

Early Childhood Education Directorate

Convictions and Significant Enforcement Actions

Nominated Supervisor	Ms Lauren Smith
Service Name	Kids united OSHC
Type of Service	Centre based education and care service
Action Taken	<p>Prosecution action against Ms Lauren Smith for:</p> <ul style="list-style-type: none"> • one offence of failing to ensure adequate supervision of children - section 165(2) of the <i>Children (Education and Care Services) National Law (NSW)</i>; and • one offence of failing to take every reasonable precaution to protect children from harm and from any hazard likely to cause injury - section 167(2) of the <i>Children (Education and Care Services) National Law (NSW)</i>.
Date of action	16 November 2020
Sentence	Sentenced at Campbelltown Local Court. Following a plea of guilt, the court made Conditional Release Orders for both offences under section 10(1)(b) of the <i>Crimes (Sentencing Procedures) Act 1999 (NSW)</i> . No conviction was recorded.

Proven offence:

The service, which provides outside school hours care to a maximum of 100 children at any one time, is located on the grounds of Camden South Public School. Ms Lauren Smith was the nominated supervisor of the service.

The service offered children the option of indoor play or outdoor play, with educators stationed at each play area to provide care and supervision. The service used the school hall for indoor play, and the school oval, approximately 40 metres from the hall, for outdoor play.

Access to and from the school includes a gate that is locked by a pin code, which is set and controlled by the school. Prior to the incident described below, the mother of one of the children involved in the incident had provided her child with the pin-code to the gate, which is located between the hall and a car park with street frontage to the Old Hume Highway.

Due to the layout of the school buildings, an educator standing at the door of the hall did not have a complete view of the path to the oval. An educator standing on the oval was able to view the hall doors and the path between the hall and the oval if the educator stood at a specific place on the oval.

Prior to the incident, the service generally used an informal procedure involving the use of walkie-talkies to safely supervise the movement of children between play areas. The procedure was not part of any written policy and, although educators were generally informed of the procedure, there was no specific training in relation to it.

On 6 August 2019, two children, aged five and six, were signed into the service at around 3:00pm. The children played in the hall until approximately 3:25pm, at which time they were taken to play on the oval.

At around 3:45pm, the children asked if they could return to the hall. The educators communicated the movement using the walkie-talkies. The educator on the oval watched the children walk towards the hall and saw them walk inside.

At about 3:50pm, the children asked if they could return to the oval. The educators communicated the movement using the walkie-talkies, although there was no message from the educators on the oval confirming they had received the message about the children who were returning to the oval. Educators at the hall did not observe the children arrive at the oval.

At about 3:54pm, the father of one of the children arrived to collect his child. At this time, it was discovered that both children were missing. Service staff, school staff and the parent of one of the missing children began searching for the children, first in the school grounds and then in the areas surrounding the school.

At approximately 4:20pm, a teacher from the school was driving home when she spotted the children run part-way across the Old Hume Highway to the median strip, approximately 2.5km south of the school. She then observed the children run across the rest of the highway and into a nearby street. The section of the Old Hume Highway where the children were observed has four lanes of traffic, with a grassy median strip dividing the highway into two lanes going in either direction. The speed limit is 80km/h.

The teacher informed staff at the school that she had seen the children, and continued to follow them on foot.

The children were located at about 4:37pm and returned to the service by two other staff members from the school.

The police were not contacted at any time during the children's absence.

Ms Lauren Smith, in her capacity as nominated supervisor:

- failed to ensure children being educated and cared for were adequately supervised in that the two children, from approximately 3:50pm to 4:37pm, being the period when the children first left the service premises to when they were returned, were not supervised; 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 she:

- failed to ensure that the service had an adequate number of functioning walkie-talkies for each educator to communicate the movements of children in the care of the service;
- failed to ensure that there was no blind spot on the path between the indoor and outdoor play areas to ensure that children were supervised while travelling between play areas;
- failed to adopt, implement and train educators on a formal written policy of using the walkie-talkies, including “call and response” radio procedure whereby a sending educator requests verbal confirmation that a message has been received and the educator receiving the message confirms receipt of the message before any child travels between play areas;
- failed to adopt, implement and adequately train educators on a written policy whereby children in the care of the service are not permitted to travel between parts of the school premises unsupervised by and/or out of the line of sight of an educator at the service; and
- failed to instruct parents not to give their children the gate security pin code.