



Management of swimming pools, spas and other bodies of water relating to children in the Chief Executive Officer's care policy

1. Purpose

This policy establishes clear safety standards for children in the CEO's care when assessing applicants, reviewing approved carers, and placing children in homes with swimming pools, spas, or other water hazards.

Drowning is the third most common cause of death in children aged up to five years in Western Australia.¹ In Western Australia, private swimming pools must comply with safety barrier requirements under the *Building Act 2011* and *Building Regulations 2012*, based on the date of installation or permit application.

The Department of Communities (Communities) may still have concerns about a carer's ability to provide a safe physical environment, even if their pool complies with these regulations. All relevant factors must be considered when assessing carer competency under Regulations 4(1)(a)(i) and (ii) of the *Children and Community Services Regulations 2006*.

2. Definitions

Term	Definition
Applicant	Individual applying to become a carer (Community foster carer, family or significant other carer, community carer).
Assessor	An individual carrying out the assessment of a prospective carer either as an employee of the Department of Communities or as a contract assessor.

¹ Ombudsman Western Australia Annual Report 2022-2023, pg. 83.

Term	Definition
Fenced/Safety barrier	A compliant safety barrier installed that restricts access by young children to the pool and its immediate surrounds. In Western Australia, the legislative framework that mandates the requirement to provide a barrier to a private swimming and spa pool comprises the Building Act 2011; and the Building Regulations 2012 (Building Regulations). ² Compliant safety barriers include a fence, wall, gate or other component, or a combination of them that complies with the Building Code of Australia (BCA) currently in effect and the requirements of the Australian Standards AS 1926.1-2012 and AS 1926.2-2007. ³
Body of water	Ponds, dams, water features containing water to a depth greater than 30 centimetres (12 inches).
Swimming pools	All private swimming pools, spas, including portable or inflatable pools.
Carer	A person who provides care for a child under a care arrangement (see <i>Children and Community Services Act 2004</i> section 3).
Child/ren	All people under 18 years of age, and in the absence of positive evidence as to age, means a person who is apparently under 18 years of age (<i>Children and Community Services Act 2004</i> section 3).
Family Carer or Significant Other Carer or Community Carer	A person who is considered family or person who is not a family member of the child but has demonstrated enduring relationship with a child and/or their birth family or is a person who is Aboriginal or a CALD community member who will be caring for a child from the same community and is assessed against the carer competencies.
Community Foster Carer	A person who volunteers to provide a home, family life, and care to children in the CEO's care and is assessed against carer competencies.
Officer	An individual employed or engaged for the purposes of an agency, whether as a public service officer under the <i>Public</i>

² *Building Regulations 2012*, Regulation 50

³ Swimming pool and spa safety barrier requirements | Building and Energy, Department of Local Government, Industry Regulation and Safety www.wa.gov.au/organisation/building-and-energy/swimming-pool-and-spa-safety-barrier-requirements); *Building Regulations 2012*, Regulation 50A

Term	Definition
	<i>Sector Management Act 1994</i> , under a contract or otherwise.
Care Arrangement	An arrangement under section 79(2) of the <i>Children and Community Services Act 2004</i> for the placement of a child.

3. Policy Statements

Under Regulation 4(1) of the *Children and Community Services Regulations 2006*, the CEO may only approve a carer if satisfied they meet all carer competencies.

Carers and applicants living in, or moving into, a home with a private pool or spa must provide a current compliance certificate from their local government, confirming adherence to Australian Standards.

While pools may meet legal requirements, Communities may require higher safety standards to ensure child safety. For pools installed before November 2001 that rely on a child-resistant door as part of the barrier, additional safety measures—such as a 1200mm-high barrier between the door and pool, permanent door fixing (not using a key lock), or a pool alarm—may be required. Carers should consult their local authority regarding permits for modifications.

Communities' position on pool barriers is that if a barrier can be installed, it should be installed. In circumstances where a pool barrier cannot be installed, Communities will consider alternative safety measures on a case-by-case basis. These alternatives must comply with relevant local government regulations and Australian standards.

For bodies of water deeper than 30 centimetres (such as ponds, lakes or dams) carers must install grates or barriers that meet post-2016 pool safety standards. If this is not feasible (e.g. in the case of large lakes or dams), carers must demonstrate both the willingness and ability to establish a securely fenced outdoor play area adjoining the home. The fenced area should be constructed from sturdy, non-climbable materials, with no gaps between the fence and the ground. It must include a self-closing, self-latching gate. Pool fencing standards (including child-resistant gates and latches) can be used as a guide when planning the child-safe play area. Children should be supervised while in the child-safe play area depending on their age stage and cognitive development.

All factors will be considered in assessing a carer's ability to provide a safe environment and protect a child from harm including their understanding of water safety and supervision tailored to the child's age, development, behaviour, and trauma history.

Even if all carer competencies are met, the CEO will determine care arrangements based on the best interests of each child.

Requirements

- 4.1.** Inform all prospective carers at application and on completion of any environmental checklist of Communities' policy for management of swimming pools, spas, and other bodies of water as above. Remind carers that supervision is the most effective way of preventing young children from drowning in private swimming or spa pools or portable inflatable pools and any other body of water.
- 4.2.** Record on the environmental checklist and in the assessment report or review how swimming pools and any other body of water are fenced, details of local council compliancy, include the distance from the body of water (lake or dam) to the residence and the difficulty needed to access it, and how any safety concerns will be addressed.
- 4.3.** The assessor, Community Foster Carer Assessment Panel, Director of Fostering and Family Care, or Service Provider Assessment Panel and approving officer must balance and consider all relevant factors in making their determination of an applicant's ability to meet carer competencies under Regulation 4(1).
- 4.4.** For Family and Significant Other or Community carers, the officer undertaking the assessment, and the District Assistant Director/Director or, for Service Providers, the approving officer must balance and consider all relevant factors in making their determination of the applicant's ability to meet carer competencies under Regulation 4(1).
- 4.5.** For all approved Family, Significant Other, Community and Community Foster Carers, the officer conducting any review must ensure they continue to meet the requirements of this policy regarding any pools, spas, or bodies of water.
- 4.6.** Prior to a care arrangement being made where there is any swimming pool, spa, or other body of water over 30 centimetres, the child's developmental stage, swimming ability, behaviour, and trauma history must be considered. Cultural considerations should be discussed with an Aboriginal Practice Leader. A care arrangement will only be made where it is deemed to be in the best interests of that child.
- 4.7.** Where additional safety barriers cannot be installed, a safety plan and District Director approval must be provided prior to the care arrangement of any child.
- 4.8** Requests for funding of costs associated with additional safety barriers/measures requested to be in place by Communities will be considered on an individual basis. In considering individual circumstances, current policies, guidelines and relevant parameters will inform that consideration. For example, what is possible within parameters of special purpose funding or case support costs.

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Owner	Executive Director – Statewide Services

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Custodian	Fostering and Family Care Director

Reference information

Water safety awareness and supervision

For young children, adults should actively supervise within arm's reach with the adult in the water with the child. Active supervision requires the responsible adult to ensure their complete attention is always focused solely on any child in or around the swimming or spa pool area.⁴ Young children known to be in or around a swimming or spa pool area should always be actively supervised and their access to the swimming or spa pool area restricted.⁵ Carers and applicants need to be aware:

- Never wholly rely on pool safety barriers as they are only intended to restrict access by young children, do not prevent access, and are secondary to supervision.
- Never prop the pool gate open or leave objects that could be climbed on near the fence;
- Regularly check the pool fence, gate (including locks) and surrounds to confirm the strength and integrity of the structure has not weakened over time or through exposure to the elements;
- Swimming lessons and being familiar with water are not a substitute for providing active supervision;
- For a young child, supervision means the child is within arm's reach of a suitable adult while the child is in or around water;
- An older child is not a suitable person to supervise a young child around water Note: cultural considerations should be discussed with an Aboriginal Practice Leader
- Flotation devices on their own are not enough to ensure the safety of a child. Basic water safety education must be considered as part of the child's care plan; and
- Young children are resourceful and capable of using climbable objects to release latching mechanisms.

Resources

[Swimming pool and spa safety barrier requirements](#)

[Royal lifesaving website](#)

[Raising Children: Water Safety for Children](#)

[Kidsafe WA website](#)

[PoolGuard by Remco-safety first](#)

[Child Safe Play Areas | Royal Life Saving Society - Australia](#)

[Farm Water Safety | Royal Life Saving Society - Australia](#)

⁴ Building and Energy Western Australia, *Rules for pools and spas: A guide to the requirements for safety barriers in Western Australia* (July 2024) (p.36) [Swimming pool and spa safety barrier requirements](#)

⁵ Building and Energy Western Australia, *Rules for pools and spas: A guide to the requirements for safety barriers in Western Australia* (July 2024) (p.36) [Swimming pool and spa safety barrier requirements](#)

Legislative Framework

In Western Australia, the legislative framework that mandates the requirement to provide a barrier to a private swimming and spa pool comprises:

- *Building Act 2011* and
- *Building Regulations 2012* (Building Regulations).

The Building Regulations require all private swimming, spa and portable pools that contain water that is more than 300mm (30cm) deep to have a compliant safety barrier installed that restricts access by young children to the pool and its immediate surrounds.⁶

Compliant barriers for pools and spas, based on the date of installation, or date of plans submission

The formal technical requirements for safety barriers are found in the:

- [Building Regulations 2012](#);
- [Building Code of Australia](#) (BCA), being the Volumes One and Two of the National Construction Code (NCC); and
- Relevant referenced [Australian Standards](#) (AS).⁷

Generally, all swimming pools and spas must have safety barriers that comply with:

- AS 1926.1-2012; and
- AS 1926.2-2007 (incorporating amendments 1 and 2).

Swimming pools and spas installed prior to 1 May 2016 can alternatively have safety barriers that comply with AS 1926.1-1993 (incorporating amendment 1), except for the child-resistant doors provisions. Outdoor swimming pools and spas are typically not permitted to use child-resistant doors as part of their safety barrier unless the swimming pool or spa was approved or installed prior to 5 November 2001.⁸

⁶ Building Regulations 2012, Regulation 50(2)

⁷ Building and Energy Western Australia, Department of Local Government, Industry Regulation and Safety, [Swimming pool and spa safety barrier requirements](#)

⁸ Building and Energy Western Australia, Department of Local Government, Industry Regulation and Safety, [Swimming pool and spa safety barrier requirements](#)

Building Regulations 2012 (WA)

Part 8, Division 2 – Private swimming pools

48 – Terms used

49 – Application of this Division

50 – Barrier to private swimming pool

50A – Pool barrier requirements

51 – Approvals by permit authority

52 – Concessions for pre-November 2001 private swimming pools

53 – Inspection of barrier to private swimming pool

53A - Charges may be imposed for inspection of barrier

53B – Local governments to give Building Commissioner information

54A – Temporary pool barriers

54 - Transitional provision – persons authorised by regulation 5A **Child-resistant doors**

Child-resistant doors are only permitted to form part of the pool barrier for indoor pools, or for the indoor portion of an indoor/outdoor pool. The use of a child-resistant door in other situations is only permitted where the local government has specifically approved its use.⁹

Child-resistant doors must comply with the requirements of AS 1926.1-2012.¹⁰

An 'indoor pool' is defined in AS 1926.1-2012 as a 'pool that is fully enclosed within a residential building or by a separate building'. An 'indoor/outdoor pool' is defined in AS 1926.1-2012 as a 'pool that is partly enclosed within a residential building or by a separate building'.¹¹

Child-resistant openable portion of window

A window that forms part of the barrier must comply with the requirements of AS 1926.1-2012.¹²

- Alternatives are applicable for the 'openable portions of windows' requirements for pools that were installed prior to 1 May 2016.¹³

⁹ Building and Energy Western Australia, Rules for pools and spas: *A guide to the requirements for safety barriers in Western Australia* (July 2024) (p.34)

¹⁰ AS 1926.1-2012, Clause 2.7

¹¹ AS 1926.1-2012, Clause 1.3.13

¹² AS 1926.1-2012, Clause 2.6

¹³ Building and Energy Western Australia, Rules for pools and spas: *A guide to the requirements for safety barriers in Western Australia* (July 2024) (p.33) [Swimming pool and spa safety barrier requirements; Building Regulations 2012, Regulation 50A\(4\)](#).