own right.

On 23 December 2016, the Department suspended the provider approval of Joys Child Care Limited. The suspension of the provider approval took effect immediately and also operated to suspend the service approval. The service continued to operate despite the suspension.

On 29 March 2017, the Department cancelled the provider approval. Upon the cancellation of the provider approval taking effect, the provider and service were no longer approved under the National Law.

Despite the suspension of the provider approval and its subsequent cancellation, the service continued to operate, and to advertise, from 24 December 2016 to 30 August 2017. The service operated under the auspices of:

- Joys Child Care Limited between 24 December 2016 and 5 February 2017;
- The Chinese Students Association between 6 February 2017 and 2 June 2017; and
- Joys Child Care Limited between 5 June 2017 and 30 August 2017.

In April 2017, the Department issued a notice to Mr Jan Shang under section 215 of the National Law. The notice required Mr Shang to produce certain documents. Mr Shang failed to comply with the notice.

On 17 August 2017, the Department executed a search warrant at the service premises and obtained evidence establishing the continued operation of the service. During the execution of the search warrant, Mr Jan Shang obstructed authorised officers in the execution of their powers and failed to comply with a number of requirements outlined in Schedule 2 of the National Law.

Mr Jan Shang:

- failed to exercise due diligence by continuing to operate and advertise a child care service after the provider approval had been suspended;
- obstructed authorised officers and failed to comply with requirements during the execution of the search warrant by:
 - refusing to allow officers to contact the parents of children to allow the search of the premises to continue without the children being present;
 - denying access to levels one and two of the premises;
 - interfering with officers attempting to interview staff at the premises;
 - causing the officers to call the police on a number of occasions so that the search could progress; and
 - failing to answer questions relating to the premises and the documents held on the premises.

- refused to provide documents following the receipt of a notice under section 215 of the National Law.