



# Gradual phase-out of swimming pools and spas at family day care services

## Frequently Asked Questions

### 1. Are we closing down family day care services with pools and spas?

No. Existing family day care services can continue to operate. No family day care services will be forced to close.

### 2. I have a child/children in family day care – how will this affect me?

These changes should not affect your current family day care arrangements. What it does mean for you and your family is that there will be improved safety for your child/children while they are in care.

### 3. I'm a family day care educator with a swimming pool or spa – how will this affect me?

You can continue to operate subject to additional requirements and restrictions.

When the new regulations commence from 1 September 2022:

- Your residence/venue will be inspected on a monthly basis by your approved provider.
- You will be required to purchase an additional safety device designed to alert or deter a child from entering the water, such as a pool alarm or a pool cover.
  - You will need to have this device installed and operational by 1 March 2023 to meet compliance requirements.
- You will be required to have a back-up communications device that is kept in a permanent location and is always available in case of an emergency.
- There will be restrictions on your ability to transfer to a new provider.

#### **4. I'm a family day care educator without a swimming pool or spa but I have a water feature – how will this affect me?**

If the water feature is a hazard, your residence/venue will be inspected on a monthly basis by your approved provider. See FAQ 21.

You will be required to have a back-up communications device that is kept in a permanent location and is always available in case of an emergency. See FAQ 14.

#### **5. I'm a family day care educator without a swimming pool, spa or water feature – how will this affect me?**

Most of the changes will not affect you. However, you will be required to have a back-up communications device that is kept in a permanent location and is always available in case of an emergency. See FAQ 14.

#### **6. I am an existing family day care educator, but am thinking of moving to a residence with a swimming pool/spa – how will this affect me?**

You may move to a new residence with a swimming pool/spa but only if you do so, with your providers agreement, before the new regulations commence on 1 September 2022. The intention is for the gradual reduction in the number of family day care services that have a pool or spa due to the risks they pose to young children.

You will not be allowed to operate a family day care service at your new residence/venue with a swimming pool or spa if you have not registered your new address with your approved provider by the time the new regulations commence from 1 September 2022.

You will need the approval of your approved provider to ensure they are willing to take on board the additional oversight responsibilities.

If you move to a residence with a pool or spa before the new regulations commence, you and your approved provider will have additional requirements to comply with, including restrictions on transferring to another approved provider in the future.

Refer to FAQs 3 and 13 specifically for more details on these requirements.

#### **7. I am an existing family day care educator, but am thinking of having a swimming pool or spa installed in my residence – how will this affect me?**

You may install a pool or spa before the new regulations commence from 1 September 2022, if your provider agrees.

Your residence will need to be listed with your approved provider as having a pool or spa before the new regulations commence.

You will need the approval of your approved provider to ensure they are willing to take on board the additional oversight responsibilities.

If you install a pool or spa before the new regulations commence, you and your approved provider will have additional requirements to comply with, including restrictions on transferring to another approved provider in the future.

If you install a pool or spa after the commencement of new regulations, you will no longer be able to operate as a family day care educator at your residence or venue.

Refer to FAQs 3, 12 and 13 specifically for more details on these requirements.

## **8. I am applying or thinking about applying to be a family day care educator and I have a pool or spa – how will this affect me?**

Approved providers have not been able to accept new educators (not previously registered) with a pool or spa since 31 December 2020.

## **9. I'm a family day care approved provider – how will this affect me?**

Since 31 December 2020, approved providers have had a condition on approval preventing them from hiring new educators to operate a family day care service at a residence/venue with a swimming pool or spa.

From the commencement date of the new regulations on 1 September 2022 the following additional restrictions will apply:

- Your existing educators will not be able to apply to operate from a new residence or venue with a pool or spa (if they move), or install a pool or spa, after the new regulations commence.
- There will be limited circumstances in which transfers of family day care educators who have swimming pools or spas at their residence/venue from another approved provider can be accepted after the new regulations commence.
- You will be required to inspect each family day care educators' residence/venue who have swimming pools, spas or water features every month.

Training is available to help approved providers understand how to inspect family day care residences/venues with swimming pools, spas or water features. This training is provided free of charge.

You will need to commence the monthly inspections once the new regulations commence from 1 September 2022.

## **10. Can approved providers conduct the new monthly safety inspections using Skype or other video means?**

Approved providers will have the option of conducting virtual inspections using a form of technology that allows them to do a virtual walk through of the residence or venue and clearly see all elements for an inspection. There are restrictions on the number of virtual inspections that can be conducted, with no more than six in a year with no more than two consecutive virtual inspections.

## **11. I am an approved provider with educators in regional areas. Can I engage a local third party to do the monthly inspections on my behalf?**

Yes. If a third party is contracted to deliver these inspections on your behalf, you must ensure they clearly understand the requirements of inspections and have the appropriate knowledge to undertake it. Third parties engaged by a provider can undertake the free online training. As the approved provider, you will still be responsible for collecting and maintaining all relevant information and records from this third party. You will still be liable for any and all breaches relating to inspections that occur as a result of the third party not undertaking these requirements appropriately.

## **12. I heard that family day care educators with pools or spas weren't going to be allowed to transfer between providers. Is this true?**

The Minister's Decision Statement released on 24 November 2020 indicated that transfers would not be allowed.

However, in response to further information and feedback from the sector, transfers of existing educators with pools/spas will be allowed under certain circumstances.

Transfers need to be approved by the Education and Care Regulatory Unit (ECRU).

Transfers will be approved under the following situations:

- when a service is being transferred to another provider, or
- when an approved provider has their provider or service approval cancelled or suspended.

## **13. What costs will operators face as a result of the changes?**

Family day care educators with a pool or spa will be required to purchase an additional safety device to alert or deter a child from entering the pool, spa or its surrounds such as a pool alarm or a pool cover. Appropriate types of devices may include:

- gate alarms that alert an educator when a gate is left open

- pool alarms that alert when someone has entered the pool
- personal alarms designed to alert when a child enters a pool
- pool covers that are fixed in such a way that a child may not lift them to gain entry and can support the weight of anyone falling onto them.

Other types of devices that meet the criteria of alert or deter will also be considered.

All family day care educators, regardless of whether they have a pool or spa, will also be required to have a back-up communications device in a fixed location so that it is available in the event of an emergency. This can include devices such as fixed handsets.

#### **14. Back up communications devices: what is required?**

Mobile devices are convenient but easy to lose or put down. This makes them hard to locate during an emergency when quick communication with emergency services can make a difference to survival.

Every family day care educator must have a back-up communications device in a fixed location so that it is locatable and useable in the event of an emergency.

The device can have a removeable handset, but the handset must always remain in the fixed back up location. The intent is that educators will always have the security of knowing that the device is always there and ready to use if a mobile might be lost or mislaid during an emergency.

Examples of suitable back up devices include iPads/tablets capable of making a phone call, smart house systems with an interface that allows communications, telephone handsets or mobile phones. They **must** permanently reside in a fixed back up location that can be readily accessed in an emergency and are capable of making a phone call to emergency services.

#### **15. When will these changes be implemented?**

A staged approach will be used to ensure that all services have time to adapt to the necessary changes.

The majority of the regulation changes will commence from 1 September 2022.

This will allow time for family day care educators and approved providers to source and install necessary devices and undertake training.

Family day care residences with pools or spas are expected to have the safety device to alert or deter installed within six months of the regulations commencing on 1 September 2022. This means that they have until 1 March 2023 to ensure their safety devices are installed.

All family day care residences will need a backup communications device in a fixed location installed and operational from 1 September 2022.

## 16. What is the transition period?

Safety devices will need to be installed within six months of the new regulations being gazetted (i.e., they must be installed by 1 March 2023).

Training to undertake the new requirements for monthly inspections by approved providers of family day care residences with pools/spas or water features will be available from July 2022.

See FAQ 18 for details on the timing and process for introducing all these changes.

## 17. Have new regulations been introduced?

The majority of the new regulations will come into effect from 1 September 2022.

## 18. What is the timeline for the legislative process?

The new regulations are being developed and approved and will commence from 1 September 2022 with the exception being the requirement for a safety device that alerts or deters which will come into effect from 1 March 2023.

## 19. Which safety devices do family day care educators need to install and when do these devices need to be installed by?

A minimum of **one** additional safety device, in addition to existing requirements for pool fencing, is required.

An appropriate safety device is one designed to keep children from entering the water or entering the surrounds of a pool or spa (**deter**) or let educators know when a child has entered the pool or spa surrounds or entered the water (**alert**).

There are many kinds of devices that can alert or deter.

The Department of Communities (Communities) will not list every kind of possible device due to the wide range of types available and the specific circumstances of each educator.

Educators and approved providers should consider their specific needs when purchasing a device and if the device is being sold as a safety device that will **alert** or **deter**. For example, a pool blanket is for the purpose of preventing evaporation, maintaining water temperature or preventing debris. It is not designed to be, nor is it sold as, a safety device as it would not prevent a child entering the water (**deter**).

## **20. Will family day care services be subjected to more inspections? How often will they now be inspected?**

Those family day care services with a pool, spa or water feature will be inspected monthly by their provider to ensure that all safety requirements are being followed. Many service providers have already voluntarily started undertaking more frequent inspections.

## **21. What are water features and why are they being inspected?**

The Minister's Decision Statement includes restrictions on water features with monthly inspections being required similar to the pools and spas. However, the restrictions on transfer or engagement of new educators with a water feature does not apply because they are less of a hazard than pools or spas.

Providers can continue to accept new educators with water features but should be aware of the regulatory oversight requirements for inspections.

In order to avoid having to inspect water features that are not a risk to children, we have developed the following criteria. Water features (whose primary purpose is not swimming or bathing) will need to be inspected where:

- they have a permanent standing body of water with a depth of water greater than 30cm, and
- it is accessible to children and therefore posing a risk.

Water features that are inaccessible to children or that have a permanent barrier in place (i.e., mesh cover capable of preventing a child entering the water) would not need to be inspected. For instance, a water fountain that has a trickle of water down a wall, but doesn't collect water below it, wouldn't need to be inspected. If there was a fountain with a pool of water greater than 30cm which a child could access, this would need to be inspected regularly to ensure it is kept empty or has a secure mesh cover to prevent children accessing it or secured away from children.

## **22. Will these changes guarantee that children will be safe around pools?**

Nothing in this decision can replace direct and active supervision, which is paramount when caring for young children. However, we are confident that the combination of phasing out of swimming pools and spas in the long-term, enhanced oversight of existing pools, spas and water features and additional safety requirements at family day care residences and venues will improve the safety of children.

### **23. Is there training available for approved providers to conduct safety inspections?**

Yes. Communities has commissioned the Royal Life Saving Society of WA (RLSS WA) to develop a free online training course for approved providers.

This training is free of charge.

People completing the training will develop a good understanding of what is required in undertaking monthly inspections, how to check safety barriers and the environment around a pool or spa for safety issues and how to comply with the reporting requirements.

This training is available for a limited time only. Approved providers are expected to develop the competency of their staff to conduct inspections into the future.

### **24. Where do I find this training course?**

Approved providers will be emailed a link to the training course. Users will need to register an account with the RLSS WA to enter their learning area. Approved Providers can also email [eclir@communities.wa.gov.au](mailto:eclir@communities.wa.gov.au) for the link.

### **25. Who should do this training course?**

The course is open to all staff of approved providers and anyone they may engage to undertake inspections on their behalf. Communities staff from ECRU will also be doing the course.

### **26. Does the course take long to complete or require prior knowledge?**

Users should be able to complete the course in under an hour and no prior knowledge of pools or pool safety is required. Information, resources and checklists are also provided to support anyone undertaking the training to develop a thorough understanding of the requirements for pool safety.

More information is available on our [family day care residences or venues with swimming pools, spas and water features in Western Australia](#) website.

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