



Government of **Western Australia**  
Department of **Communities**



# Family day care residences with swimming pools, spas and water features in Western Australia

Decision Regulatory Impact Statement  
(Decision Statement)

August 2020

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## The Minister's Decision

The policy process is frequently a long and complex journey, especially in this case when it derives from the death of a toddler. The tragic death of two-year old Lachlan Mitchell, while attending a family day care residence in Western Australia, has been the catalyst for this current process; a process to better ensure the safety of children at any family day care residence or venue with a swimming pool, spa or water feature.

This process was informed by a Coronial inquest that investigated the circumstances surrounding Lachlan's death and its recommendations. At the outset, I promised to take these recommendations into account, to hear from the sector and to consider the submissions made by interested members of the community. I would particularly like to acknowledge the efforts of Mrs Melanie Mitchell, Lachlan's mother, throughout this difficult process. Mrs Mitchell has actively and thoughtfully engaged with, and provided practical feedback to, the initial sector consultation and the more formal Consultation Statement.

In drafting this Decision Statement, the Department of Communities presented me with a range of possible options that sought to address each aspect of the Coroner's recommendations. In considering the options, I recognise that most family day care educators, managers and service providers who are currently operating have complying systems, in which the risks associated with swimming pools, spas and water features are both identified and well managed. I am also conscious that family day care offers parents the option of a more individualised service, which requires the active, ongoing diligence of operators and the careful consideration of its viability for parents and providers.

Accordingly, I have decided to:

- phase out swimming pools and spas at Western Australian family day care residences and venues by:
  - banning new educators with residences with pools or spas from operating, except people in the application process until a specified date, and
  - prohibiting existing educators with residences with pools or spas from transferring to another provider.
- improve safety at existing family day care educators with pools or spas by requiring additional safety devices designed to alert or deter a child from entering the water
- require the approved provider to:
  - inspect each family day care educators' residence/venue with pools, spas or water features on a monthly basis, and
  - undertake training by a qualified third-party provider in carrying out the inspections of family day care residences/venues with pools, spas or water features
- require that all family day care educators have at least one telephone or similar means of communication in a fixed location as a back-up in case of an emergency.

I am confident that the phasing out of swimming pools and spas in the long-term, together with enhanced oversight of both existing pools, spas and water features along with improved safety requirements at family day care residences and venues, will improve the safety of children.

I have asked the Department of Communities to initiate the process to give effect to my decision in a timely manner. As the regulation of childcare, including family day care, is part of a national system, I will seek Education Council approval to make regulations specific to Western Australia.

Information and support will be provided for the family day care sector to explain my decision on this matter, its effect on existing and future educators and providers and the implementation process going forward.

Until the necessary legislative and non-legislative processes are put into place, I am confident the sector will maintain its diligence and vigilance in managing the risks associated with all swimming pools, spas and water features at family day care residences and venues within Western Australia.

## **LIST OF ABBREVIATIONS AND ACRONYMS**

ACECQA	Australian Children's Education and Care Quality Authority
COAG	Council of Australian Governments
Communities	Department of Communities
DMIRS	Department of Mines, Industry Regulation and Safety
ECRU	Education and Care Regulatory Unit
FDC	Family Day Care
LDC	Long Day Care
NQA	National Quality Agenda
NQA ITS	National Quality Agenda, Information Technology System
NQF	National Quality Framework
NQS	National Quality Standard
NSW	New South Wales
QIP	Quality Improvement Plan
RIA	Regulatory Impact Assessment
USO	Universal Service Obligation
WA	Western Australia
WF	Water Feature

## **DEFINITIONS**

Approved provider	A person who has been assessed as fit and proper and granted a provider approval, to be involved in the provision of an education and care service.
Consultation (Regulatory Impact) Statement	A document, that is part of the Department of Treasury's Regulatory Impact Assessment program (RIA), that outlines a problem, considers options (including making, or amending, of laws) and includes a cost-benefit analysis as a basis for wide consultation, and decision-making.
Decision (Regulatory Impact) Statement	The final document prepared in the RIA program and based on the Consultation Statement, that undertakes a final analysis of, and makes recommendations on, options to resolve a problem, considering the feedback obtained, and outlines a plan for implementation and review of the option/s.
Education and Care Service	A centre-based, or family day care, service that provides education and care to children under 13 years of age and is subject to the requirements of the National Law and National Regulations.
Educator	A person who is qualified to provide education and care to children.
Family Day Care Service (FDC)	A network of educators and residences, that are affiliated with an approved provider who holds a service approval.
Family Day Care Co-ordinator	A person employed, or engaged, by an approved provider to monitor and support the educators of the family day care service.
Family Day Care Residence	A place, usually the educator's home but may be an approved venue, at which an educator provides education and care to children.
National Law	<i>Education and Care Services National Law (WA) 2012.</i>
National Quality Standard	The benchmark, prescribed by the National Regulations, against which education and care services are assessed and rated.
National Regulations	Education and Care Services National Regulations 2012
Nominated supervisor	A person, nominated by the approved provider, who is responsible for the day-to-day management of an approved education and care service.
Spas	Both in-ground, above ground, portable outdoor spas (or hot tubs Jacuzzis). Does not include indoor spa baths.
Toddlers	Children aged between 0-4 years of age.

# Executive summary

## Background

Education and care services are regulated through a national system, administered within each State and Territory, that includes a quality assessment process and legislation (the *Education and Care Services National Law (WA) 2012* (National Law)). Currently, the legislation outlines a process by which education and care services that have a water safety policy can have a swimming pool, spa and/or water feature on the premises.

## The issue

On 9 November 2015, Lachlan Mitchell drowned in a swimming pool at a family day care residence. The drowning was the subject of a Coronial inquest from which recommendations were made to prevent a similar tragedy occurring.

This drowning highlights the dangers of water in a care environment, particularly for toddlers. Research indicates that most drowning deaths of toddlers in Western Australia have occurred in swimming pools and more particularly below ground home swimming pools<sup>1</sup>.

It is generally accepted that toddlers are attracted to water, but they do not understand the dangers and usually lack the physical co-ordination and cognitive ability to apply any swimming skills in an emergency. Therefore, they require both adult supervision and physical barriers. Unfortunately, the lack of supervision is the most influential factor in toddler drownings; and providing physical barriers between children and water can only be effective if the integrity of the barrier is maintained and monitored.

## Objectives

The National Law establishes a quality framework for the delivery of education and care services to children that:

- ensures their safety, health and wellbeing
- improves their educational and developmental outcomes, and
- reduces the regulatory and administrative burden for education and care services by enabling information to be shared between participating jurisdictions and the Commonwealth.

Government intervention is considered necessary in dealing with water hazards at family day care residences or venues as there may be information imbalances between services and parents about daily safety practices, and safety may not be sufficiently considered by all parties. If history is a predictor of future outcomes, there is a low probability of another near-drowning or drowning event at a family day care residence or venue, but if such an event should occur, it is likely to result in death/high harm.

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<sup>1</sup> Royal Life Saving Society Australia 2018, 'Royal Life Saving National Drowning Report 2018', retrieved from [www.royallifesaving.com.au](http://www.royallifesaving.com.au) on 19 September 2018, page 118



In terms of targeting intervention that is most likely to minimise harm associated with water hazards at family day care residences/venues, the Decision Statement:

- focusses on swimming pools and spas at family day care residences or venues as the types of water hazards requiring the most government intervention in terms of regulating entry to the sector:
- considers water features more broadly, in addition to swimming pools and spas at family day care residences/venues, in terms of an ongoing oversight regime, and
- does not consider water hazards that are external to the family day care premises including excursions or temporary water hazards such as wading pools.

### **Options and consultation**

The Coroner made recommendations relating to the operation of the family day care sector, to uphold the health, safety and wellbeing of children. In making these recommendations, the Coroner noted that family day care involves one educator being required to supervise a number of children, who may all be close in age and relatively unfamiliar with the physical environment.

In developing options to address the Coroner's recommendations, the Department of Communities (Communities) undertook a targeted consultation with the family day care sector. A Consultation Regulatory Impact Statement (Consultation Statement) was then developed to enable broad perspectives on the issue to be considered and to ensure the impacts of proposals could be determined and assessed.

### **Impact analysis**

For the impact analysis, the Coroner's recommendations were used as a framework for the consideration and grouping of possible options, namely those involving:

- existing family day care educators at residences/venues with swimming pools or spas
- new family day care educators at residences/venues with swimming pools or spas
- oversight of family day care educators at residences/venues with swimming pools, spas, and
- a back-up means of communication at a fixed point at all family day care residences/venues.

As a result of this process, four Policy Combinations were determined:

- Policy Combination A: current situation, or the base case, involving no legislative changes other than those made since the incident.
- Policy Combination B: allow family day care educators with pools/spas to operate but no transfers to another approved provider, improved provider oversight, approved safety device/s designed to alert or deter a child from entering the water and back-up communications for all family day care educators.
- Policy Combination C: allow existing family day care educators with pools/spas to operate with family day care assistant, but no transfers to another approved provider, and approved provider oversight.

- Policy Combination D: allow existing family day care educators with pools/spas to operate with family day care assistant, including educators transferring to another approved provider, with requirement of a family day care assistant, approved provider oversight and back-up communications for all family day care educators.

An analysis of the costs and benefits was undertaken for each of the four policy combinations, incorporating feedback from both consultation rounds, and assessed against the objectives.

### **Minister's preferred option**

In considering the possible impact of proposed changes on the family day care sector, the families who rely on them and most importantly the safety of the children who attend a family day care service, policy combination B is preferred by the Minister.

This combination involves:

- enabling existing educators with residences/venues with pools or spas to operate and accept enrolments of children under five years of age, except those who transfer to another approved provider
- banning new educators with residences with pools or spas from operating, except those in the application process until a specified date
- monthly inspections of each residence/venue with a pool, spa or water feature by approved provider
- improve safety at existing family day care educators with pools or spas by requiring additional safety device/s designed to alert or deter a child from entering the water
- training by a qualified third-party for approved providers to undertake inspections of the pool, spa and water features at each family day care residence or venue affiliated with the family day care service, and
- a mandated requirement for all family day care educators to have a back-up means of communication in a fixed location.

This combination enables existing educators at residences/venues with a pool or spa to continue to operate and to take enrolments of children under five years of age but provides for a variety of additional safeguards. This combination also includes a provision to mandate a back-up means of communication at a fixed point for all family day care educators.

### **Implementation and evaluation**

As each option combination, apart from the status quo, involves change to the National Regulations, implementing the final decision will require approval from the Education Council. Subject to Education Council approval, Communities will attend to both legislative and non-legislative mechanisms to give effect to the option combination selected for implementation. Implementation will include consideration of lead times and information sessions for the sector and monitoring of the effectiveness of the provisions after a minimum of three years.

A summary of the policy combinations presented as part of this report is at Appendix 1.

# Introduction

## Background

Since the implementation of the Council of Australian Governments endorsed National Quality Agenda (NQA) in Australia in 2012, the demand for the care of children outside the family home has continued to increase<sup>2</sup>.

The NQA, which encompasses the quality reforms to early childhood education and care, consists of:

- learning frameworks, particularly the Early Years Learning Framework for Australia, which outlines practices to support and promote children’s learning and development
- The National Quality Framework (NQF), which establishes a national approach to the regulation and quality assessment of education and care services, that includes:
  - the National Quality Standard (NQS), a national standard for the provision of high-quality education and care across seven quality areas<sup>3</sup>
  - an assessment and rating process, by which education and care services are assessed and rated by their state and territory regulatory authority against the NQS, and
  - the *Education and Care Services National Law (WA) 2012* (National Law) and the *Education and Care Services National Regulations 2012* (National Regulations).

In Western Australia, the NQF is operationally administered by the Education and Care Regulatory Unit (ECRU) within the Department of Communities (Communities).

The NQF covers education and care services, specifically:

- Centre-based services, such as long-day care, which provides education and care to babies and children up to 13 years of age and is usually delivered at a commercial address with rooms and play areas designed to cater for large numbers of children. Services include outside school hours care services and vacation care.
- Family day care which also provides education and care to babies and children up to 13 years of age and is usually delivered to smaller numbers of children in an educator’s own home.

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<sup>2</sup> Based on the number of children using approved childcare in Australia, Western Australia and the number of approved childcare services:

Department of Education, Australian Government, *Child Care and Early Learning in Summary*, June quarter 2013, pages 2 and 4

Department of Education, Australian Government, *Early Childhood and Child Care in Summary*, June quarter 2016 (pages 2 and 4) and June quarter 2018 (pages 2 and 3)

<sup>3</sup> The seven quality areas are: educational program and practice; children’s health and safety; physical environment; staffing arrangements; relationships with children; collaborative partnerships with families and communities; and governance and leadership.

The NQF does not cover personal arrangements, such as nannies, care provided under a child protection law and occasional care services and does not apply to kindergarten programs delivered in public and independent schools in Western Australia.

The NQF sets out the rules for the approval, and operation of, education and care services, including:

- establishing, and monitoring, entry requirements administered by ECRU that relate to:
  - proposed operators of education and care services, known as approved providers, to ensure they are fit and proper having regard to specified criteria, and
  - education and care services, including their policies and procedures, noting:
    - for centre-based services, the suitability of premises is assessed by ECRU, and
    - for family day care services, the approved provider has the primary responsibility for ensuring the compliance of educators, and their premises, although prescribed information must be provided to ECRU.
- outlining staffing numbers, types, qualifications and behaviours, including dealing with children (such as supervision), notification requirements and recordkeeping
- outlining the physical requirements of the environment
- providing for a system of determining and monitoring the quality of education and care services, and
- establishing and monitoring the operation of education and care services, administered by ECRU, and having regard for natural justice.

## **Objectives and guiding principles of the NQF**

The objective of the National Law is to establish a quality framework for the delivery of education and care services to children that:

- ensures their safety, health and wellbeing
- improves their educational and developmental outcomes, and
- reduces the regulatory and administrative burden for education and care services by enabling information to be shared between participating jurisdictions and the Commonwealth.

One of the guiding principles of the NQF is that the best interests of the child are paramount.

Government intervention in determining who can enter, continue to operate and the terms of operation in the early childhood education and care services is necessary to uphold the best interests of the child:

- within imperfectly operating markets, where parents have insufficient access to all information necessary to:
  - assess operators
  - determine the relative quality amongst education and care services, and

- assess the optimum service consumption to maximise long-term private and public benefits.
- as these interests may conflict with commercial interests:
  - where children’s wellbeing and safety may be costly, or not apparent, and may not be sufficiently considered by operating education and care services.

## Education and Care Services in Western Australia

In Western Australia, as of 30 June 2019<sup>4</sup>, there were 1209 approved education and care services made up of:

- 1173 centre-based services, which include:
  - 680 long day care centres
  - 23 preschool/kindergartens
  - 469 outside school hours care, and
  - 1 other.
- 36 family day care services.

According to the family day care register as at August 2019, there were 1222 educators in WA, of which:

- 182 educators had a pool or spa, and of these educators:
  - approximately 20 percent are in the non-metropolitan area
  - 6 have other water features on the premises, and
  - 19 educators have one or more water features (not including a pool or spa).

Broadly, in terms of management type, these family day care services are:

- private, for profit: approximately 70 percent of the sector
- private, not for profit community managed, or other organisation: about 19 percent, and
- state/territory and local government managed: about 11 percent.

Other forms of child care services providing occasional care, mobile services and those previously funded under the Commonwealth Government’s Budget Based Funded program, who are covered by the *Child Care Services Act 2007 (WA)*<sup>5</sup> do not have swimming pools at their premises.

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<sup>4</sup> Australian Children’s Education and Care Quality Authority (August 2019), NQF Snapshot Q2 2019, retrieved from [acecqa.gov.au](http://acecqa.gov.au) on 19 August 2019

<sup>5</sup> Regulation 6 of the Child Care Services (Child Care) Regulations 2006

## Issue statement

### Swimming pools and the NQF

In WA, the National Law does not prohibit education and care services operating where there is a swimming pool, or other water hazard, on the premises<sup>6</sup>. However, in applying for a service approval, an education and care service must provide a copy of the service's proposed water safety policy, if:

- a swimming pool or other water hazard is situated on the premises of the proposed centre-based service, or
- the family day care service will permit a family day care residence or venue with a swimming pool or something that may constitute a water hazard.

However, unlike a long-day care centre, a family day care residence usually operates with only one educator caring for and educating a maximum of four children that are preschool age or under<sup>7</sup>.

### The Incident

In November 2015, Lachlan Mitchell, who was almost three years old, drowned in a swimming pool while attending a family day care service in Western Australia. The drowning death was the subject of a Coronial inquest and a report was released on 30 May 2018.

### Context

In the Coroner's report, it was noted the educator had completed a Diploma in Children's Services and was registered with an approved provider of a family day care service under the National Law.

The water safety policy of the family day care service to which the educator was registered:

- required educators to 'prevent child accidents and illnesses related to swimming and wading pools, other water hazards and water-based activities through close supervision, education and compliance with state regulations'
- specified:
  - any items around the perimeter of the pool must be situated to prevent a child using them as climbing aids, and
  - all children near water were to be closely supervised and no child was to be left alone near water.

The educator gave evidence she was required by the family day care service to complete a safety checklist each morning, including a check box relating to the pool gate in the outdoor area.

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<sup>6</sup> As with the Consultation Statement, this Decision Statement examines swimming pools, and other water hazards, at a family day care residence or venue, and does not consider excursions to, or involving, swimming pools or other water hazards.

<sup>7</sup> See Regulation 124 of the National Regulations.

The family day care service usually conducted monthly visits of the residence, which were a combination of announced or unannounced visits, although the National Regulations required only an annual assessment of the residence or venue. The last family day care service visit to the premises occurred during September 2015.

A council inspection of the pool barrier occurred in February 2015 and a fault in the performance of the pool gate's self-closing mechanism was identified and found to have been fixed on a return visit during March 2015<sup>8</sup>.

### **Summary of events**

On 9 November 2015, the educator was caring for three children under the age of three. Initially, all the children were inside the house, and the educator put the 11-month old in a cot. The educator took Lachlan outside, while the two-year old played with a toy at the laundry door. In response to hearing the baby becoming increasingly distressed, the educator went inside to try to settle him and the two-year old followed, but the evidence suggests Lachlan remained outside.

Once the educator realised Lachlan was not inside, estimated to be about five to seven minutes in total, she found Lachlan in the water and commenced cardiopulmonary resuscitation (CPR). As the educator couldn't find her mobile phone, she stopped CPR and ran to a neighbour's house to get help. Lachlan was unable to be revived.

It was concluded Lachlan found a way to enter the swimming pool area while unsupervised<sup>9</sup>.

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<sup>8</sup> Linton, Sarah H (2018), *Amended Record of Investigation into Death* (Ref:45/17), retrieved from coronerscourt.wa.gov.au on 17 September 2018, pp. 3-5.

<sup>9</sup> Linton, Sarah H (2018), *op. cit.*, pp. 9-15

## After the incident

Following Lachlan Mitchell's death in 2015, a condition was placed on all WA family day care service approvals stating:

'The approved provider must ensure that, where there is a swimming pool, spa or other water feature at the residence of an educator who is registered with the service, the educator must be directly supervising and physically in proximity to any child in their care who is near the swimming pool, spa or other water feature.'

While all family day care service approvals are subject to the requirement that the service providers ensure the safety, health and well-being of children, the additional condition was included to emphasise the necessity for educators to actively supervise children around water. A breach of this condition is subject to a maximum penalty of \$50 000.

A workshop was held in January 2016 with officers from ECRU, peak bodies, family day care educators and other interested stakeholders to discuss actions that might be taken in relation to water hazards, including:

- improving policies, practices and checklists regarding water hazards in family day care services
- visits by co-ordinating units
- training of educators and co-ordinators regarding pool compliance and water safety, and
- improving communication between and among educators, parents and the service about the National Law.

In the Coroner's report, it was noted Australian Children's Education and Care Quality Authority (ACECQA) updated guidance material about swimming pools and other water hazards aimed at the family day care sector, to inform them about their responsibilities under the National Law<sup>10</sup>.

## Reports about drowning

Reports relating to drowning that have been released in WA since the drowning incident include:

- WA Ombudsman investigation:
  - In November 2017, the WA Ombudsman released a report<sup>11</sup> of an investigation into ways to prevent or reduce deaths of children by drowning.
- Royal Life Saving WA:
  - Each year, Royal Life Saving produces a WA Drowning Report that examines all recorded fatal and non-fatal drowning incidents in National and WA waterways.

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<sup>10</sup> Linton, Sarah H (2018), op. cit., pp. 18-19

<sup>11</sup> Ombudsman WA (2017), 'Investigation into ways to prevent or reduce deaths of children by drowning,' retrieved from [www.ombudsman.wa.gov.au](http://www.ombudsman.wa.gov.au) on 17 September 2018



- A report, entitled: 'A 10 Year Analysis of Drowning in Toddlers aged 0-4 years in Western Australia'<sup>12</sup>, was also released that analysed drowning data in WA between 2003/04 and 2012/13.

### Coroner's recommendations

The Coroner's report into the 2015 drowning death of Lachlan Mitchell contained four recommendations to prevent further drowning incidents. The Coroner's focus was on supervision in family day care, "where one educator is required to supervise a number of children, who may be all close in age and relatively unfamiliar with the physical environment"<sup>13</sup>.

The Coroner recommended that the Honourable Minister for Child Protection and Community Services consider:

1. excluding homes with a swimming pool, outdoor spa or jacuzzi from being used to operate a family day care service where children under the age of five are admitted into care, which should come into effect immediately given the high level of risk of drowning
2. excluding new family day care educators from being approved to operate a family day care service from a home with a swimming pool, outdoor spa or jacuzzi
3. amending the relevant legislation in Western Australia to require that where a family day care service operates from a home with a swimming pool, outdoor spa or jacuzzi (which will only be for children over the age of 5 years), the approved provider must physically inspect the property monthly to ensure that the safety barrier to the water hazard is functioning effectively and there are no climbable hazards in proximity to the fencing. The need for direct supervision in proximity to the water hazard must also be reiterated to the educator during each inspection, and
4. requiring all family day care educators to have a fixed landline installed at their premises so that it is available to contact emergency services in the case of an emergency.

### Assessing the drowning risk

In the Consultation Statement, water hazards were those identified by approved providers for inclusion on the family day care register, namely:

- swimming pools
- spas – both in-ground, above ground, portable outdoor spas (or hot tubs) and jetted bathtubs (or Jacuzzis), and
- water features, such as fishponds and wishing wells.

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<sup>12</sup> Royal Life Saving Society WA (undated), 'A 10 Year Analysis of Drowning in Toddlers Aged 0-4 Years in Western Australia', retrieved from royallifesavingwa.com.au on 19 September 2018

<sup>13</sup> Linton, Sarah H (2018), op. cit., page 21

This Decision Statement does not include consideration of water hazards that are:

- external to the family day care premises, including excursions, and
- temporary, such as wading pools.

### **Instances of drownings**

In WA, between 1 July 2003 and 30 June 2013:

- There were 40 drowning deaths of toddlers aged 0-4 years recorded.
- There were 326 toddlers who were hospitalised following a non-fatal drowning incident.
- Drowning rates amongst toddlers were similar in the Perth metropolitan area and regional and remote areas of WA.

According to the Royal Life Saving Society Australia's National Drowning Report 2018, swimming pools were the leading location for drowning deaths for children aged 0-4 years nationally<sup>14</sup>. Similarly, in WA between 1 July 2003 and 30 June 2013, most drowning deaths occurred at home swimming pools, particularly below-ground swimming pools. Lachlan Mitchell was reported<sup>15</sup> to have drowned in the family day care residence's below-ground swimming pool.

### **Drownings associated with family day care residences**

The following are cases of drownings associated with family day care residences in Australia.

#### **South Australia**

A 19-month-old child drowned in a swimming pool in January 2016 while her family was at the premises for a social visit. It has been reported the child's mother took the child out of the pool, dressed her and left the child just outside the back door and outside the gated area of the pool while the mother showered, as other family members were still in the backyard. It is unclear how the child entered the pool without being seen, but the child was found unconscious in the pool. Despite receiving CPR and being taken to hospital, the child died two days later.

During a coronial inquest that was being held in April 2019, it is understood the local council had assessed the pool in November 2016 as being non-compliant with safety regulations, however it does not appear that the matter was followed up. It was also reported the premises where the child drowned was used as a family day care centre by the child's aunt, who was an approved educator<sup>16</sup>.

#### **New South Wales**

In 2009, a toddler drowned in a pond during an excursion from a family day care residence in New South Wales. The National Regulations include a provision, applying only in NSW,

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<sup>14</sup> Royal Life Saving Society Australia 2018, 'Royal Life Saving National Drowning Report 2018', retrieved from [www.royallifesaving.com.au](http://www.royallifesaving.com.au) on 19 September 2018, page 118

<sup>15</sup> 'Pool exclusion mooted after day care death' (2018, June 16) WA Today (2018), retrieved from [www.watoday.com.au](http://www.watoday.com.au) on 20 August 2019

<sup>16</sup> Opie, Rebecca (2019, April 2), 'Backyard swimming pool was deemed unsafe by council inspector before toddler's drowning,' retrieved from [abc.net.au](http://abc.net.au) on 21 August 2019

requiring the approved provider of a family day care service ensure any swimming pool at a family day care residence or venue is fenced in accordance with the requirements for fencing a new swimming pool under the *Swimming Pools Act 1992* (NSW).

## Tasmania

In 1999, prior to the introduction of the NQF, a child drowned in a pool at a family day care centre, while enrolled for care. In comments made relating to this case, the WA Coroner noted the pool gate “was not, and had never been, self-closing and did not meet the relevant Australian Standard, despite various inspections by a council inspector and personnel from the child care service<sup>17</sup>.” The Tasmanian Coroner also noted “a determination should be made as to whether it is appropriate [for] carers [to] visit family day care homes other than their own during work hours whereby they may distract the carer from her observation requirements.”

A Tasmanian specific regulation was made to the National Regulations stating that “the approved provider of an education and care service must ensure that there is no swimming pool on the education and care service premises.” It is understood in Tasmania, family day care residences may be registered by an approved provider where the pool or spa is separate from the education and care service premises and not visible to children being educated and cared for at the premises. However, this applies to a limited number of family day care residences.

## Risk factors

Queensland Health<sup>18</sup> notes children aged 0-4 years of age are particularly at risk of drowning when inadequately supervised around pools of water because they:

- are attracted to water, but do not understand the dangers
- can swallow water, sink and lose consciousness in less than a minute
- usually lack the physical co-ordination and cognitive ability to apply any swimming skills in an emergency, and
- are less likely than older children to cry out for assistance.

## Lack of supervision

The Royal Life Saving Society WA’s report: *A 10 Year Analysis of Drowning in Toddlers Aged 0-4 Years in Western Australia (2003/04 to 2012/13)*, states “a lack of appropriate adult supervision was a factor in all drowning incidents recorded amongst this age group<sup>19</sup>”.

Commonly cited reasons for a lapse in supervision include:

- undertaking household chores
- attending to other children, as occurred at Lachlan’s family day care centre, and
- confusion over which adult was responsible for supervising the toddler.

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<sup>17</sup> Linton (2017), op. cit., page 15-16

<sup>18</sup> Queensland Health (2017, November 23), ‘Three unexpected drowning hazards found around the house’, retrieved from [www.health.qld.gov.au/news-alerts](http://www.health.qld.gov.au/news-alerts) on 11 October 2018

<sup>19</sup> Royal Life Saving Society WA (undated), *A 10 Year Analysis of Drowning in Toddlers Aged 0-4 Years in Western Australia*, retrieved from [royallifesavingwa.com.au](http://royallifesavingwa.com.au) on 19 September 2018, page 8

## **Supervision issues in family day care residences - WA**

ECRU continues to monitor and take appropriate action on matters relating to supervision involving all education and care services. In monitoring the education and care sector, ECRU has regard to a compliance and enforcement framework. This ensures its processes are fair yet flexible and matters of high risk are prioritised for investigation to protect children from harm. Depending on the evidence, actions available to ECRU range from placing conditions on the provider or service approval through to taking the matter to a court or Tribunal.

Since 2016, ECRU has taken the following five matters involving supervision issues in family day care to the State Administrative Tribunal, which resulted in an agreed outcome.

1. A toddler left a residence apparently through a gate that was not self-closing or self-locking after family members entered the premises. A neighbour who was driving home, noticed the child standing in the middle of the road and took the child back to the family day care residence.
2. A toddler left a residence via the front door and a member of the public took the child to the nearest Police Station.
3. A toddler left a residence and remained missing for approximately 45 minutes. At the time of the incident, there were two visiting educators and a total of twelve children at the residence. According to the family day care register, there is a pool on the family day care premises.
4. A family day care educator left a toddler locked in the residence while attending a medical appointment.
5. A family day care educator failed to adequately supervise the children in her care while she visited another educator.

## **Access to water**

International research has identified a lack of physical barriers between people and water, particularly close to home, as one of the main risk factors for drowning. Consequently, the Global Report on Drowning includes the installation of practical, sustainable and safe barriers controlling access to water<sup>20</sup> as a key drowning prevention strategy.

The WA Ombudsman notes swimming pool barriers act as a second line of defence when a supervisor may not be aware that a child is in, or around, the water<sup>21</sup>.

## **Building laws**

In WA, there are laws relating to private swimming pool and spa safety barriers contained in:

- the *Building Act 2011*, and
- the Building Regulations 2012.

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<sup>20</sup> World Health Organisation (2014), 'Global Report on Drowning,' retrieved from apps.who.int on 15 October 2018, pages 9, 15

<sup>21</sup> Ombudsman WA (2017), op. cit., page 16

These laws are administered by the Building Commission, a division of the Department of Mines, Industry Regulation and Safety (DMIRS), however local government authorities issue building permits and undertakes registration and four-yearly inspections.

It is important to note:

- The safety barrier provisions of the building laws apply to private swimming pools, which include spas, containing water that is more than 300mm deep.
- Different rules about barriers apply, depending on when the swimming pool and spa was installed or approved<sup>22</sup>.
- The inspection of safety barriers by local government authorities does not apply to all areas of Western Australia<sup>23</sup>.
- Some registered pools were overdue for inspection in 2017/2018, including several family day care residences.

Where information was available for the drowning deaths that occurred in swimming pools in WA between 2003 and 2013, local government inspections of the pools had occurred from between three years to three days prior to the incident occurring.

Of the children under five years, who died by drowning in a private swimming pool between 2005 and 2015, the WA Ombudsman found that the pools either had no barrier, a defective barrier, or a climbable object near the permanent barrier<sup>24</sup>.

The pool at the family day care residence in which Lachlan drowned was fenced and subject to inspections by the local government authority and regular visits by the family day care service support worker.

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<sup>22</sup> Building Commission (May 2016), 'Rules for Pools and Spas', Government of WA, retrieved at [commerce.wa.gov.au](http://commerce.wa.gov.au) on 19 September 2018, pages 7-32.

<sup>23</sup> Ombudsman WA (2017), *op. cit.*, page 16

<sup>24</sup> *Ibid* (2017), page 17

# Consultation process

## Targeted consultation

As the regulator of education and care services, the Minister for Community Services, the Hon Simone McGurk MLA, asked the Department of Communities (Communities) to consider how best to enact the Coroner's recommendations and ensure the safety of children in family day care.

On 30 July 2018, the Minister wrote to approved providers of family day care services and peak bodies, which included a link to the full Coroner's report. In the letter, a request was made for feedback to be provided to Education and Care Regulatory Unit (ECRU) about the impact of the recommendations on the family day care sector, particularly families in regional and remote locations.

During the three-week consultation period, 94<sup>25</sup> submissions were received, of which:

- 43 respondents were parents
- 28 respondents were educators
- 19 respondents were approved providers, and
- 3 respondents were peak bodies.

## Feedback to targeted consultation

In relation to the respondents about four percent supported, or conditionally supported, Coroner's recommendation one. In summarising the responses, many acknowledged the devastating impact of the incident, and noted the overall compliance in the sector. Respondents highlighted the importance of maintaining supervision and questioned the viability of operating if educators at residences/venues with pools or spas were unable to provide care to children under five years of age, which would also impact families.

In response to this feedback, options were developed in the Consultation Regulatory Impact Statement (Consultation Statement) to enable existing educators to continue to operate from a residence/venue with a water hazard/s, with safeguards. Almost 24 percent supported or conditionally supported the Coroner's recommendation two. In summary, family respondents were concerned about the impact of the recommendation on care options and approved providers expressed concern about recruiting new educators, particularly in regional and remote areas. However, some respondents supported the recommendation relating to new educators, provided the sector received sufficient lead time and clarity was provided about whether the recommendation would include existing educators who move to another residence with a pool or spa, or who move to another approved provider.

Accordingly, in the Consultation Statement, more feedback was requested about who might be considered a new and existing educator. About 23 percent supported, or conditionally supported recommendation 3.

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<sup>25</sup> One respondent submitted an original letter and a form letter response.

Generally, respondents focussed on the additional safety aspects of this recommendation and did not comment on its application only to existing educators at a residence/venue with a pool or spa who are educating and caring for children five years and over. While there was some support for monthly visits to educator residences, the main source of concern involved the costs in implementing this recommendation, especially in rural and remote areas, as increased costs would likely be passed onto families as higher fees.

Following the feedback received to this recommendation, as well as recommendation one, the context for the options presented in the Consultation Statement was amended to provide for the possibility that existing educators with water hazard/s may be able to accept enrolments of children aged under five years, with safeguards. Almost 17 percent supported or conditionally supported recommendation 4. Stakeholders who were concerned about this recommendation stated the recommendation was not necessary or practical in an emergency; or queried the availability of a fixed copper line telephone service, that is not vulnerable to electricity outages, in all areas of WA. As a result of this feedback, a non-prescriptive but mandatory back-up communication option was included in the Consultation Statement.

## **Consultation statement**

On 18 March 2019, the Minister released the Consultation Statement for broad consultation. The Consultation Statement, which was prepared in accordance with Treasury guidelines, outlined the current regulatory system and contained several options relating to each of the Coroner's recommendations. Stakeholders and interested persons were given eight weeks to provide feedback on the options. Communities also informed family day care peak and national bodies, the Royal Life Saving Association WA, Kidsafe WA, the Department of Mines, Industry Regulation and Safety (DMIRS), the WA Local Government Association and the Commissioner for Children and Young People about the release of the Consultation Statement and the opportunity to comment.

## **Feedback to Consultation statement**

Following the eight-week consultation period, Communities received 502 survey responses and 37 written submissions. Of the responses received:

- 160<sup>26</sup> were from parents, families, interested individuals, government department/s or other individuals/organisations not associated with the education and care sector, of which:
- 156 respondents addressed the Coroner's first recommendation, either on its own or in combination with the other Coroner's recommendations
- 156 respondents addressed the Coroner's second recommendation, either on its own or in combination with the other Coroner's recommendations
- 65 respondents addressed the Coroner's third recommendation, either on its own or in combination with the other Coroner's recommendations

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<sup>26</sup> This figure is exclusive of 93 nil responses.

- 63 respondents addressed the Coroner's fourth recommendation, either on its own or in combination with the other Coroner's recommendations, and
- 24 respondents made general comments.

The remainder, 164<sup>27</sup> responses, were from peak bodies, approved providers, family day care educators and co-ordinators and other individuals/organisations associated with the education and care sector, of which:

- 135 respondents addressed the Coroner's first recommendation, either on its own or in combination with the other Coroner's recommendations
- 135 respondents addressed the Coroner's second recommendation, either on its own or in combination with the other Coroner's recommendations
- 63 respondents addressed the Coroner's third recommendation, either on its own or in combination with the other Coroner's recommendations
- 63 respondents addressed the Coroner's fourth recommendation, either on its own or in combination with the other Coroner's recommendations, and
- 21 respondents made general comments.

### **Response from Mrs Melanie Mitchell, Lachlan's mother**

Since Lachlan's drowning, Mrs Mitchell has become a parent ambassador for the Royal Life Saving Society WA to advocate for the prevention of toddler drowning. Mrs Mitchell has made submissions in response to each of the consultation stages.

In response to the Consultation statement, Mrs Mitchell provided a detailed response to each of the Coroner's recommendations. In addition, Mrs Mitchell made suggestions about ensuring:

- appropriate penalties for approved providers and/or educators who are found to have breached the law which has led to the serious injury or death of a child, and
- appropriate support, including counselling and financial compensation, for families who are dealing with the serious injury or death of a child through an approved provider/educator breaching the law.

Communities will consider the penalty regime in making amendments to the National Regulations. The Department/Minister also intends to raise with relevant Government Departments/Ministers, the availability of financial and counselling support for families dealing with tragedy in circumstances similar to the Mitchell family. Through this process, the Department/Minister hopes to explore practical, timely solutions involving multiple Government Departments.

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<sup>27</sup> This figure is exclusive of 85 nil responses.



## Policy options and consultation

This section summarises the policy options presented in the Consultation Statement and evaluates the feedback received.

### Ways to manage risk

Risk is defined as the possibility of an adverse consequence occurring due to exposure to a hazard<sup>28</sup>. In considering the incident, relevant options to manage risk were considered in accordance with the hierarchy of hazard control<sup>29</sup>.

- Eliminate (or remove) the hazard, which in this context could involve ceasing to operate from a family day care residence/venue with water hazard/s, removing the water hazard from the family day care residence, or moving to a residence/venue without water hazard/s
- Substitution, which involves replacing the hazard with a less hazardous substitute was not considered relevant in this context
- Engineering controls, or structural changes, like fencing that isolate children from the water hazard
- Administrative controls, involving behavioural changes, including training, staffing and checks of engineering controls, and
- Equipment, that is differentiated from structural changes for water hazards, such as pool covers and alarms.

### Managing the risks of water hazards in family day care

The Consultation Statement explored, and obtained feedback about, water hazards broadly. While there are risks involved in many water vessels commonly found in residences, there are clearly higher, and avoidable risks, associated with swimming pools and spas on residential premises, which have been designed to be used for swimming, paddling or wading. Consequently, private pools and spas are the subject of safety barrier legislation.

Accordingly, the policy options relating to an educator's ability to operate a family day care service from a residence/venue will be considered in relation to swimming pools and spas, which is consistent with the Coroner's recommendations.

Other water hazards in family day care residences/venues, such as fishponds, still pose a potential risk to the safety, health and wellbeing of attending children. Consequently, a broader perspective of water hazards than pools and spas will be adopted in considering the options relating to the Coroner's third recommendation that deals with the ongoing oversight and management of water hazards at family day care residences/venues

If history is a good predictor of future occurrences, there is a low probability of another near-drowning or drowning event occurring at a family day care residence or venue. However, history also indicates that if such an event should occur, it is likely to occur in a private swimming pool

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<sup>28</sup> Department of Treasury (2018), 'Risk Analysis', Government of WA, retrieved from [treasury.wa.gov.au](https://treasury.wa.gov.au) on 21 August 2019

<sup>29</sup> Ibid, page 2

and likely to result in death/high harm. According to the risk matrix at Table 1 below, swimming pools and spas in family day care residences pose a medium risk, which is therefore a matter requiring government attention.

**Table 1: Risk matrix applied to pools, spas and water hazards at family day care residences/venues**

<b>RISK MATRIX</b>	<b>LOW HARM</b>	<b>MEDIUM HARM</b>	<b>HIGH HARM</b>
<b>LOW PROBABILITY</b>	<b>MINIMAL RISK</b>	<b>LOW RISK</b>	<b>MEDIUM RISK</b>
<b>MEDIUM PROBABILITY</b>	<b>LOW RISK</b>	<b>MEDIUM RISK</b>	<b>HIGH RISK</b>
<b>HIGH PROBABILITY</b>	<b>MEDIUM RISK</b>	<b>HIGH RISK</b>	<b>MAXIMUM RISK</b>

## Coroner's Recommendation 1

### Existing family day care educators at homes with a swimming pool, outdoor spa or jacuzzi

Exclude homes with a swimming pool, outdoor spa or jacuzzi from being used to operate a family day care service where children under the age of five are admitted into care, which should come into effect immediately given the high level of risk of drowning.

The options to deal with the Coroner's first recommendation relate to existing family day care educators. Within this context, 120 respondents associated with the family day care sector specified who they thought should be considered an existing family day care educator, and of these respondents<sup>30</sup>:

- 42 percent stated an existing educator should be limited to those currently operating
- 19 percent stated it should also include those returning from a period of leave
- 14 percent stated it should include those in the application process (as well as those currently operating), and
- 23 percent stated it should include those who had operated at another family day care service and those returning from leave (and those currently operating).

Of the 105 respondents who are not associated with the family day care sector who included their definition of an existing family day care educator:

- 36 percent stated it should be only those currently operating
- 15 percent stated it should also include those returning from a period of leave
- 37 percent stated it should also include those who had operated at another family day care service and those returning from leave (and those currently operating), and
- 9 percent provided miscellaneous responses, including six stating an existing educator should include those in the application process.

#### **Option 1 –: Maintain the status quo (current situation)**

This option is the base case and involves retaining the current legislation. Under this option, existing family day care educators operating from residences/venues that include a swimming pool or spa can continue to operate and take enrolments of children under five years if:

- the approved provider:
  - conducts an assessment at least annually, including a risk assessment, of each family day care residence and venue, to ensure the health, safety and wellbeing of children, including any water hazards, water features or swimming pools

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<sup>30</sup> One respondent from the non-family day care sector and two respondents from the family day care sector stated an 'existing family day care educator' should be someone who has previously operated at another service, in addition to an existing operator.

- ensures that the relevant family day care co-ordinator to educator ratios are maintained, and
- ensures that the educator is directly supervising and physically in proximity to any child in their care who is near the swimming pool, spa or other water feature.
- the educator:
  - is suitably qualified, and holds a current approved first aid qualification:
    - ACECQA notes the industry standard is that first aid qualifications should be renewed every three years and refresher training in CPR should be undertaken annually.
  - is educating and caring for a maximum of seven children, of which no more than four children can be preschool age or under, and
  - is directly supervising children near water hazard/s.
- the approved provider, nominated supervisor and family day care educator must continue to ensure that every reasonable precaution is taken to protect children from harm and hazard likely to cause injury.

### **Stakeholder feedback**

Of the 156 respondents who identified as parents, families, interested individuals, government or identified as other individuals/organisations not associated with the education and care sector and responded to recommendation 1:

- 20 percent nominated option 1 as preferred
- 7 percent expressed support for option 1, and
- 44 percent did not support this option or stated this option would not work.

Of the 135 respondents who identified as peaks, approved providers, family day care educators and co-ordinators, or identified as other individuals/organisations associated with the education and care sector:

- 44 percent nominated option 1 as preferred
- 8 percent expressed support for option 1, and
- 16 percent did not support this option or stated this option would not work.

In relation to the Coroner's first recommendation, this option was most supported by respondents associated with the family day care sector.

Common themes in support of option one:

- The current system, including actions taken in response to the incident, are adequate to provide for the safety of children at family day care residences or venues with pools or spas.
- Families are made aware of the pool or spa at the residence or venue, have chosen this form of care and have accepted the increased risk associated with these water hazards.

- Children are at no greater risk at family day care than they are in the family home with a pool or spa, and educators can use these water hazards to educate children about the dangers.

Common concerns about option one involves:

- the need for change in response to the seriousness of the incident
- the fact the incident was preventable, the incident could have happened to other educators and children need to be protected since they cannot advocate for themselves, and
- any option, apart from a complete ban of swimming pools and spas will not definitively remove the drowning risk associated with these water hazards.

### **Option 2 – Ban family day care educators at homes with ‘pools or spas from accepting enrolments of children under five years of age, with a transition period**

This option would involve making regulations to prohibit existing family day care educators operating from a residence/venue with a swimming pool or spa from enrolling children under five years of age.

#### **Stakeholder feedback**

Of the 156 respondents who identified as parents, families, interested individuals, government or identified as other individuals/organisations not associated with the education and care sector and responded to recommendation 1:

- 38 percent nominated option 2 as preferred
- 3 percent expressed support for option 2, and
- 45 percent did not support this option or stated this option would not work.

It is worth highlighting that this option polarised non- family day care stakeholders, with option two being the most preferred, but also the least supported option associated with the Coroner’s first recommendation.

Of the 135 respondents who identified as peaks, approved providers, family day care educators and co-ordinators, or identified as other individuals/organisations associated with the education and care sector:

- 9 percent nominated option 2 as preferred
- 6 percent expressed support for option 2, and
- 73 percent did not support this option or stated this option would not work.

In relation to the Coroner’s first recommendation, this option was least supported by respondents associated with the family day care sector.

#### **Option viability**

Consistent feedback was received from the family day care sector during both consultation rounds proved this option is not feasible because:

- The family day care service currently only, or mainly, enrolls children under five years (and most under four years).

- Family day care is attractive to families with younger children (under five years), as an alternative to long-day care, particularly until the children are older and more self-sufficient.
- Family day care educators who are approaching retirement age would likely leave the workforce.
- The demand for before/after school care is limited or is already sufficiently serviced.
- Sometimes, particularly in regional and remote areas, the family day care service is the only childcare option for children under five years.

After considering the feedback from the sector, this option is not considered viable and will not be subject to further analysis.

### **Option 3 – Enable existing family day care educators at homes with pools or spas to operate**

This option would involve amending existing regulations to provide for existing family day care educators with currently enrolled children under the age of five years to continue to operate from a specific residence with a swimming pool or spa. These existing family day care educators would be permitted to accept new enrolments of children under the age of five years. However, new, temporary or existing educators who buy a residence with a pool or spa will not be able to operate a family day care service from that residence.

This option is intended to capture family day care residences with swimming pools or spas, including those that are empty, or emptied, unless completely removed so that the structures are incapable of holding water.

Under this option, the Education and Care Regulatory Unit (ECRU) would be given the power, to be exercised at any time on reasonable grounds, such as compliance issues, to prohibit an existing family day care educator from continuing to operate from a residence with a swimming pool or spa.

### **Stakeholder feedback**

Of the 156 respondents who identified as parents, families, interested individuals, government or identified as other individuals/organisations not associated with the education and care sector and responded to recommendation 1:

- 14 percent respondents nominated option 3 as preferred
- 19 percent respondents expressed support for option 3, and
- 26 percent respondents did not support this option or stated this option would not work.

Of the 135 respondents who identified as peaks, approved providers, family day care educators and co-ordinators, or identified as other individuals/organisations associated with the education and care sector:

- 26 percent nominated option 3 as preferred
- 12 percent expressed support for option 3, and
- 19 percent did not support this option or stated this option would not work.

Comments in support of this option include:

- Allowing existing educators to operate with a pool or spa without restricting enrolments, is in recognition that all children, regardless of age, need safeguards when attending family day care at a residence/venue with a pool or spa and general compliance.
- There would be limited disruption to families who use these residences.
- The option considers the investment that existing educators have made under existing rules in operating a family day care business from their home.

Comments opposing this option include:

- Any option, apart from a complete ban of swimming pools and spas will not definitively remove the drowning risk associated with these water hazards.
- It will affect the pool of educators from which to recruit, which may affect quality of education and care.
- It unfairly targets new educators, and possibly existing educators who transfer to another approved provider or move to another residence/venue with a pool or spa.

### **Modification to option 3**

In liaising with other jurisdictions, and suggested by a stakeholder in feedback to the Consultation Statement, Communities has subsequently modified this option to provide for a family day care service to engage or register a family day care assistant for each residence with a swimming pool or spa to assist the educator. Under existing provisions of the National Regulations, a family day care assistant is required to hold a first aid qualification.

It is envisaged the family day care assistant would help address the increased risk posed by swimming pools and spas by:

- providing greater supervision coverage, particularly if a situation arose that required the educator's full attention, and
- ensuring another person could attend to the communication of an emergency.

Accordingly, the condition on all family day care service approvals could be amended so that the approved provider ensures the educator and/or educator assistant must be directly supervising and physically in proximity to any child in their care who is near a swimming pool, spa or other water feature.

### **Option 4 – Discretionary power of regulator**

This option involved amending existing regulations to empower the ECRU to allow an existing family day care educator to operate from their residence with a pool or spa. Under this option, these approved educators could continue to accept enrolments of children under five years on a case-by-case basis, with consideration of relevant factors, including the compliance record of the educator and the family day care service and the location of the pool or spa.

## **Stakeholder feedback**

The feedback to the Consultation Statement indicated very limited support for this option, of the 291 survey respondents who addressed the Coroner's recommendation one:

- 10 percent<sup>31</sup> indicated their preference for option 4, and
- 1 percent<sup>32</sup> indicated support, or conditional support for the proposal.

## **Option viability**

Comments made by stakeholders included:

- uncertainty about how the discretion would be applied
- the unfair burden placed on the regulator to decide on this matter
- the length of time it would take for decisions to be made
- costs to administer the option, given the size of the State, and
- its efficacy in reducing the risk of drowning, particularly in taking the need for ongoing supervision into account.

Given the lack of support for, and difficulty in successfully applying this option, it is not considered feasible and will not be assessed further.

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<sup>31</sup> Fifteen of these submissions were from respondents who were associated with the family day care sector.

<sup>32</sup> Two of the submissions were from respondents who were associated with the family day care sector



## Coroner's Recommendation 2

### 'New' family day care educators at homes with a swimming pool, outdoor spa or jacuzzi

Exclude new family day care educators from being approved to operate a family day care service from a home with a swimming pool, outdoor spa or jacuzzi

The options to deal with the Coroner's second recommendation relate to new family day care educators. Within this context, 49 respondents specified who they thought should be considered a new family day care educator, with all but one of these respondents having already provided input about who might be an existing educator. Matters that respondents highlighted in determining who might be a new educator were those:

- who had never previously operated family day care within a residence or venue; were not registered with a family day care service or have no children enrolled at the residence or venue
- at various stages within the application process to be registered with a family day care service, and
- who have had prolonged leave from operating a family day care from a residence/venue or have moved to a new residence.

#### **Option 1 – New Educators at homes with pools or spas: maintain the status quo (current situation)**

Similar to option one relating to the Coroner's first recommendation, this option involves retaining the current legislation. Under this option, new educators can commence operating if the approved provider has assessed the educator as suitable:

- and capable of meeting its water safety policy that applies to a swimming pool or water hazard, and the condition on the service approval regarding supervision
- and has adequate knowledge and understanding of providing education and care to children
- having regard to the educator's history of compliance with laws relating to the education and care of children, and
- will be adequately monitored and supported by a family day care co-ordinator, in accordance with the relevant co-ordinator to educator ratio.

This option is the base case and its ability in dealing with the issue will be further examined.

#### **Stakeholder feedback**

Of the 156 respondents who identified as parents, families, interested individuals, government or identified as other individuals/organisations not associated with the education and care sector and responded to recommendation 2:

- 20 percent nominated option 1 as preferred
- 8 percent expressed support for option 1, and

- 44 percent did not support this option or stated this option would not work.

Of the 135 respondents who identified as peaks, approved providers, family day care educators and co-ordinators, or identified as other individuals/organisations associated with the education and care sector:

- 46 percent nominated option 1 as preferred
- 7 percent expressed support for option 1, and
- 18 percent did not support this option or stated this option would not work.

In relation to the Coroner's second recommendation, this option was most supported by respondents associated with the family day care sector, and polarised non-family day care related stakeholders. Of those respondents outside the sector, this option as well as option 2.1 received the most support, however option one was clearly the most opposed option.

Similar themes to those raised in support of option one, recommendation one, in relation to existing educators at residences/venues with water hazards were outlined for new educators. These included:

- the adequacy of the current system that includes trained educators, and
- the utility of the pool and spa as an education tool as pools are commonplace with Western Australia's climate.

Other comments relate to the current difficulty in recruiting new educators, without restrictions, particularly in regional and remote areas.

The main concern expressed about taking no further action was that the incident highlighted the need for a response.

### **Option 2.1 – Ban new family day care educators at homes with pools or spas, except people in the application process**

In the Consultation Statement, this option involved amending the National Regulations to prohibit the approval of new family day care educators who wish to operate their business from a residence/venue with a swimming pool or spa. Consequently, upon gazettal of the amended regulations:

- future applicants who apply to be a family day care educator would not be able to operate from a residence/venue with a swimming pool or spa
- existing educators would not be able to operate from a different family day care residence or venue with a swimming pool or spa, and
- applicants who were already in the process of applying to be a family day care educator would be given six months to finalise their application to become a family day care educator.

### **Stakeholder feedback**

Of the 156 respondents who identified as parents, families, interested individuals, government or identified as other individuals/organisations not associated with the education and care sector and responded to recommendation 2:

- 21 percent nominated option 2.1 as preferred
- 12 percent expressed support for option 2.1, and
- 13 percent did not support this option or stated this option would not work.

Of the 135 respondents who identified as peaks, approved providers, family day care educators and co-ordinators, or identified as other individuals/organisations associated with the education and care sector:

- 10 percent nominated option 2.1 as preferred
- 7 percent expressed support for option 2.1, and
- 27 percent did not support this option or stated this option would not work.

Common reasons cited in support of this option are:

- Applications would be assessed in accordance with the rules that existed when the application was first made, and prospective applicants would be aware of the policy before undertaking any investment in this area.
- Some family day care services already do not take on educators with a residence/venue that has a pool or spa, and more family day care services may adopt this policy in future.
- That it will protect children from unnecessary risks associated with swimming pools and spas.

Reasons put forward by those who did not support this option are that:

- it would unduly restrict the recruitment of new educators, which would limit the growth of the family day care service, and would also impact families, especially in rural and remote areas
- it unfairly discriminates against new educators, and will not eliminate the drowning risk, and
- it might, if option 2.2 is not also adopted, limit the movement of existing educators who may move to another family day care service.

This option was the most supported option amongst stakeholders not associated with the family day care sector but was the least supported option amongst family day care related stakeholders.

**Modification to option 2.1:** It is no longer proposed to restrict these applicants to enrolments of children five years and over, given this restriction is likely to impact the viability of the business.

### **Option 2.2 – Ban new family day care educators at homes with pools or spas, except existing educators transferring to another approved provider**

This option would enable an educator who has been providing education and care services from an existing residence/venue with a swimming pool or spa to transfer to a new approved provider. Under this option, such an educator would be deemed as continuing to operate, rather than being deemed a 'new' family day care educator and treated in accordance with the options relating to the Coroner's recommendation one above.

## **Stakeholder feedback**

Of the 156 respondents who identified as parents, families, interested individuals, government or identified as other individuals/organisations not associated with the education and care sector and responded to recommendation 2:

- 1 percent nominated option 2.2 as preferred
- 17 percent expressed support for option 2.2, and
- 15 percent did not support this option or stated this option would not work.

Of the 135 respondents who identified as peaks, approved providers, family day care educators and co-ordinators, or identified as other individuals/organisations associated with the education and care sector and responded to recommendation 2:

- 5 percent nominated option 2.2 as preferred
- 5 percent expressed support for option 2.2, and
- 19 percent respondents did not support this option or stated this option would not work.

This option received relatively low support from the family day care sector but was reasonably supported (though not preferred) by non- family day care related stakeholders.

Common reasons cited in support of this option are that:

- moving to a new family day care service is different to starting a family day care business, and existing educators at residences/venues with pools or spas understand the rules and have adopted systems to keep children safe, and
- some family day care services already do not take on educators with a residence/venue with a pool or spa and more family day care services may adopt this policy in future.

Similar to option 2.1, common reasons put forward by those who did not support this option focussed and opposed the restriction on new educators at residences/venues with a pool or spa and others stating it would not eliminate the drowning risk.

Other reasons put forward in opposing this option were that:

- parents should decide whether they want to allow their children to attend a family day care residence/venue with a pool or spa, and
- it would promote educators moving across family day care services and is delaying the inevitable ban of pools and spas at family day care residences or venues.

## Coroner's Recommendation 3

### Oversight of water hazards

Amend the relevant legislation in Western Australia to require that where an existing family day care educator operates a family day care service from a home with a swimming pool, outdoor spa or jacuzzi (which will only be for children over the age of 5 years) the approved provider must physically inspect the property monthly to ensure that the safety barrier to the water hazard is functioning effectively and there are no climbable hazards in proximity to the fencing. The need for direct supervision in proximity to the water hazard must also be reiterated to the educator during each inspection.

As this Coroner's recommendation relates to general oversight provisions, a broader perspective of water hazards will be taken than swimming pools and spas. Such water hazards include any outdoor feature, both naturally occurring or constructed, within which water could pool to become a drowning hazard, such as fishponds, fountains, and dams.

#### **Option 1 – Safeguards for existing educators operating at homes with pools or spas: Maintain the status quo (current situation)**

This option is the base case and involves no change to the legislation. Currently, an approved provider must undertake an annual assessment, including a risk assessment, of each family day care residence and venue affiliated with the family day care service to ensure the safety, health and wellbeing of children in care.

#### **Stakeholder feedback**

Below is a summary of respondents who provided feedback to this option or made general comments.

Of the 65 respondents who identified as parents, families, interested individuals, government or identified as other individuals/organisations not associated with the education and care sector and responded to the options for recommendation 3:

- 12 percent nominated option 1 as preferred
- 22 percent expressed support for option 1, and
- 57 percent did not support this option or stated this option would not work.

Of the 63 respondents who identified as peaks, approved providers, family day care educators and co-ordinators, or identified as other individuals/organisations associated with the education and care sector and responded to the options for recommendation 3:

- 40 percent nominated option 1 as preferred
- 16 percent expressed support for option 1, and
- 25 percent did not support this option or stated this option would not work.

Comments in support of this option (and comments opposing options two - five, discussed below) are:

- The current system to deal with swimming pools and spas is sufficient as long as the rules are followed.
- The other options are unduly onerous or create a false sense of security as non-compliance can occur between inspections and excessive barriers may be by-passed, which may lead to a further incident of drowning or near drowning.

Other comments opposing this option are:

- Anything other than a complete ban of swimming pools and spas at family day care residences/venues is insufficient.
- The incident highlights the need for action in this area, however the cost of any requirements needs to be considered.
- Supervision is key, and options to address and prevent access to the pool or spa provide a second line of defence only.

Comments opposing this option, and in support of options two - five, are:

- Safety checks and training would assist in keeping children safe at family day care residences/venues with a pool or spa.
- Safety requirements for a business should be greater than those relating to a residential home.
- Implementing additional safety measures demonstrate to the community that the family day care sector is addressing the issue of pool/spa safety, as banning educators with pools or spas is not the answer.

### **Option 2 – Increased frequency of inspections by the approved provider**

This option involves the approved provider, or co-ordinator undertaking inspections of the water hazard, which would include consideration of the pool/spa area and surrounds, such as the functioning of the self-closing gates. Such inspections are not intended to be compliance inspections for the purposes of the *Building Act 2011*, but rather practical, complementary inspections to ensure the water hazard and surrounds are not accessible to children who attend the family day care residence/venue.

The frequency of these inspections considered are either monthly or quarterly.

Unlike the inspections undertaken by local government, such inspections would be conducted regardless of whether the water feature in question was empty or full. The inspections under this option would be in addition to the daily checks undertaken in many areas of WA33 at the family day care residence or venue, and the technical, inspections undertaken for the purpose of complying with the barrier fencing provisions of the *Building Act 2011* by local government.

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<sup>33</sup> Ombudsman WA, op. cit., page 26 and Schedule 5 to the Building Regulations 2012

## **Stakeholder feedback**

Of all stakeholders who responded to the options for recommendation 3, leaving aside option 1, as discussed above:

- 8 indicated they only supported option 2, while 14 indicated support for option 2 in addition to other options
- 41 indicated support for options 2, 3, 4 and 5, while 13 opposed options 2, 3, 4 and 5
- 6 were opposed to option 2 only, while 12 did not support option 2, in addition to other options, and
- 36 did not express a clear opinion about option 2.

Those in support of this option, or in general comments, stated:

- Their family day care service had already instituted more inspections in response to the incident, so complying with this option would not be an issue.
- Increasing the frequency of visits to family day care residences with pools or spas is worthwhile, but consideration needs to be given to residences/venues in rural/remote areas.

## **Option 3 – Appropriate, qualified third-party organisation conduct regular inspections of educator pools**

This option involves a qualified third-party organisation undertaking an inspection of every water hazard at all family day care residences/venues in Western Australia until the family day care sector developed the skill set to assume responsibility for the inspections. Each inspection, which may be undertaken in person, or if this is not practicable, via videoconference, would include consideration of:

- any additional barriers or covers, as appropriate, to prevent access by children at the residence/venue, and
- the entry and exit points in relation to the area with the water hazard/s.

## **Stakeholder feedback**

Of all stakeholders who responded to the options for recommendation 3:

- 1 indicated support, or preference, for option 3 alone
- 16 indicated support for option 3 in addition to other options
- 1 was opposed to option 3 only
- 15 did not support option 3, in addition to other options, and
- 40 did not express a clear opinion about option 3.

Comments about this option were:

- educators who have a pool or spa need an extra risk assessment, and
- to maximise effectiveness, the assessment of pools and spas should be undertaken by an independent third party.

#### **Option 4 – Appropriate, qualified third-party organisation provides training**

This option involves a qualified, third-party organisation providing training to the approved provider and/or co-ordinator about how daily and monthly/quarterly inspections of the water hazard/s should be undertaken to ensure the health, safety and wellbeing of children at the residence/venue, including guidance and checklists.

This training would also be undertaken by officers of the regulatory unit in providing oversight of the family day care services and in undertaking any checks of residences/venues, as deemed necessary or prudent.

#### **Stakeholder feedback**

Of all stakeholders who responded to the options for recommendation 3:

- 1 indicated support, or preference, for option 4 alone; 12 indicated support for option 4 in addition to other options
- 1 was opposed to option 4 only
- 9 did not support option 4, in addition to other options, and
- 50 did not express a clear opinion about option 4.

Comments about this option included the view that any additional training was welcome, particularly training about what to look for when undertaking visits, but the cost of the option was raised as an issue.

#### **Option 5 – Additional safety improvements**

Adding the requirement for additional safety device/s, designed to alert or deter a child from entering the water, in all family day care residences/venues with a pool or spa provides an extra level of security to families but does not minimise the importance of supervision by the family day care educator.

#### **Stakeholder feedback**

Of all stakeholders who responded to the options for recommendation 3:

- 16 respondents indicated support, or preference, for option 5 alone, although some respondents expressed support conditional upon the cost of implementing this option
- 13 indicated support for option 5 in addition to other options
- 1 was opposed to option 5 only
- 12 did not support option 5, in addition to other options, and
- 32 did not express a clear opinion about option 5.

Comments about this option are:

- The use of safety devices should be specific to each premises.
- The use of safety devices may provide more peace of mind to families.



## Coroner's Recommendation 4

### Fixed communication point for emergencies – all family day care educators

Requiring all family day care educators to have a fixed landline installed at their premises so that it is available to contact emergency services in the case of an emergency.

This recommendation, about a communication mechanism in the event of any emergency, relates to all family day care educators.

#### **Option 1 - Communication in an emergency: maintain the status quo (current situation)**

This option involves retaining the current legislation. Currently an approved provider of an education and care service must ensure staff members of the family day care service, including educators, have ready access to an operating telephone or other similar means of communication to enable immediate communication with various people, such as parents and emergency services.

The maximum fine that can be imposed for non-compliance with this provision is \$1000.

It is understood there have been very few recorded breaches of non-compliance with this provision in Western Australia.

#### **Stakeholder feedback**

Of the 63 respondents who identified as parents, families, interested individuals, government or identified as other individuals/organisations not associated with the education and care sector and responded to recommendation 4:

- 16 percent nominated option 1 as preferred
- 6 percent expressed support for option 1, and
- 27 percent did not support this option or stated this option would not work.

Of the 66 respondents who identified as peaks, approved providers, family day care educators and co-ordinators, or identified as other individuals/organisations associated with the education and care sector and responded to recommendation 4:

- 41 percent nominated option 1 as preferred
- 14 percent expressed support for option 1, and
- 14 percent did not support this option or stated this option would not work.

This option was most preferred by family day care related stakeholders.

Comments in support of this option include:

- The current rules, including use of mobile phones are sufficient to meet communication needs, including in an emergency, and hands-free phones pose similar risks to mobile phones.
- A traditional copper landline service, which is not vulnerable to power or internet outages, is not available in all areas.

Comments opposed to this option include:

- Two forms of contact are needed at each family day care residence/venue for emergencies that are broader than incidents involving water hazards.
- A permanent place for one form of communication is necessary, but not necessarily a landline.

### **Option 2 – Require all family day care educators to have a fixed landline installed at their premises**

This option involves all family day care educators having a fixed landline installed at their premises, in case of an emergency. With the rollout of the National Broadband Network, it is understood that unless the family day care residence/venue is in a fixed wireless or Satellite NBN area, a landline service is available via VOIP (Voice over Internet Protocol). Unlike a traditional landline service that is delivered via a copper network, a VOIP landline service uses the internet connection.

### **Stakeholder feedback**

Of the 63 respondents who identified as parents, families, interested individuals, government or identified as other individuals/organisations not associated with the education and care sector and responded to recommendation 4:

- 57 percent nominated option 2 as preferred
- 5 percent expressed support for option 2, and
- 25 percent did not support this option or stated this option would not work.

Of the 66 respondents who identified as peaks, approved providers, family day care educators and co-ordinators, or identified as other individuals/organisations associated with the education and care sector and responded to recommendation 4:

- 23 percent nominated option 2 as preferred
- 23 percent expressed support for option 2, and
- 36 percent did not support this option or stated this option would not work.

Many who supported this option:

- supported the concept of a back-up means of communication, noting concerns about mobile phones going flat and indicating the landline would always be available, and

- qualified their support in relation to the specification of a landline as the means of communication for emergencies.

### **Option viability**

Research indicates, and stakeholder feedback confirms, the landline service via VOIP may not be reliable in an emergency since:

- it relies on the internet for a connection, so if the internet goes down, the landline will also be down, and
- in most cases, loss of power will also mean the landline will not work, which was pointed out by some respondents in both consultation rounds, with comments such as:
  - “I have issues with my landline dropping out and/or not working”.
  - “There is an issue with the cables in our location which affects the functioning of the landline”.
  - “I have had problems previously, so I would need to get a phone that was reliable”.

Another issue raised by some respondents in having a landline was dealing with telemarketers, which was considered an unnecessary distraction, and the phone ringing while children were sleeping.

After considering the feedback from the sector, this option is not considered viable in cases of an emergency and will not be subject to further analysis.

### **Option 3 – Require all family day care educators have at least one telephone or similar means of communication that is kept in a fixed location as a back-up in case of emergency**

This option would involve amending the National Regulations to require a back-up means of communication in a fixed location in case of emergency. Under this option, a family day care educator may choose a landline phone if this is deemed reliable, or might attach a second mobile phone, that is always sufficiently charged, to a wall or desk for emergencies.

It is expected that many family day care educators would already comply with this requirement.

### **Stakeholder feedback**

Of the 63 respondents who identified as parents, families, interested individuals, government or identified as other individuals/organisations not associated with the education and care sector and responded to recommendation 4:

- 13 percent nominated option 3 as preferred
- 8 percent expressed support for option 3, and
- 46 percent did not support this option, or stated this option would not work, with many respondents raising concerns with the examples used in the Consultation Statement although these examples were indicative only.

Of the 66 respondents who identified as peak bodies, approved providers, family day care educators and co-ordinators, or identified as other individuals/organisations associated with the education and care sector and responded to recommendation 4:

- 18 percent nominated option 3 as preferred, indicating:
  - the option is easy and convenient to implement
  - some people are already compliant, and
  - the option does not necessarily rely on a landline phone to provide a back-up means of communication in a fixed spot.
- 26 percent expressed support for option 3, and
- 23 percent did not support this option, or stated this option would not work, with most concerned about the cost, and necessity, of this option.

## Impact analysis

It is useful to group various viable options together that relate to all aspects of the Coroner's recommendations to analyse their impacts, particularly:

- how each policy combination addresses the matters that led to the incident occurring
- how each policy combination addresses the safety, health and wellbeing of children generally, and
- the costs and benefits of each policy combination, either quantified or unquantified, and to whom the costs are incurred and to whom receives the benefits.

The possible combinations for grouping options are outlined in Table 2 below.

**Table 2: Coroner's recommendations and possible options**

ASPECT	IDENTIFIED POLICY OPTIONS
<b>Re Coroner's recommendation 1:</b> EXISTING FAMILY DAY CARE EDUCATORS AT RESIDENCES WITH POOLS OR SPAS	OPTION 1: Status quo/current situation OR  OPTION 2 – Ban family day care educators at homes with pools or spas from accepting enrolments of children under five years of age, with a transition period OR  OPTION 3: – Enable existing family day care educators at homes with pools or spas to operate except new, temporary or existing educators who buy a residence with a pool or spa OR  Modified OPTION 3: Option 3 (above) with requirement for a family day care assistant.
<b>Re Coroner's recommendation 2:</b> CONSIDERATION OF 'NEW' AND EXISTING FAMILY DAY CARE EDUCATORS AT RESIDENCES WITH POOLS OR SPAS	OPTION 1: Status quo/current situation OR  Modified OPTION 2.1 <sup>34</sup> : Ban 'new' educators at homes with pools or spas, except people in the application process AND/OR  OPTION 2.2: Ban new educators at homes with pools or spas, except educators transferring to another approved provider
<b>Re Coroner's recommendation 3:</b> OVERSIGHT OF RESIDENCES WITH WATER HAZARD/S	OPTION 1: Status quo/current situation OR  OPTION 2: Increased frequency of inspections by the approved provider AND/OR  OPTION 3: Appropriate, qualified third-party organisation conduct audit of water hazard/s at each family day care residence/venue AND/OR  OPTION 4: Appropriate, qualified third-party organisation provides training about undertaking inspections AND/OR  OPTION 5: Additional safety improvements.
<b>Re Coroner's recommendation 4:</b> MEANS OF COMMUNICATION IN AN EMERGENCY	OPTION 1: Status quo/current situation OR  OPTION 3: Require all educators have at least one telephone or similar means of communication that is kept in a fixed location as a back-up in case of emergency.

<sup>34</sup> For this option, it is no longer proposed that 'new' educators in the application process will be restricted to enrolling children aged five years and over.

## Policy combination A

### Status quo – current situation/base case

This policy combination involves leaving the legislation unchanged in relation to all aspects of the Coroner’s recommendations, as summarised in the table below. This combination forms the base case, against which other policy combinations are assessed.

**Table 3: Summary of policy combination A – status quo (current situation) relating to all the Coroner’s recommendations**

ASPECT	POLICY OPTIONS
<p><b>Re Coroner’s recommendation 1:</b> EXISTING FAMILY DAY CARE EDUCATORS AT RESIDENCES WITH POOLS OR SPAS</p>	<p>OPTION 1: Status quo/current situation</p> <p>Approved provider complies with minimum staffing numbers and qualifications, maximum children numbers and supervision including around water hazard/s.</p> <p>Approved provider, nominated supervisor and educator takes every reasonable precaution to protect children from harm and hazard likely to cause injury.</p> <p>Educator is qualified, does not exceed the maximum numbers of children in their care and is supervising children, including around water hazard/s.</p>
<p><b>Re Coroner’s recommendation 2:</b> CONSIDERATION OF ‘NEW’ FAMILY DAY CARE EDUCATORS AT RESIDENCES WITH POOLS OR SPAS</p>	<p>OPTION 1: Status quo/current situation</p> <p>Approved provider assesses prospective educators regarding</p> <ul style="list-style-type: none"> <li>• compliance with water safety policy of the family day care service</li> <li>• knowledge and understanding, including any previous history of compliance with education and care of children, and</li> <li>• sufficient monitoring and support from co-ordinator/s.</li> </ul>
<p><b>Re Coroner’s recommendation 3:</b> OVERSIGHT OF RESIDENCES WITH POOLS OR SPAS</p>	<p>OPTION 1: Status quo/current situation relating to oversight of ‘new’ and existing family day care educators with pools/spas and water features:</p> <p>Approved provider:</p> <ul style="list-style-type: none"> <li>• conducts an initial assessment, including a risk assessment, of each proposed residence and venue of the family day care service to ensure the health, safety and wellbeing of children, and</li> <li>• conducts an annual assessment, including a risk assessment, of each residence and venue.</li> </ul>
<p><b>Re Coroner’s recommendation 4:</b> MEANS OF COMMUNICATION IN AN EMERGENCY</p>	<p>OPTION 1: Status quo/current situation</p> <p>Approved provider must ensure staff members of the family day care service have ready access to an operating telephone or other similar means of communication, including in an emergency.</p>

## **Advantages and disadvantages of policy combination A – current situation/base case**

The next section outlines the benefits and costs of leaving the legislation unchanged in relation to all the Coroner's recommendations, and how each stakeholder group is impacted. As this is the base case where the legislation remains unchanged, there are no additional costs imposed, so there are no quantified costs associated with this policy combination.

### **Approved providers and co-ordinators of family day care services**

The advantages of the status quo (no changes) for approved providers and co-ordinators of family day care services mean there are no requirements for mandated changes to the costs of running the service relating to residences/venues with a pool or spa regarding:

- the recruitment of educators
- undertaking inspections
- undertaking training
- the purchase of safety equipment for the pool or spa, and
- back-up means of communication.

The disadvantages of the status quo for approved providers and co-ordinators of family day care services are that it is not consistent with the Coroner's recommendations and doesn't address the risk of children under five years of age unknowingly accessing a swimming pool or spa.

### **Existing and new educators with a pool or spa**

The advantages of the status quo for existing educators with a pool or spa is they can continue to operate a family day care without additional regulatory requirements or additional inspections. For prospective educators, there would be no additional barriers preventing them operating a family day care business at a premise with a pool or spa

The disadvantages of the status quo for all educators with a pool or spa at the residence/venue are:

- the overall supervision may become strained when a child or children become/s unsettled, or there is an emergency
- the issues in children accessing the pool/spa area may not be identified between inspections by the local government and/or yearly assessments by the approved provider, and
- they may misplace, lose or be unable to use a communication device (for example, mobile uncharged), particularly in an emergency.

### **Educators without a pool or spa**

The advantages of the status quo for all educators without a pool or spa at the residence/venue is they continue to offer a lower risk options for families.

The disadvantages of the status quo for all educators without a pool or spa at the residence/venue is they may still be susceptible to misplacing, losing or otherwise be unable to use a communication device (for example, mobile uncharged), particularly in an emergency.

### **Families/communities**

The advantages of the status quo for families and communities is there will be:

- no possible decrease in family day care places, which may facilitate families undertaking paid employment in the broader economy, and
- no increase in the cost of family day care related to increased regulation requirements.

The disadvantages of the status quo for families and communities is:

- the lack of additional controls to manage the increased risk associated with a pool or spa on family day care premises at which their child is enrolled.

### **Government**

The advantages of the status quo for government is there would be no legislative changes required.

The disadvantages of the status quo for government is that it does not address the Coroner's recommendations to implement changes in order to protect toddlers from drowning incidents at family day care.

### **All parties**

The advantage of the status quo for all parties is there would be no changes or interruptions to the current family day care services.

The disadvantages of the status quo for all parties means there is still a drowning risk to toddlers attending family day care.

### **Assessment - policy combination A**

While changes have been made to the system since the incident, the status quo does not address the lone operator issue within each family day care residence or venue nor involves regular checks of the pool/spa area. These checks, for example the workability of the gate mechanism and assessing the pool area for climbable objects, would assist in preventing children's access to the pool/spa area, as a second line of defence. Despite the support to retain the current situation, particularly amongst stakeholders who are associated with the sector, this policy combination is not considered a sufficient response to deal with the incident.



## Policy combination B

### **Allow family day care educators with pools/spas to operate but no transfers to another approved provider, improved provider oversight, approved safety device/s and back-up communications for all family day care educators**

This policy combination, which relates to all aspects of the Coroner's recommendations, involves:

- enabling existing educators with residences/venues with pools or spas to operate, except those who transfer to another approved provider (Re: Coroner's recommendations 1-2)
- banning new educators with residences/venues with pools or spas, except people in the application process (Re: Coroner's recommendation 2)
- training of providers to undertake inspections, monthly inspections by providers and additional safety improvements such as additional safety device/s designed to alert or deter a child from entering the water (Re: Coroner's recommendation 3), and
- all educators to have a back-up means of communication in a fixed location (Re: Coroner's recommendation 4).

This combination, summarised below at table 4, would enable existing educators at residences/venues with a pool or spa to continue to operate and to take enrolments of children under five years of age, but provides for a variety of physical safeguards including additional safety device/s, monthly inspections, training and a back-up communication device.

The provision of extra inspections will be conducted by the approved provider/co-ordinator for each residence with a pool, spa or water feature to ensure the integrity of the barriers that will prevent children's access to the water hazard. For example, the monthly inspections would likely include ensuring the self-closing gate mechanism is in working order (which is the source of many drownings), removing any climbable objects near the fence and ensuring there are no objects floating in the water that might attract children.

The combination also involves training for approved providers and co-ordinators of family day care services to undertake these inspections. This training will be conducted by a qualified third-party provider, which would involve explaining the role of the barrier in preventing childhood drowning, identifying common faults and remedial measures. It is understood the training would also be provided to the staff of the regulatory unit, who have a co-regulatory role with the approved provider in ensuring the safety of children attending family day care.

This combination also provides for a mandatory requirement for all family day care educators to have a back-up means of communication in a fixed location for emergencies.

**Table 4: Summary of policy combination B –**

ASPECT	POLICY OPTIONS
<b>Re Coroner’s recommendation 1:</b> EXISTING FAMILY DAY CARE EDUCATORS AT RESIDENCES WITH POOLS OR SPAS	OPTION 3: Allow existing family day care educators to operate at residences/venues, except those who wish to transfer to another approved provider <sup>35</sup> .
<b>Re Coroner’s recommendation 2:</b> CONSIDERATION OF ‘NEW’ AND EXISTING FAMILY DAY CARE EDUCATORS AT RESIDENCES WITH POOLS OR SPAS	Modified OPTION 2.1 <sup>36</sup> : Ban ‘new’ family day care educators at residences/venues with pools or spas, except people in the application process
<b>Re Coroner’s recommendation 3:</b> OVERSIGHT OF RESIDENCES WITH WATER HAZARD/S	OPTION 2: Monthly inspections by the approved provider AND OPTION 4: Appropriate, qualified third-party organisation provides training about undertaking inspections AND OPTION 5: Additional safety improvements - safety device/s designed to alert or deter a child from entering the water.
<b>Re Coroner’s recommendation 4:</b> MEANS OF COMMUNICATION IN AN EMERGENCY	OPTION 3: Require all educators have at least one telephone or similar means of communication that is kept in a fixed location as a back-up in case of emergency.

### Impacts of policy combination B

The next section outlines the benefits and costs of policy combination B in relation to each aspect of the Coroner’s recommendations, and how each stakeholder group is impacted. Attempts have also been made to quantify the costs of any legislative changes associated with this combination.

### Approved providers and co-ordinators of family day care services

The advantages of policy combination B for approved providers and co-ordinators of family day care services:

- greater frequency of inspections means it is less likely the water hazard/s will be poorly maintained
- greater awareness, through increased frequency of inspections, of the risks related to pools and water hazards
- additional safety improvements will assist approved providers to oversight the risks associated with water hazards

<sup>35</sup> This option has been re-worded to apply only to ‘existing educators’ and notes that existing educators at a residence/venue with a swimming pool/spa would not be permitted to transfer to another approved provider (as this combination does not include option 2.2 under Coroner’s recommendation 2 – see page 34).

<sup>36</sup> For this option, it is no longer proposed that ‘new’ educators in the application process will be restricted to enrolling children aged five years and over.

- increased knowledge, through training about conducting inspections, and
- increased safety by providing device/s that are specifically designed to alert or deter a child from entering the water.

The disadvantages of policy combination B for approved providers and co-ordinators of family day care services is that:

- recruitment of educators may be more difficult
- the requirement for monthly inspections will add costs, particularly for regional and remote areas and
- some providers may need to adjust the family day care service to accommodate the restrictions.

### **Financial impact – Approved providers and co-ordinators of family day care services**

#### **Context**

The family day care August 2019 register had 36 providers and 1,222 educators. Of those, a total of 17 providers had one or more educators with a pool or spa.

#### **Re: Coroner’s recommendations 1-2 for option combination B:**

It’s difficult to quantify the possible loss of income for providers. Provider income could be temporarily reduced if they lose existing educators with pools and are unable to recruit more educators to replace them. This is a very unlikely scenario.

#### **Re: Coroner’s recommendation 3 for option combination B:**

#### **Inspections**

The cost of monthly inspections is estimated at \$100-150 including travel. The total yearly cost would vary for providers as some may already do more frequent inspections of educators’ pools and spas and travel costs would be higher for non-metropolitan locations.

Providers may choose to absorb additional costs for inspection through reduced income or pass the costs onto educators.

## Existing and new family day care educators with a pool or spa

The advantages of policy combination B for all educators with a pool or spa at the residence/venue are:

- Existing educators can continue to operate at a residence/venue with a pool or spa without age restrictions on enrolment and can continue to enjoy the amenity of the pool or spa outside family day care hours.
- New educators will be aware they cannot operate family day care at a residence/venue with a pool and spa and can plan accordingly.
- Educators may have more peace of mind knowing they have additional safety devices designed to alert or deter a child from entering the water.
- Educators can avoid the requirements/costs by removing the swimming pool or spa from the residence or moving premises.
- Access to a back-up device at a fixed point will address the concerns about obtaining help and communicating generally in an emergency.

The disadvantages of policy combination B for existing and new educators with a pool or spa are:

- Prospective educators at residences/venues with a pool or spa, will not be able to operate a family day care business from a residence/venue with a pool or spa.
- The requirements relating to training, increased inspections and additional equipment may not address possible complacency regarding supervision.
- There would be increased financial costs of providing a back-up phone and investing in new safety device/s.
- Existing educators will not be able to move to a residence with a pool or spa, or transfer to another approved provider, and continue to operate a family day care business.
- Educators who wish to avoid the additional regulatory requirements may seek to remove the swimming pool or spa which will incur a one-off financial cost.

## Financial impact – Existing family day care educators with a pool or spa

### Context

The family day care August 2019 register had 36 providers and 1,222 educators. The overall percentage of educators that had pools or spas was 15 percent (182 educators).

### Re: Coroner's recommendation 3 for policy combination B:

#### Provider inspections

The additional cost of the provider inspection if not already in place may be passed onto the educators.

#### Additional safety improvements:

There are a range of possible safety devices available that would deter children from entering a pool or spa or provide an alarm if they do so. There are also other items that would assist during an emergency. It is not intended that all these would be required at a residence.

Cost to implement additional safety improvement, if applicable, are below:

- Defibrillator \$2,400
- Oxi-Boot Oxygen Resuscitator \$650-\$750
- First Aid Kit \$80-\$150
- Additional Pool fencing – cost varies from, \$90-\$200 per linear metre – timber fencing, \$600 per linear metre – frameless glass, Pool fence installation: from \$100 to \$9 500
- Pool Alarm - Alarm sounds when someone falls into the pool. About \$265
- Gate Alarm - Alarm sounds when someone opens the latch. \$150
- Child Wrist - Alarm Activated when wrist alarm is immersed in water, communication via base station. Approximately \$250 (\$215 from Safety Store)
- Safety Net Pool Cover from \$1450 to \$4300, and
- First Aid refresher courses – \$160 (may vary for regional locations as per St John WA).

**Re: Coroner’s recommendation 4 for policy combination B:**

The additional cost of a basic landline phone or mobile phone, where a secondary one doesn’t exist, is approximately \$80-\$100. Yearly cost for service would depend on the option of communication. The cost may already be included with the educator’s current internet package so no additional cost; a second mobile phone (\$30 per month); or fixed land line (\$55 per month).

**Family day care educators without a pool or spa**

The advantages of policy combination B for all educators without a pool or spa at the residence/venue is:

- Prospective applicants can continue to apply to become a family day care educator at a residence/venue without a pool or spa.
- There is no drowning risk to attending children relating to a pool or spa on the premises.
- Services can continue to highlight to families the reduced risks of children attending family day care residences without a pool or spa at the residence or venue.
- Access to a back-up device at a fixed point will address concerns about obtaining help and communicating generally in an emergency.

The disadvantages of policy combination B for all educators without a pool or spa at the residence/venue is the cost associated with providing a back-up communication device.

## Financial impact –educators without a pool or spa

### Context

There are 1040 educators who do not have a pool or spa at their premises.

### Re: Coroner's recommendation 4 for policy combination B:

The additional cost of operating a second means of communication if one does not already exist. The purchase of a basic landline phone or mobile phone \$80-\$100. Yearly cost for service would depend on the option of communication, cost might already be included with the educator's current internet package so no additional cost, second mobile phone (\$30 per month) or fixed land line (\$55 per month).

## Families/communities

The advantages of policy combination B for families and communities are they:

- can continue to use an existing operator with a pool/spa, which would minimise disruption to families and children, and
- may have more peace of mind knowing the educator has additional safety device/s designed to alert or deter a child from entering the water as well as an additional back-up communication device, in a fixed location, should it be required in an emergency.

The disadvantages of policy combination B for families and communities is that it may:

- increase the cost of family day care, if family day care services seek to recoup the costs of a back-up phone and mandated safety devices.

## Financial impact – Families/communities

### Re: All Coroner's recommendations for policy combination B:

The financial impact to families may be higher charges due to educators passing on any additional cost they may have incurred for the monthly inspections, additional safety requirements and a fixed location means of communication as back-up in case of emergency. The impact is difficult to quantify as some changes to the regulation won't impact costs as providers/educators may already have mechanisms in place. The total cost is minimal if allocated out on a 'per child' basis over a year/several years, and when compared to policy combinations C and D.

## Government

The advantage of policy combination B for government is that it addresses the Coroner's recommendations to implement changes to protect toddlers from drowning incidents at family day care.

The disadvantage of policy combination B for government is the costs associated with implementing regulatory and legislative changes along with the additional costs to manage the tracking of inspections.

## Financial impact - Government

### The Department of Communities

#### Re: Coroner's recommendations 1-2 for policy combination B:

Oversight of existing educators with pools or spas, establishing a database of premises with pools and spas and any additional administration would be absorbed with current staffing and resources.

#### Re: Coroner's recommendations 3 for policy combination B:

Costs for a third party to establish and develop an on-line training program to raise awareness and impart skills required for the approved provider/service co-ordinator to undertake inspections, as highlighted in financial impact table 1.

#### FINANCIAL IMPACT TABLE 1– Training costs (highlighted) for policy combination B – Department of Communities

Set Up	
Database	\$2,000
On-Line Training	\$5,500
<b>TOTAL</b>	<b>\$7,500</b>

### All parties

The advantage of policy combination B for all parties is there a reduced risk of a child under five years unknowingly entering a pool/spa at a family day care service.

### Assessment - policy combination B

This combination is the least costly but does not directly address the supervision issue. Policy combination B provides for several mechanisms such as training by a qualified third-party, monthly inspections and improved safety equipment at family day care services. Together these provisions increase the barriers to children's access to water hazard/s if there is a breakdown in the supervision of children by a lone family day care educator and provides for a mandated back-up communication device in a fixed location.

## Policy combination C

### **Allow existing family day care educators with pools/spas to operate with family day care assistant but no transfers to another approved provider, and approved provider oversight**

This policy combination, which applies to all aspects of the Coroner's recommendations, involves:

- allowing existing educators with residences/venues with pools or spas to operate, except those who transfer to another approved provider, and the employment of a mandatory family day care assistant (Re Coroner's recommendations 1-2)
- banning new educators with residences/venues with pools or spas, except people in the application process (Re Coroner's recommendation 2)
- quarterly inspections by approved providers to complement the daily checks of water hazards by the educator/educator assistant. (Re: Coroner's recommendation 3)
- training by a qualified third party for approved providers to undertake inspections of the pool or spa and/or water features at each family day care residence or venue affiliated with the family day care service (Re: Coroner's recommendation 3), and
- guidance material regarding back-up communications (Re Coroner's recommendation 4).

This combination, summarised below at Table 5, would enable existing educators at residences/venues with a pool or spa to continue to operate and to take enrolments of children under five years of age.

Policy combination C provides for increased supervision through the mandatory engagement of a family day care assistant at each family day care residence with a swimming pool or spa. The combination also provides for quarterly inspections of each residence with a pool, spa or water feature by the approved provider/co-ordinator to ensure the integrity of the barriers that will prevent children's access to the water hazard.

This combination also involves training by a qualified third-party provider for approved providers and co-ordinators of the family day care service to undertake the inspections.

Policy combination C also provides for guidance material, in lieu of legislation changes, regarding a back-up means of communication in an emergency.



**Table 5: Summary of policy combination C –**

**Allow existing family day care educators with pools/spas to operate with family day care assistant but no transfers to another approved provider, and approved provider oversight**

ASPECT	POLICY OPTIONS
<b>Re Coroner’s recommendation 1:</b> EXISTING FAMILY DAY CARE EDUCATORS AT RESIDENCES WITH POOLS OR SPAS	Modified OPTION 3: Enable existing educators with residences/venues with pools or spas to operate, except those who wish to transfer to another approved provider <sup>37</sup> and requirement for a family day care assistant
<b>Re Coroner’s recommendation 2:</b> CONSIDERATION OF ‘NEW’ AND EXISTING FAMILY DAY CARE EDUCATORS AT RESIDENCES WITH POOLS OR SPAS	Modified OPTION 2.1 <sup>38</sup> : Ban ‘new’ educators at residences/venues with pools or spas, except people in the application process for a specified time.
<b>Re Coroner’s recommendation 3:</b> OVERSIGHT OF RESIDENCES WITH WATER HAZARD/S	OPTION 2: Quarterly inspections by the approved provider AND OPTION 4: Appropriate, qualified third-party organisation provides training about undertaking inspections
<b>Re Coroner’s recommendation 4:</b> MEANS OF COMMUNICATION IN AN EMERGENCY	OPTION 1: Status quo Approved provider must ensure staff members of the family day care service have ready access to an operating telephone or other similar means of communication, including in an emergency. <ul style="list-style-type: none"> <li>• Development of guidance material (non-legislative response)</li> </ul>

### Impacts of policy combination C

The next section outlines the benefits and costs of policy combination C that relate to all aspects of the Coroner’s recommendations, and how each stakeholder group is impacted. Attempts have also been made to quantify the costs of any legislative changes associated with this policy combination.

### Approved providers and co-ordinators of family day care services

The advantages of policy combination C for approved providers and co-ordinators of family day care services:

- greater frequency of inspections means it is less likely the fences and/or barriers will be poorly maintained
- greater awareness, through increased frequency of inspections, of the risks related to pools and water hazards
- increased knowledge, through training, about conducting inspections, and

<sup>37</sup> This option has been re-worded to apply only to ‘existing educators’ and notes that existing educators at a residence/venue with a swimming pool/spa would not be permitted to transfer to another approved provider (as this combination does not include option 2.2 under Coroner’s recommendation 2 – see page 34).

<sup>38</sup> For this option, it is no longer proposed that ‘new’ educators in the application process will be restricted to enrolling children aged five years and over.

- guidance material regarding a back-up means of communication at a fixed point for emergencies creates awareness and enables family day care services enough flexibility to respond.

The disadvantages of policy combination C for approved providers and co-ordinators of family day care services:

- Some family day care services may find recruitment of educators and family day care assistants more difficult, particularly in regional and remote areas.
- Some providers may need to adjust the family day care service to accommodate the restrictions.
- Family day care services will find the requirement for a family day care assistant as well as quarterly inspections costly.

### **Financial impact – Approved providers and co-ordinators of family day care services**

**Context**

The family day care August 2019 register had 36 providers and 1,222 educators. Of those, a total of 17 providers had one or more educators with a pool or spa.

**Re: Coroner’s recommendations 1-2 for policy combination C:**

There is no direct cost to providers from these options. However, the provider income could be temporarily reduced if existing educators with pools decide to exit due to impact of the change in regulation and the additional costs. This is impossible to quantify and would be remedied by recruitment of new educators.

The cost to employ an educator assistant (Child Services award L2.2 after 1 year) would be an annual cost of \$50,000 that includes base salary and on costs. It is assumed that this cost would be passed onto educators who have pools or spas only, and this cost would likely then be passed onto families.

**Re: Coroner’s recommendations 3 for policy combination C:**

Services with a water safety policy will incur costs for quarterly inspections if not already in place. Providers may choose to absorb additional costs for inspection through reduced income or pass the costs onto educators.

### **Existing and new family day care educators with a pool or spa**

The advantages of policy combination C for all educators with a pool or spa at the residence/venue:

- Existing educators can continue to operate at a residence/venue with a pool or spa without age restrictions on enrolment and can continue to enjoy the amenity of the swimming pool.
- Educators can avoid the requirements/costs by removing the swimming pool or spa from the residence or moving premises.
- New educators will be aware they cannot operate family day care at a residence with a pool or spa and can plan accordingly.
- Supervision at family day care residences/venues with a pool or spa will be enhanced with the requirement for a family day care assistant.

The disadvantages of policy combination C for all educators with a pool or spa at the residence/venue:

- Prospective educators with a pool or spa, who are not in the process of applying to be an educator, will not be able to operate a family day care business from the residence/venue.
- Existing educators will not be able to move to a residence/venue with a pool or spa, or transfer to another approved provider, and continue to operate their family day care business.
- There is an increase in cost arising from the need for an education assistant and not all costs may be absorbed by increasing family fees.
- Educators who are seeking to avoid the requirements/costs by removing the swimming pool or spa will incur costs associated with removing the pool or moving.
- In the absence of a mandatory requirement to provide for a back-up means of communication, some educators may misplace, lose or be unable to use a communication device (for example, mobile uncharged), particularly in an emergency.

## Financial impact – Existing family day care educators with a pool or spa

### Context

The family day care August 2019 register had 36 providers and 1,222 educators. The overall percentage of educators that had pools or spas was 16 percent (182 educators).

### Re: Coroner's recommendations 1-2 for policy combination C:

The additional costs to educators would be educator assistant, (Child Services award L2.2 after 1 year would be an annual cost of \$50,000), additional safety requirements and impact of inspections being passed on by the provider.

Due to the additional cost of having a pool or spa under this combination an educator may choose to:

1. Pay the on-going cost of employing an educator assistant (\$50,000) and other additional costs (safety requirements and more frequent inspections) and pass the full cost onto families or absorb some of the costs, reducing income.
2. Change existing residence or move to a new residence with no pool or spa so as not to incur the additional costs under this policy combination.
  - The cost to remove a swimming pool or spa would vary, estimated cost is between \$2,000 - \$15,000
  - Buy a new residence without a pool or spa: \$60,000 (based on a house price of \$500,000; selling fees; stamp duty; removalist fees and repairs and maintenance
  - If renting, the cost to move residence or set up a new family day care venue, moving costs \$5,000.
3. No longer run a family day care due to the additional costs associated with employment of a full-time educator assistant and other costs associated with this combination.

Educators may lose income as children numbers may reduce as parents may find cheaper alternative care arrangements or choose not to enter the workforce due to the high costs.

### Re: Coroner's recommendations 1-3 for policy combination C:

The following costs are expected to apply to existing educators at a residence/venue with a swimming pool or spa who continue to take enrolments of children under 5 years of age:

- educator Assistant annual cost of \$50,000
- impact of the provider passing on the inspection costs (also includes educators with water features), and
- may lose income as children numbers may reduce as parents may find cheaper alternative care arrangement or choose not to enter the workforce due to the high costs and limited places in other services

## Family day care educators without a pool or spa

The advantages of policy combination C for all educators without a pool or spa at the residence/venue:

- Prospective applicants can continue to apply to become a family day care educator at a residence/venue without a pool or spa.
- There is no drowning risk to attending children relating to a pool or spa on the premises.
- Services can continue to highlight to families the reduced risks of children attending family day care residences without a pool or spa at the residence or venue.

There are no disadvantages of policy combination C for all educators without a pool or spa.

## Financial impact – family day care educators without a pool or spa

### Context

There are 1040 educators who do not have a pool or spa at their premises.

### Re: Coroner's recommendation 4 for policy combination C:

Nil, as there are no mandatory requirements for a back-up means of communication in an emergency.

### Families/communities

The advantages of policy combination C for families and communities:

- The increased requirements regarding supervision and barriers to accessing the water hazard may allay the concerns about the risk associated with a pool or spa on family day care premises at which their child is enrolled.
- Families can continue to use an existing operator at a residence/venue with a pool/spa, which would minimise disruption to families and children.

Families in most areas may avoid increased charges and safety concerns by choosing a family day care residence/venue without a swimming pool or spa. The disadvantages of policy combination C for families and communities is that it:

- may affect the recruitment of family day care educators, which may reduce the number of family day care places, and may affect families undertaking paid employment in the broader economy
- is likely to increase the cost of family day care services who have a pool or spa on their premises, and
- In the absence of a mandatory requirement to provide for a back-up means of communication, some educators may misplace, lose or be unable to use a communication device (for example, mobile uncharged), particularly in an emergency.

## Financial impact – Families/communities

### Re: Coroner’s recommendations 1-2 for policy combination C:

If the cost of a full-time educator assistant was passed onto families, it would increase the day rate by \$50 per child. The increase costs would be mainly incurred by the family as most educators would already be charging the maximum hourly rate that is subsidised by the Commonwealth government. Therefore, in most cases, the families would not be eligible for any further Child Care Subsidy. Refer to Financial impact table 2 for the annual impact of a \$50 a day rate increase for one child.

### FINANCIAL IMPACT TABLE 2 – Cost Impact to Families for one child

The table below shows the cost to families for one child for different numbers of days in a family day care residence and childcare subsidies if an educator assistant was employed at residences with pools or spas (increase in the day rate of \$50 per child). The Child Care Subsidy is capped at \$11.10 per hour (\$111 per day) so it unlikely the families will be entitled to any subsidy.

No. of Days per week	1	2	3	4	5
One Child					
<b>Total Cost</b>	\$2,500	\$5,000	\$7,500	\$10,000	\$12,500
<b>Cost to Family After Child Care Subsidy</b>					
Cap already reached	\$2,500	\$5,000	\$7,500	\$10,000	\$12,500
5%	\$2,375	\$4,750	\$7,125	\$9,500	\$11,875

\*Based on 50 weeks per year.

### Re: Coroner’s recommendation 3 for policy combination C:

The costs of the more frequent inspections that would be passed onto families is difficult to quantify, as provider inspections may already be in place. The costs may vary depending on the location of the family day care residence with non-metro locations being higher.

Under this combination as the cost impact is higher, a parent may choose not to re-enter the workforce as it is too expensive and there also may be limited places in alternative family day care residences/venues if educator numbers are reduced (likely to only be in the short term in the metropolitan area until the industry re-aligns due to the change in regulations) resulting in loss of income.

## Government

The advantage of policy combination C for government is that it directly addresses the Coroner’s recommendations to improve direct supervision levels to reduce the risk of children unknowingly accessing pools at family day care services.

The disadvantages of policy combination C for government is that it requires legislative amendments.

## Financial impact - Government

### The Department of Communities

#### Re: Coroner's recommendations 1-2 for policy combination C:

Oversight of exiting educators with pools or spas to establish a closed register and time to administer would be absorbed with current staffing and resources.

#### Re: Coroner's recommendations 3 for policy combination C:

Costs for a third party to establish and develop an on-line training program to raise awareness and impart skills required for the approved provider/service co-ordinator to undertake inspections. This cost has been estimated at approximately \$5,500.

### All parties

The advantage of policy combination C for all parties is there a reduced risk of a child under five years unknowingly entering a pool/spa at a family day care service.

### Assessment - policy combination C

The inclusion of a requirement for a family day care educator assistant is costly, however this directly addresses the issue of supervision. The costs of a family day care assistant are offset somewhat by reduced requirements (from policy combination B) relating to barrier protections to reduce children's access to water hazards and a non-legislated way to deal with a back-up means of communication. It is the option with the highest cost impact on families and educators as they seek to manage the additional cost of an assistant.

## Policy combination D

### **Allow existing family day care educators with pools/spas to operate with family day care assistant and approved provider oversight, back-up communications for all family day care educators**

This policy combination, which applies to all aspects of the Coroner's recommendations, involves:

- enabling existing educators with residences/venues with pools or spas to operate, including those who transfer to another approved provider, and the mandatory employment of a family day care assistant (Re: Coroner's recommendations 1-2)
- banning new educators with residences/venues with pools or spas, except those in the application process (Re: Coroner's recommendation 2)
- quarterly inspections by approved providers to complement the daily checks of water hazards by the educator/educator assistant, and the four-yearly barrier inspections of the pool or spa undertaken by many local councils under the *Building Act 2011* (Re: Coroner's recommendation 3)
- training by a qualified third party for approved providers to undertake inspections of the pool or spa and/or water features at each family day care residence or venue affiliated with the family day care service (Re: Coroner's recommendation 3), and
- a mandated requirement for family day care educators to have a back-up means of communications in a fixed location for emergencies (Re: Coroner's recommendation 4).

This combination, summarised at table 6 below, would enable existing educators with a pool or spa to continue to operate and to take enrolments of children under five years of age, and provides for increased supervision through the mandatory engagement of a family day care educator assistant at each family day care residence with a swimming pool or spa. Policy combination D also provides for extra inspections of each residence with a pool, spa or water feature by the approved provider/co-ordinator to ensure the integrity of the barriers that will prevent children's access to the water hazard.



**Table 6: Summary of policy combination D –**

**Allow existing family day care educators with pools/spas to operate with family day care assistant and approved provider oversight, back-up communications for all family day care educators**

ASPECT	POLICY OPTION
<b>Re: Coroner’s recommendation 1:</b> EXISTING FAMILY DAY CARE EDUCATORS AT RESIDENCES WITH POOLS OR SPAS	Modified OPTION 3: Enable existing educators to operate, including educators transferring to another approved provider, with requirement of a family day care educator assistant.
<b>Coroner’s recommendation 2:</b> CONSIDERATION OF ‘NEW’ AND EXISTING FAMILY DAY CARE EDUCATORS AT RESIDENCES WITH POOLS OR SPAS	Modified OPTION 2.1 and OPTION 2.2: Ban ‘new’ educators at homes with pools or spas, except people in the application process <sup>39</sup> and educators transferring to another approved provider.
<b>Coroner’s recommendation 3:</b> OVERSIGHT OF RESIDENCES WITH WATER HAZARD/S	OPTION 2: Quarterly inspections by the approved provider AND OPTION 4: Appropriate, qualified third-party organisation provides training about undertaking inspections AND
<b>Coroner’s recommendation 4:</b> MEANS OF COMMUNICATION IN AN EMERGENCY	OPTION 3: Require all educators have at least one telephone or similar means of communication that is kept in a fixed location as a back-up in case of emergency.

### Impacts of policy combination D

The next section outlines the benefits and costs of policy combination D that relate to all aspects of the Coroner’s recommendations, and how each stakeholder group is impacted. Attempts have also been made to quantify the costs of any legislative changes associated with this policy combination.

### Approved providers and co-ordinators of family day care services

The advantages of policy combination D for approved providers and co-ordinators of family day care services:

- Family day care services will be able to recruit existing educators with a pool or spa who are transferring from another approved provider.
- There may be a greater awareness, through increased frequency of inspections, of the risks related to pools and water hazards.

The disadvantages of policy combination D for approved providers and co-ordinators of family day care services are that:

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<sup>39</sup> For this option, it is no longer proposed that ‘new’ educators in the application process will be restricted to enrolling children aged five years and over.

- Some may find recruitment of educators and family day care assistants more difficult, especially in regional and remote areas.
- Some providers may need to adjust their service to accommodate the restrictions.
- Family day care services will find the requirement for a family day care assistant as well as quarterly inspections costly.

## Financial impact – Approved providers and coordinators of family day care services

### Context

The family day care August 2019 register had 36 providers and 1,222 educators. Of those, a total of 17 providers had one or more educators with a pool or spa.

### Re: Coroner’s recommendations 1-2 for policy combination D:

The provider income may be temporarily reduced if existing educators with pools choose to exit and they have trouble sourcing replacement educators. This is impossible to quantify. Some providers may have multiple educators with pools and would have a greater likely impact. Under this option the costs are greater than policy combination B, therefore it more likely to have a greater impact. Likely to have less of an impact as policy combination C as existing educators with pools or spas can transfer to another approved provider.

The cost to employ an educator assistant annual cost of \$50,000 (refer to Combination C for details). It is assumed that this cost would be passed onto educators who have pools or spas only, in which the educators would then pass onto families.

### Re: Coroner’s recommendations 3 for policy combination D:

Services with a water safety policy will incur costs for quarterly inspections if not already in place. Providers may choose to absorb additional costs for inspection through reduced income or pass the costs onto educators.

## Existing and new family day care educators with a pool or spa

The advantages of policy combination D for all educators with a pool or spa at the residence/venue are:

- Existing educators can continue to operate at a residence/venue with a pool or spa without age restrictions on enrolment and can continue to enjoy the amenity of the pool or spa as a family outside family day care hours.
- New educators will be aware they cannot operate family day care at a residence/venue with a pool or spa and can plan accordingly.
- Supervision at family day care residences/venues with a pool or spa will be enhanced with the requirement for a family day care assistant.
- Existing educators can transfer to another approved provider and continue to operate family day care from their existing residence/venue with a pool or spa.
- Access to a back-up device at a fixed point will address the concerns about obtaining help and communicating generally in an emergency.

The disadvantages of policy combination D for all educators with a pool or spa at the residence/venue:

- Prospective educators with a pool or spa, who are not in the process of applying to be an educator, will not be able to operate a family day care business from the residence/venue with a pool or spa.
- Existing educators will not be able to move to a residence/venue with a pool or spa and continue to operate a family day care business.
- There may be a resultant loss of income.

### Financial impact – Existing family day care educators with a pool or spa

<p><b>Context</b></p> <p>The family day care August 2019 register had 36 providers and 1,222 educators. The overall percentage of educators that had pools or spas was 16 percent (182 educators).</p> <p><b>Re: Coroner’s recommendations 1-3 for policy combination D:</b></p> <p>Under this policy combination, the educator with a pool or spa will have the same cost impact of Combination C relating to Coroner’s recommendations 1-3: Educator Assistant annual cost of \$50,000</p> <ul style="list-style-type: none"> <li>- Impact of the provider passing on the inspection costs</li> <li>- May lose income as children numbers may reduce as parents may find cheaper alternative care arrangement or choose not to enter the workforce due to the high costs and limited places in other services</li> </ul> <p><b>Re: Coroner’s recommendation 4 for policy combination D:</b> The cost of operating a second means of communication if one does not already exist. The purchase of a basic landline phone or mobile phone \$80-\$100. Yearly cost for service would depend on the option of communication, cost might already be included with the educator’s current internet package so no additional cost, second mobile phone (\$30 per month) or fixed land line (\$55 per month).</p>
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### Family day care educators without a pool or spa

The advantages of policy combination D for all educators without a pool or spa at the residence/venue are that:

- Prospective applicants can continue to apply to become a family day care educator at a residence/venue without a pool or spa.
- There is no drowning risk to attending children relating to a pool or spa on the premises.
- Educators can continue to highlight to families the reduced risks of children attending family day care residences without a pool or spa at the residence or venue.
- Access to a back-up device at a fixed point will address the concerns about obtaining help and communicating generally in an emergency.

### Financial impact – family day care educators without a pool or spa

<p><b>Context</b></p> <p>There are 1040 educators without a pool or spa on their premises.</p> <p><b>Re: Coroner’s recommendation 4 for policy combination D:</b></p> <p>The cost of operating a second means of communication if one does not already exist. The purchase of a basic landline phone or mobile phone \$80-\$100. Yearly cost for service would depend on the option of communication, cost might already be included with the educator’s current internet package so no additional cost, second mobile phone (\$30 per month) or fixed land line (\$55 per month).</p>
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## Families/communities

The advantages of policy combination D for families and communities are:

- The increased requirements regarding supervision and barriers to accessing the water hazard may allay the concerns about the risk associated with a pool or spa on family day care premises.
- Families in most areas may avoid increased charges and safety concerns by choosing a family day care residence/venue without a swimming pool or spa.
- Families can continue to use an existing operator with a pool/spa, which would minimise disruption to families and children.

The disadvantages of policy combination D for families and communities:

- It may affect the recruitment of family day care educators, which may reduce the number of family day care places and may affect families undertaking paid employment in the broader economy.
- It is likely to increase the cost of family day care.

## Financial impact – Families/communities

### Re: Coroner’s recommendations 1-2 for policy combination D:

If the cost of a full-time educator assistant was passed onto families, it would increase the day rate by \$50 per child. The increase costs would be mainly incurred by the family as most educators would already be charging the maximum hourly rate that is subsidised by the Commonwealth government. Therefore, in most cases, the families would not be eligible for any further Child Care Subsidy. Refer to Financial impact table 2 for the annual impact of a \$50 a day rate increase for one child (replicated below in impact table 3).

### FINANCIAL IMPACT TABLE 3 – Cost Impact to Families for one child

The table below shows the cost to families for one child for different numbers of days in a family day care residence and childcare subsidies if an educator assistant was employed at residences with pools or spas (increase in the day rate of \$50 per child). The Child Care Subsidy is capped at \$11.10 per hour (\$111 per day) so it unlikely the families will be entitled to any subsidy.

No. of Days per week	1	2	3	4	5
One Child					
<b>Total Cost</b>	\$2,500	\$5,000	\$7,500	\$10,000	\$12,500
<b>Cost to Family After Child Care Subsidy</b>					
Cap already reached	\$2,500	\$5,000	\$7,500	\$10,000	\$12,500
5%	\$2,375	\$4,750	\$7,125	\$9,500	\$11,875

\*Based on 50 weeks per year.

### Re: Coroner’s recommendation 3 for policy combination D:

The costs of the more frequent inspections that would be passed onto families is difficult to quantify, as provider inspections may already be in place. The costs may vary depending on the location of the family day care residence with non-metro locations being higher.

Under this combination as the cost impact is higher, a parent may choose not to re-enter the workforce as it is too expensive and there also may be limited places in alternative family day care residences/venues if educator numbers are reduced (likely to only be in the short term in the metropolitan area until the industry re-aligns due to the change in regulations) resulting in loss of income.

**Re: Coroner's recommendation 4 for policy combination D:**

The cost of operating a second means of communication if one does not already exist. The purchase of a basic landline phone or mobile phone \$80-\$100. Yearly cost for service would depend on the option of communication, cost might already be included with the educator's current internet package so no additional cost, second mobile phone (\$30 per month) or fixed land line (\$55 per month).

**Government**

The advantage of policy combination D for government is that it addresses the Coroner's recommendations to assist in the prevention of toddler drowning incidents at family day care services.

**Financial impact - Government**

**The Department of Communities**

**Re: Coroner's recommendations 1-2 for policy combination D:**

Oversight of exiting educators with pools or spas to establish a closed register and time to administer would be absorbed with current staffing and resources.

**Re: Coroner's recommendations 3 for policy combination D:**

Costs for a third party to establish and develop an on-line training program to raise awareness and impart skills required for the approved provider/service co-ordinator to undertake inspections. This cost has been estimated at approximately \$5,500.

**All parties**

The advantage of policy combination D for all parties is there a reduced risk of a child under five years unknowingly entering a pool/spa at a family day care service.

**Assessment - policy combination D**

This policy combination is similar to combination C but provides some flexibility by allowing existing educators to transfer to another approved provider (at the same residence/venue with a pool or spa), which may be particularly useful if an approved provider ceases operating. The cost impacts for families and educators are the same as Option C. This policy combination also requires a means of back-up communication at a fixed point.

## Final assessment

The below is a summary of the final assessment of all policy combination options followed by the rationale for each:

- Policy combination A – stay with the status quo/current situation.
- Policy combination B – allow family day care educators with pools/spas to operate but no transfers to another approved provider, improved provider oversight, safety device/s designed to alert or deter a child from entering the water and back-up communications for all family day care educators – Minister’s preferred option
- Policy combination C - allow existing family day care educators with pools/spas to operate with family day care educator assistant but no transfers to another approved provider and approved provider oversight.
- Policy combination D – allow existing family day care educators with pools/spas to operate with family day care educator assistant, including transfers to another approved provider and approved provider oversight, and a requirement for back-up communications for all family day care educators.

### **Policy combination A - Status quo**

This combination was the base case and does not involve additional costs, since there would be no further changes to the legislation. Elements of this combination received significant support from stakeholders, particularly from the family day care sector, about dealing with new and existing educators.

However, as outlined in the impact analysis, while changes have been made to the system since the incident, the status quo does not directly address supervision issues nor requires regular checks of the pool/spa area. Accordingly, policy combination A is not considered a sufficient response to deal with the incident.

### **Policy combination B - Allow family day care educators with pools/spas to operate but no transfers to another approved provider, improved provider oversight, safety device/s designed to alert or deter a child from entering the water and back-up communications for all family day care educators—supported**

From the impact analysis and the indicative cost table at Appendix 2 and removing the status quo (policy combination A) from consideration, policy combination B is the least costly to families and educators. This is predominantly because it does not require a family day care educator assistant (at a cost of \$50 000 per annum per assistant) that would boost supervision. Instead it supplements existing supervision with increased safety precautions and devices and improving provider oversight. There are greater costs in policy combination B regarding oversight of, and increased barriers to, pools and spas than policy combination C and D. However, the yearly cost of a family day care educator assistant in both policy combination C and D significantly surpasses these costs.

As policy combination B is the least costly; provides for existing operators at residences/venues with pools or spas to continue to operate; provides for several additional safeguards to prevent

children's access to pools and spas; and includes added emergency communication back-up, it is considered a balanced response to reduce the risks of drowning occurrences of children in pools and spas within family day care settings.

**Policy combination C - Allow existing family day care educators with pools/spas to operate with family day care educator assistant but no transfers to another approved provider, and approved provider oversight**

From the impact analysis and the indicative cost table at Appendix 2 policy combination C is more costly than Option B but slightly less costly than Option D

In relation to Coroner's recommendation 2, family day care stakeholders were most in support of option 1 (status quo). Option 2.1<sup>40</sup>, was most supported by non-family day care stakeholders and is therefore incorporated in this policy combination.

Option 3 provided for all family day care educators to have a back-up means of communication in a fixed location in case of emergency. It would be up to the approved provider to determine the best means of implementing this option, depending on the circumstances at each residence/venue.

A fixed landline was considered unviable, as access to the copper network is not available throughout Western Australia and a fixed landline via the internet is not reliable in an emergency. Accordingly, this combination provides for option 1 – status quo, with guidance material to be produced about providing a back-up means of communication at a fixed point in an emergency.

**Policy combination D - Allow existing family day care educators with pools/spas to operate with family day care assistant and approved provider oversight, back-up communications for all family day care educators**

From the impact analysis and the indicative cost table at Appendix 2, this combination is likely to be the costliest overall and is slightly more expensive than Option C. The main difference in costs between policy combinations C and D is the cost of a back-up means of communication (relating to policy combination D).

Policy combination D provides for existing educators at a specific residence/venue with a pool or spa to be able to transfer to another approved provider. This policy aspect provides some flexibility to educators with pools or spas at a specific residence/venue, particularly if the approved provider ceases operations. Under this option, the transferring educator is treated as an existing rather than a new educator and can continue to accept enrolments of children under 5 years at the specific residence with a pool or spa. However, the family day care service accepting the educator would still be required to employ/engage a family day care assistant at all affiliated residences/venues.

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<sup>40</sup> Option 2.1 provides for prospective educators at residences/venues with a pool or spa to be given an appropriate amount of time to finalise their application to operate a family day care business. If approved, the educator would be considered an 'existing' educator and not subject to a ban on operating family day care from the residence/venue with a pool or spa.

As outlined for policy combination B, allowing educators with a residence/venue with a pool or spa to change family day care services did not receive a lot of support from stakeholders who directly commented on this proposal. Similar to policy combination C, this combination provides for increased supervision, through mandating the employment/engagement of a family day care, educator assistant, and increased inspections, with training for approved providers. Accordingly, there are similar costs involved in implementing policy combinations C or D, though D provides a mandated back-up means of communication at a fixed point in case of emergencies.



# Implementation and communication plan

## Implementation

Once the Minister's decision has been announced, Communities will work with stakeholders to inform them about the impending changes and advise on implementation deadlines for legislative amendments. Communities will also be working closely with peak bodies to develop the proposed on-line learning program to support providers undertaking inspections of premises as well as establishing systems and processes to properly track inspections.

## Amendments

Implementation of any of the option combinations require changes to be made to the National Regulations, which is part of a national system. Therefore, approval to draft amendments will be sought from Education Council, in accordance with the WA Minister's decision and relevant protocols. Subject to Education Council approval, regulations will be prepared for drafting by the Western Australian Parliamentary Counsel's Office and approved in accordance with legislative requirements.

In requesting drafting amendments to the National Regulations, consideration will be given to transitional issues and lead times for commencement of provisions. However, such matters will also take into consideration that, following release of the Coroner's recommendations into the drowning death in 2018, the family day care sector has been made aware that legislative changes would be made, and extensive consultation has occurred.

The requested amendments to the National Regulations will also consider the information requirements of the parties, namely the approved provider and ECRU, particularly given the co-regulatory arrangement that exists for family day care. Such information includes the reporting of various water hazards at residences or venues, adverse findings and consequent actions undertaken in response to inspections by the approved provider under the National Regulations and local government authorities in relation to the *Building Act 2011*.

## Changes to approvals

Communities will prepare the relevant material and develop supporting information and guidance for the sector regarding implementation of decisions that do not require legislative changes. This includes possible changes to conditions of approval for new and existing providers and educators.

## Information for stakeholders

To inform stakeholders about the new rules to deal with water hazards at family day care residences and venues, Communities intends to send a link to this Decision Statement to:

- WA approved providers
- the interested individuals, those associated with the family day care sector, relevant government departments and peak bodies who made submissions to each round of consultation regarding this matter, and

- other relevant government departments and other stakeholders who may have an interest in this matter.

Information about these amendments will also be posted on the Communities website and relevant posts made to appropriate social media sites to target parent groups.

It is also intended information sessions will be held to discuss the details of the amendments for the family day care sector and peak bodies.

## Evaluation

It is proposed that as soon as practicable, three years from the commencement of the amendments relating to this Decision Statement, Communities will undertake an internal review for the Minister for Community Services, which may take into consideration:

- the number of complaints, or incidents involving supervision of children attending family day care, particularly in residences or venues in which there are swimming pools, spas and/or water features
- the number of incidents (if any) involving swimming pools, spas and/or water features
- the number of educators involved in the provision of family day care with a swimming pool, spa and/or water features, and
- the perceived effectiveness of the oversight mechanisms, including notifications, involving residences or venues in which there are swimming pools, spas and/or water features.

To ensure the evaluation is undertaken, the project will be recorded on the planning schedule relating to the Manager with portfolio responsibility for the National Law within the Department of Communities<sup>41</sup>.

It is further proposed that Communities will continue to actively monitor this situation and respond appropriately any issues raised by existing services.

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<sup>41</sup> *The National Partnership on the National Quality Agenda for Early Childhood Education and Care*, an intergovernmental agreement between the Commonwealth and the States and Territories which was not renewed after 31 December 2018, provided for the monitoring and review of the impact and effectiveness of the National Quality Agenda, which includes the NQF.

## Appendix 1 – Summary of policy combinations

The combination of policy options that are the subject of an impact analysis

ASPECT	POLICY COMBINATION A: Base case/status quo <b>(Current situation)</b>	POLICY COMBINATION B:	POLICY COMBINATION C:	POLICY COMBINATION D:
<b>EXISTING FAMILY DAY CARE EDUCATORS WITH POOLS AND SPAS</b>  Re: Coroner's Recommendation 1	<b>CURRENT SITUATION</b> Existing family day care educators with pools and spas allowed to operate (refer option 1, page 31)	<b>ALLOW EXISTING FAMILY DAY CARE EDUCATORS TO OPERATE, NO TRANSFERS*</b> (refer option 3, page 34)	<b>ALLOW EXISTING FAMILY DAY CARE EDUCATORS TO OPERATE WITH FAMILY DAY CARE EDUCATOR ASSISTANT, NO TRANSFERS*</b> (refer modified option 3, page 35)	<b>ALLOW EXISTING FAMILY DAY CARE EDUCATORS TO OPERATE WITH FAMILY DAY CARE EDUCATOR ASSISTANT, ALLOW TRANSFERS*</b> (refer modified option 2, page 33 and modified option 3, page 35)
<b>NEW FAMILY DAY CARE EDUCATORS WITH POOLS AND SPAS</b>  Re: Coroner's Recommendation 2	<b>CURRENT SITUATION</b> New family day care educators with pools and spas allowed to operate (refer option 1, page 37)	<b>BAN NEW FAMILY DAY CARE EDUCATORS NOT IN THE APPLICATION PROCESS, NO TRANSFERS*</b> (refer modified option 2.1, page 40)	<b>BAN NEW FAMILY DAY CARE EDUCATORS NOT IN THE APPLICATION PROCESS, NO TRANSFERS*</b> (refer modified option 2.1, page 40)	<b>BAN NEW FAMILY DAY CARE EDUCATORS NOT IN THE APPLICATION PROCESS, ALLOW TRANSFERS*</b> (refer option 2.2, page 40)
<b>OVERSIGHT OF FAMILY DAY CARE RESIDENCES WITH 'WATER HAZARD/S'</b>  Re: Coroner's Recommendation 3	<b>CURRENT SITUATION</b> Approved provider must conduct an annual risk assessment of residences/venues with pools, spas and water features (refer option 1, page 42)	<b>APPROVED PROVIDER MONTHLY INSPECTIONS, TRAINING AND SAFETY IMPROVEMENTS RE POOLS/SPAS AND WATER FEATURES</b> (refer options 2, 4 and 5, pages 43-45)	<b>APPROVED PROVIDER QUARTERLY INSPECTIONS AND TRAINING</b> (refer options 2, and 4, page 43-45)	<b>APPROVED PROVIDER QUARTERLY INSPECTIONS AND TRAINING</b> (refer options 2, and 4, page 43-45)
<b>EMERGENCY COMMUNICATION</b>  Re: Coroner's Recommendation 4	<b>CURRENT SITUATION</b> All family day care educators must have a telephone or similar means of communication (refer option 1, page 47)	<b>BACK-UP COMMUNICATIONS IN FIXED LOCATION FOR EMERGENCIES: ALL FAMILY DAY CARE EDUCATORS</b> (refer option 3, page 49)	<b>CURRENT SITUATION WITH GUIDANCE MATERIAL: ALL FAMILY DAY CARE EDUCATORS</b> (refer option 1)	<b>BACK-UP COMMUNICATIONS IN FIXED LOCATION FOR EMERGENCIES: ALL FAMILY DAY CARE EDUCATORS</b> (refer option 3, page 49)

\* 'Transfer' refers to the ability of a family day care educator, who has a residence with a pool or spa, to becoming affiliated with a different approved provider

### LEGEND

- Depicts no/little change from current situation
- Depicts some change from current situation
- Depicts significant change from current situation

## Appendix 2: Comparison of major cost differences (estimates) between policy combinations

ASPECT	POLICY COMBINATION B:	POLICY COMBINATION C:	POLICY COMBINATION D:
	Allow family day care educators with pools/spas to operate but no transfers to another approved provider, improved provider oversight, safety device/s designed to alert or deter a child from entering the water and back-up communications for all family day care educators	Allow existing family day care educators with pools/spas to operate with family day care educator assistant but no transfers*, and approved provider oversight	Allow existing family day care educators with pools/spas to operate with family day care educator assistant and approved provider oversight, back-up communications for all family day care educators
<b>EXISTING FAMILY DAY CARE EDUCATORS WITH POOLS AND SPAS</b> Re: Coroner's Recommendation 1	<b>ALLOW EXISTING FAMILY DAY CARE EDUCATORS TO OPERATE, NO TRANSFERS*</b>	<b>ALLOW EXISTING FAMILY DAY CARE EDUCATORS TO OPERATE WITH FAMILY DAY CARE EDUCATOR ASSISTANT, NO TRANSFERS*</b> <b>Cost likely to accrue to family day care educator:</b> \$50 000 for assistant per educator. 182 educators in total	<b>ALLOW EXISTING FAMILY DAY CARE EDUCATORS TO OPERATE WITH FAMILY DAY CARE EDUCATOR ASSISTANT, ALLOW TRANSFERS*</b> <b>Cost likely to accrue to family day care educator:</b> \$50 000 x 182 (educators with pool or spa) = \$9.1m per annum
<b>NEW FAMILY DAY CARE EDUCATORS WITH POOLS AND SPAS</b> Re: Coroner's Recommendation 2	<b>BAN NEW EDUCATORS NOT IN THE APPLICATION PROCESS, NO TRANSFERS*</b>	<b>BAN NEW EDUCATORS NOT IN THE APPLICATION PROCESS, NO TRANSFERS*</b>	<b>BAN NEW EDUCATORS NOT IN THE APPLICATION PROCESS, ALLOW TRANSFERS*</b>
<b>OVERSIGHT OF FAMILY DAY CARE RESIDENCES WITH 'WATER HAZARD/S'</b> Re: Coroner's Recommendation 3	<b>APPROVED PROVIDER MONTHLY INSPECTIONS, TRAINING AND SAFETY IMPROVEMENTS RE POOLS/SPAS AND WATER FEATURES</b> Option 2: Monthly inspections <b>Cost per educator</b> \$125 x 12 (number of inspections per year) For 182 educators with pools/spas Option 5: Additional safety improvements (variable) Option 4: Qualified third-party organisation provides training about undertaking inspections <b>Cost to Government</b> \$5 500 – Online training program \$2,000 –Database	<b>APPROVED PROVIDER QUARTERLY INSPECTIONS AND TRAINING</b> Option 2: quarterly inspections <b>Cost per educator</b> \$125 x 4 (number of inspections per year) For 182 educators with pools/spas Option 4: Qualified third-party organisation provides training about undertaking inspections <b>Cost to Government</b> \$5 500 – Online training program \$2,000 –Database	<b>APPROVED PROVIDER QUARTERLY INSPECTIONS AND TRAINING</b> Option 2: quarterly inspections <b>Cost per educator</b> \$125 x 4 (number of inspections per year) For 182 educators with pools/spas Option 4: Qualified third-party organisation provides training about undertaking inspections <b>Cost to Government</b> \$5 500 – Online training program \$2,000 –Database
<b>EMERGENCY COMMUNICATION</b> Re: Coroner's Recommendation 4	<b>BACK-UP COMMUNICATIONS IN FIXED LOCATION FOR EMERGENCIES: ALL FAMILY DAY CARE EDUCATORS</b> <b>Cost to educator:</b> \$90 (hardware) Cost of phone. 1040 educators. <b>PLUS</b> \$43 per month (x 12) additional telecommunications charge	<b>STATUS QUO</b> Option 1: Status quo <b>with guidance material</b>	<b>BACK-UP COMMUNICATIONS IN FIXED LOCATION FOR EMERGENCIES: ALL FAMILY DAY CARE EDUCATORS</b> <b>Cost to educator:</b> \$90 (hardware) Cost of phone. 1040 educators. <b>PLUS</b> \$43 per month (x 12) additional telecommunications charge

\*Transfer refers to the ability of a family day care educator, who has a residence with a pool or spa, to becoming affiliated with a different approved provider