



Code of conduct for swimming pool safety inspectors

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The Department of Infrastructure and Planning brings together planning, local government and infrastructure responsibilities into one department enabling government to deliver integrated solutions, face the state's population and economic challenges and secure a sustainable future for Queensland.

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Introduction

Swimming pool safety inspectors are licensed under the *Building Act 1975* (the Act) to perform pool safety inspection functions. This code of conduct for pool safety inspectors (the code) is made under section 246AZ of the Act, which allows the chief executive to make the code.

The code sets binding standards of conduct for swimming pool safety inspectors when they perform a pool safety inspection function under the Act in Queensland. A breach of the code may make a swimming pool safety inspector liable for disciplinary action under the Act.

Reference in the code to the term 'inspector' refers to a 'swimming pool safety inspector'.

References in the code to the Act include references to any relevant regulations, codes, standards, guidelines and any other documents made under, or referenced in or under, the Act.

Words defined under the Act that are also used in the code have the same meaning as that given in the Act.

Purpose

The purpose of the code is to:

- set standards of conduct and professionalism expected from swimming pool safety inspectors in the performance of pool safety inspection functions
- inform the community of the standards of conduct and professionalism expected from inspectors
- provide consumer, regulatory, judicial, employment and professional bodies with a basis for making decisions regarding standards of conduct and professionalism expected from inspectors.

Standards of conduct and professionalism

In undertaking pool safety inspection functions and related functions, an inspector must always:

- perform pool safety inspection functions in the public interest
- maintain satisfactory levels of competence
- comply with legislative requirements
- not perform pool safety inspection functions where there is potential for a conflict of interest, except for carrying out minor repairs prescribed under regulation
- not perform pool safety inspection functions beyond their level of competence or outside their area of expertise
- maintain confidentiality
- abide by professional, moral and ethical standards expected by the community
- take all reasonable steps to obtain all relevant facts
- clearly document reasons for decisions.

Explanatory statements

Although the code does not give details about issues and areas of practice, these explanatory statements may be used to clarify the meaning and scope of the code. These explanatory statements do not in any way limit the extent of the standards prescribed by the code.

1. An inspector must always perform pool safety inspection functions in the public interest.

In performing pool safety inspection functions and any incidental actions, inspectors must not take action, or fail to take action, that would result in the health or safety of any person or the amenity of any person's property being compromised.

An inspector is contracted and paid by their client. Despite the existence of this client relationship, the primary duty for an inspector is not to the client, but always to the public and therefore inspectors must always put the public interest first. An inspector's duty is to ensure swimming pool safety complies with the Act.

Examples of performing pool safety inspection functions in the public interest include:

- when interpreting a legislative provision that could reasonably be interpreted in more than one way, an inspector must apply the interpretation that best serves the public interest and best achieves the purpose of the legislation, in preference to any other interpretation, even if doing so would not be in the client's favour. Reference should also be made to section 14A of the *Acts Interpretation Act 1954* on this point
- in exercising any discretion, an inspector must ensure the health and safety of any person or the amenity of any person's property is not compromised
- when carrying out pool safety inspection functions, if an inspector reasonably believes that a swimming pool does not comply with the pool safety standard and is an extreme danger to young children, the inspector must give the relevant local government, as soon as practicable, a pool safety complaint notice (refer to section 246ADA(6) of the Act) that includes information about the location of the pool.

This would generally occur, for example, in the case of a regulated pool that does not comply because there are no barriers in place. However, this would generally not occur, for example, in the case of a regulated pool that does not comply because there is a climbable tree within the non-climbable zone for the fence.

2. An inspector must maintain satisfactory levels of competence.

An inspector must commit to a process of continuing education and keep adequately informed of developments in swimming pool safety and practice, business management principles and laws relevant to swimming pool safety and pool safety inspection functions.

3. An inspector must comply with legislative requirements.

An inspector must comply with the legislative requirements that regulate or govern inspectors in the performance of pool safety inspection functions.

For example, inspectors must:

- ensure they hold a licence required under the *Queensland Building Services Authority Act 1991* if they carry out minor repairs exceeding the prescribed amount (which is \$3300 at the time the code was published). For further information, please visit www.bsa.qld.gov.au
- if carrying out minor repairs involving asbestos, comply with all applicable legislation relating to asbestos. For further information, please visit www.health.qld.gov.au/asbestos and www.justice.qld.gov.au
- if carrying out minor repairs that require the installation of an equipotential bond under the electrical safety legislation, ensure this is done by a licensed electrical contractor. For further information, please visit www.electricalsafety.qld.gov.au.

4. An inspector must not perform pool safety inspection functions where there is the potential for a conflict of interest, except for carrying out minor repairs prescribed under regulation.

Inspectors must not perform inspection functions where there is potential for a conflict of interest between their duty to their clients, profession, peers and the public and their personal and business interests.

For example, inspectors must not perform pool safety inspection functions if they:

- have carried out building work to which the pool safety standard applies, other than minor repairs, for the pool
- are the owner or lessee of, or the owner of a lot in, the building on the subject land
- have a direct or indirect pecuniary interest in the building on the subject land.

A potential conflict of interest could also arise if an inspector performs pool safety inspection functions when they are related to a person covered by any of the three points above. Persons to whom an inspector may be related include:

- a person with whom they have a personal, professional, commercial or financial relationship
- their employer or employee
- a company of which they are a director or in which they hold a share.

5. A swimming pool safety inspector must not perform pool safety inspection functions beyond their level of competence or outside their area of expertise.

An inspector must be appropriately licensed and must comply with all conditions imposed on their licence. For example, an inspector may have a condition imposed on their licence prohibiting them from carrying out minor repairs.

An inspector must have the appropriate level of competence and expertise for the pool safety inspection functions they perform. For example, if an inspector is not appropriately experienced in a particular issue, written advice from a suitably qualified or experienced person must be obtained before exercising the pool safety inspection functions relating to the issue.

6. A swimming pool safety inspector must maintain confidentiality.

An inspector must not divulge confidential or commercially sensitive information discovered in the performance of their functions unless directed to do so in writing by the appropriate authority following National Privacy Principles under the Commonwealth *Privacy Act 1988* (for further information, please visit www.privacy.gov.au).

7. A swimming pool safety inspector must abide by professional, moral and ethical standards expected by the community.

An inspector must, in relation to a pool safety inspection function, and when carrying out pool safety inspection functions:

- carry out duties and functions in a professional manner
- apply all relevant laws, regulations, safety standards and guidelines reasonably and without favour
- perform the functions with honesty, integrity and impartiality
- not knowingly enter into any conduct that could bring, or tend to bring, the profession of swimming pool safety inspectors into disrepute
- not make false or misleading representations or engage in deceptive or unconscionable conduct in relation to a pool safety function, including:
 - charging excessive or unreasonable amounts for minor repairs or for performing work as part of, or incidental to, the inspection functions
 - advising a person that work needs to be performed to make a pool comply with the Act if the work does not in fact need to be performed. However, a pool safety

inspector may recommend to a person that the work be carried out if the inspector also states that the work is not required by law. Reference should also be made to the *Fair Trading Act 1989* and the *Commonwealth Trade Practices Act 1974* on this point

- only carry out minor works under best industry practice, in a workmanlike manner and using good quality materials.

8. A swimming pool safety inspector must take all reasonable steps to obtain all relevant facts.

An inspector must:

- keep informed and consider all relevant and available information when performing pool safety inspection functions
- demonstrate that all reasonable steps have been taken to obtain and document all relevant facts when performing pool safety inspection functions.

For example, an inspector must take all reasonable steps to determine whether or not any exemptions, variations, appeals or alternative solutions apply to a pool.

9. A swimming pool safety inspector must clearly document reasons for decisions.

An inspector must keep properly documented reasons for decisions relating to their pool safety inspection functions. An inspector must, for at least five years from the date a pool is inspected, keep an adequate record of the inspection.

Examples of documentation that must be kept include:

- fact findings, for example, reliance on the results of tests carried out
- any pool safety certificate and nonconformity notice given
- details of any exemptions, variations, appeals or alternative solutions that apply to the pool
- photographs, video recordings, drawings and reports.