



Early Childhood Education Directorate Convictions and Significant Enforcement Actions

Approved Provider	Joshua Emerton Pty Ltd
Service Name	Active OOSH Cameron Park
Type of Service	Centre based education and care service
Action Taken	Prosecution action against Joshua Emerton Pty Ltd for: <ul style="list-style-type: none">• one offence of failing to ensure that every reasonable precaution was taken to protect children from harm and from any hazard likely to cause injury – section 167(1) of the <i>Children (Education and Care Services) National Law (NSW)</i>; and• one offence of failing to take reasonable steps to ensure that staff followed policies and procedures – clause 170(1) of the <i>Education and Care Services National Regulations (NSW)</i>.
Date of conviction	16 December 2020
Sentence	Convicted at Toronto Local Court and fined a total of \$2,200. Conviction confirmed on appeal to the Newcastle District Court.

Proven offence:

Joshua Emerton Pty Ltd was the approved provider of an education and care service known as Active OOSH Cameron Park.

The service provides education and care for school aged children, outside of school hours. On 18 January 2018, an eight-year-old child attended the service during the vacation care period. On that day, the child attended the “Super Camp Adventure Excursion” with the service.

During the excursion, the child, along with other children, was under the direct supervision of the nominated supervisor and another educator. Mr Emerton, the person with management or control for Joshua Emerton Pty Ltd, supervised another group of children.

The weather was warm and sunny, with a maximum temperature of 29.5 degrees Celsius. The child participated in five activities that were each about 45 minutes in duration. These activities were conducted in full sun.

The nominated supervisor allowed the children to remove their hats and shirts while participating in activities in areas that were not protected from the sun. The nominated supervisor applied sunscreen to the child, but observed her to have removed the sunscreen on a number of occasions.

The child was sunburnt at the end of the day, and required medical treatment to address superficial burns, which resulted in two large blisters at both shoulders, two smaller blisters at both shoulders and redness around both shoulders and the back of her neck.

The service had a Sun Safety Policy in place.

Joshua Emerton Pty Ltd:

- failed to take reasonable steps to ensure that nominated supervisors and staff members of the service followed the Sun Safety Policy in that the staff:
 - failed to provide adequate sun protection and failed to provide extra sun protection between 11:00am and 3:00pm;
 - planned outdoor activities to occur in the full sun;
 - failed to ensure that educators and children were wearing hats;
 - failed to ensure that educators and children were wearing sun safe clothing;
 - failed to ensure that children properly reapplied sunscreen every two hours;
 - failed to ensure that educators acted as role models and demonstrated sun safe behaviour; and
- failed 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 in that it:
 - failed to ensure that the activities were conducted in shaded areas;
 - failed to ensure that the child was wearing sufficient sunscreen, sun safe clothing and a hat during the excursion.