

Newsplash

Saving precious lives



Issue 1, December 2011

Investigations

Since the last Pool Safety Council (PSC) newsletter, the PSC has finalised 10 complaints about pool safety inspectors (PSIs). The PSC decided to:

- not to take further action in three cases
- impose monetary fines and demerit points in six cases. In one of those cases, the PSI was also required to report back to the PSC on his practices
- formally reprimand one PSI
- suspend one PSI's licence for a period of six months and refer related matters to the Office of Fair Trading for further investigation.

When the PSC receives a complaint about a PSI, it will contact the PSI in writing, outlining the allegations and inviting a response within a stated period. Failure to respond within the period will be deemed nonresponsive and the investigation will proceed on the basis of the available information.

Code of conduct—charging a fee for pool registration

The PSC has received complaints and enquiries from members of the public about pool safety inspectors offering a pool registration service for a fee without advising the client that the PSC is offering the same service for free. The PSC has also been advised that on one occasion a PSI advertised that pool registration can only be performed by a PSI.

PSIs are bound by the pool safety inspector code of conduct. The PSI code of conduct states “a swimming PSI must abide by professional, moral and ethical standards expected by the community”. The PSC considers this activity potentially breaches the PSI code of conduct and will be investigating all instances where this conduct has come to light.

Continuing professional development (CPD)

The PSC has received a number of enquiries about continuing professional development (CPD) requirements during the first renewals of PSI licences that were distributed on 4 November 2011.

In order to include CPD as part of your renewal application, the *Building Act 1975* requires evidence under Section 246BN(3)(e). The PSC has approved a project plan for development of a CPD program that has been modelled on the Australian Institute of Building Surveyors (AIBS) CPD program. The current proposal is a requirement for eight points, to be accumulated over a year, corresponding to relevant activities. Points will be allocated according to the training and affiliation options taken up.



For example:

- one point will be awarded for one hour's participation in a workshop, industry forum or training relating to the functions of a PSI
- two points will be awarded for membership of a relevant professional body which has an active member information service, for example the Royal Institution of Chartered Surveyors (RICS), AIBS or the Swimming Pool and Spa Association of Australia (SPASA).

When the program is finalised it will be prescribed in the regulation and all PSIs will be notified. We expect that the regulation will come into effect in February 2012, subject to government approval, and will apply to PSIs renewing licences from 1 July 2012 onwards. Licensees renewing on 1 July 2012 will have four months to complete the CPD requirements.

Until the regulation comes into effect, there are no specific CPD requirements that must be met for the purposes of renewing your PSI licence.

Notification of change of address

Inspectors are reminded of their obligation under 246CF of the *Building Act 1975* to keep the PSC informed about any changes in their contact details.

Current contact details allow the PSC to keep you informed about developments that impact on your licence and business, including technical information and important reminders about licence expiry dates and application requirements.

Penalties apply for failure to meet this obligation.

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tel: 1800 340 634

fax: (07) 3237 1248

email: psc@dlgp.qld.gov.au

www.dlgp.qld.gov.au/poolsafetycouncil

Evidence of removal/demolition of pool

Some infringement notices for failure to obtain a pool safety certificate have been challenged on the basis that the pool no longer exists because it has been filled in or, in the case of a spa, removed from the premises. The PSC will remove a pool from the register if a pool safety inspector confirms there is no pool at the property or the pool owner notifies us in writing that the pool no longer exists.

It is a legal requirement for pool owners removing or filling in their pools to lodge a building development application with local government. It is not a function of the PSC to enforce lodgement of a building development application, but it is recommended that PSIs dealing with pool owners in this situation recommend they contact their local council.

Pool owners—recently asked questions

Some inaccuracies in recent media coverage leading up to the pool registration deadline of 4 November 2011 have resulted in increased enquiries from pool owners, for example:

• When must I obtain a pool safety certificate?

All regulated pool barriers must **comply with the pool safety standard** by 1 December 2015. However, there is **no requirement** for a certificate unless the property is **sold or leased**. For a **lease** involving a **non-shared** pool, the certificate must be obtained before entering the lease.

For a **lease** involving a **shared** pool with no certificate, the body corporate must obtain the certificate within 90 days after the accommodation agreement is entered into (or by 30 November 2012 if long-term accommodation).

For **sales** involving either a **shared or a non-shared** pool, the purchaser or body corporate must obtain the certificate within 90 days after settlement (or by 30 November 2012 for shared pools associated with long-term accommodation).

• Do I need to lodge a building development application for works to make the barrier compliant?

It depends on the scope of the works. Works other than minor works (as defined in the Building Regulation 2006) require a building permit.

Pool register software upgrades

As at 29 November 2011, there were over 300 000 swimming pools on the register and over 36 412 pool safety certificates registered in Queensland.

In response to feedback received from PSIs and the public, we are continuing to make improvements to the pool safety register system. Stage one of three is now complete—stage one consisted of enabling PSIs to renew licences online and stage two is about to commence. Stages two and three will see upgrades to property searching capabilities and allow PSIs to upload documents such as scanned copies of Form 17 and supporting diagrams for nonconformity notices.

Professional indemnity insurance

The PSC has received a number of enquiries about professional indemnity insurance requirements for licence renewals. Licence renewal procedures are under continuing review to minimise red tape for PSIs.

If you are submitting an application for renewal, the below may be helpful:

- If we did not identify issues with your indemnity insurance policy at the time of your previous application, you can be confident that it meets the required criteria, provided the terms of the policy have not changed. For example, if the policy previously covered four employees and now covers five, the policy may be subject to further review by the PSC.
- If you are a building certifier who already has cover in place for carrying out building certification services, it is necessary to provide a signed letter from the insurer confirming that the policy covers pool safety inspection functions.
- Where a policy names a company as the insured party, you will be required to provide a signed declaration from the broker or insurer confirming that the policy provides indemnity to the named individual licensee. Where the policy covers multiple PSI licensees, then it is recommended that the initial letter name all PSI licensees covered by the policy and details of currency. The PSC will keep a copy of the letter on file to be referred to for subsequent applications by other individual licensees during the period of currency of the policy.
- The PSC does not endorse any insurer or insurance product. It also does not have jurisdiction over the conduct of insurers and brokers. If you have any concerns about the conduct of an insurer or broker, you may refer your concern to the relevant ombudsman. The Australian Securities and Investments Commission (ASIC) (phone 1300 300 630) can advise whether the financial ombudsman service or the credit ombudsman services has jurisdiction (depends on where the insurer or broker is affiliated) and how to progress a complaint.

Role clarification—building certifiers and PSIs

The PSC has received enquiries about the different responsibilities of building certifiers and PSIs with respect to Form 17 (Final inspection certificate) and a Form 23 (Pool safety certificate). Building certifiers and PSIs are equally qualified to assess compliance with the pool safety standard, however only a building certifier is qualified to issue a Form 17, and in doing so, to assess and advise on matters not dealt with in the pool safety standard, such as wind load capacities and fire safety.

There is no legal obligation for a PSI to give advice about lodging a building development application about pool fencing, either on initial inspection or re-inspection. However, PSIs are encouraged to recommend to pool owners proposing fencing works that they enquire either with their local council or a private building certifier about permit requirements. A PSI who has conducted an inspection and is satisfied that the pool barrier is compliant must issue a pool safety certificate regardless of whether any necessary building permits have been obtained.

PSIs who are licensed to perform minor repairs are reminded that:

- they are not permitted to perform works other than minor repairs outlined in Schedule 2B of the Building Regulation 2006
- unless they hold a BSA licence, they are not permitted to perform building works valued over \$3300
- they have a legal obligation to record on the pool safety register whether the amount charged for minor repairs performed was more or less than \$500.

Building Codes Queensland (BCQ) news *Important information you should know*

Changes to Australian Standards

You may be aware that BCQ is represented on the Australian Standards Committee in relation to AS 1926.1:2007 (Swimming pool safety—Safety barriers for swimming pools) and AS 1926.2:2007 (Swimming pool safety—Location of safety barriers for swimming pools).

The QDC MP 3.4 specifically refers to the current version of the two standards, so any changes to the standards will not affect the pool safety standard unless the QDC is amended.

Correction

This opportunity is taken to correct an error in the August 2011 newsletter and confirm that pool safety certificates for shared pools issued between 1 December 2010 and 1 March 2011 are effective for two years (the incorrect reference was to February instead of March).

Strength and rigidity—testing methods for in-situ maintenance inspections

When assessing the strength and rigidity of a barrier, PSIs should consider whether the barrier is sufficiently strong and rigid to resist access by a child. Dr Ruth Barker of the Queensland Injury Surveillance Unit has advised the PSC that she is not aware of any recorded immersion incident in Queensland where a child gained access to a pool through deforming the vertical members of an otherwise intact fence.

Pool safety inspectors should consider the following when assessing a pool barrier for compliance with the pool safety standard. It relates to pool barriers that are metal fence panels with vertical members and it is for a maintenance checking of the fence's compliance.

The first two steps in assessing the strength and rigidity of a barrier are to conduct a:

- visual inspection to detect obvious defects or deformities and
- manual 'squeeze' test of vertical members using the PSI's non-dominant (weaker) hand at the midsection of the vertical members and at a randomly selected panel of the fence. Where the fence appears to be constructed from different types of panels or from panels that have been added to the fence at different times, a PSI should check each different type of panel or panels that were added at different times. The squeezing action applied should be a moderate strength action equivalent to the pressure applied during a firm handshake and not a vigorous or full strength squeezing action. The PSI should remember the required level of resistance to a deforming force only needs to be sufficient to deter a young child pushing through the barrier.

A visual inspection will detect whether some members in an otherwise conforming fence have been widened after installation, for example by an impact such as a ball being kicked into the fence. Inspectors should also be mindful some older fences will have a 100 mm gap between vertical members. These fences are more likely to fail a strength and rigidity test than a more recently designed fence with an 80 mm gap. Accordingly, for a fence with 80 mm gaps, a greater amount of deformation will be allowed for a compliant fence.

The 'squeeze' test (manually squeezing upright members together) conducted at random locations along the fence can show the ease

with which the fence can be deformed. That could be sufficient to decide whether the barrier would appropriately restrict access of young children and meet the pool safety standard.

The Australian Standard AS 1926.1:2007 (Swimming pool safety—Safety barriers for swimming pools) limits spacings to 100 mm. It requires the spacing to be *maintained below 105 mm under a deforming force of up to 150 newtons that is applied by the conical end of a 105 mm diameter cylindrical solid-faced test object being pulled through the midspan of a fencing panel*. The application of the Australian Standard testing Appendix for strength and rigidity is impractical for maintenance testing in the field. For field testing it is recommended that PSIs use the squeeze test described above. A PSI may accept that vertical members remain compliant where the horizontal deformity of a vertical members in a direction away from the next adjacent vertical member that is not being squeezed does not result in a gap that exceeds 105 mm.

Where the PSI follows this procedure and is satisfied the vertical members pass the visual inspection and squeeze tests, it is reasonable for the PSI to conclude the fence complies with the pool safety standard's strength and rigidity requirements without further testing.

Where the PSI considers the visual inspection and squeeze test results are inconclusive they may request the owner to obtain evidence of suitability (or a Form 15) from the manufacturer, if this documentation is not available from when the pool fence was first approved. If evidence of suitability or a Form 15 is available the PSI may reasonably accept that the fence panel containing the vertical members complies with the pool safety standard's strength and rigidity requirements without further testing.

Where the PSI considers the visual inspection and squeeze test results are inconclusive and evidence of suitability or a Form 15 are not available, a further third step for testing may be considered using an in-situ mechanical test.

A manual pull-through cone test is reportedly being used by some inspectors as a guide to a barrier's strength and rigidity. It is important to be aware that the pull-through cone test does not replicate the laboratory conditions that are specified in **Appendix A** of AS 1926.1:2007 (Swimming pool safety—Safety barriers for swimming pools). Using an in-situ pull-through test is not recommended unless further testing is indicated as being required after the visual and squeeze tests. It should be remembered that although a pull-through test may provide additional evidence, the on-site pull through test results are not conclusive.

Engineers have advised that depending on the way the pull-through cone test is applied, the results may vary and consequently the readings may be inaccurate and incorrectly indicate failure of a compliant barrier. Tests should be done with properly calibrated equipment. Pull through tests should be conducted at the correct angle, at the panel's midspan and with an evenly applied and steadily increasing force.

If the PSI considers that the vertical members fail, taking into account the limitations on the mechanical device that is used to conduct the test, the PSI may require further testing or that the non-compliant panels be replaced with compliant panels. Alternatively, sheeting material may be affixed to the fence to cover the vertical spacings. Some PSIs are reportedly advising owners to affix a horizontal rail to the vertical members to increase its rigidity. A 900 mm non climbable zone needs to be maintained if this compliance option is chosen.

The department is monitoring the procedures and equipment available for strength and rigidity testing and will release relevant information as it becomes available.

Under the code of conduct, the PSC advises that a competent pool inspector should apply the pool safety standard in a practical, realistic and sensible manner, having regard to the primary objective of preventing access by young children to the pool.



Electrical safety for pools and pool fencing

Electrical safety requirements apply to all electrical equipment, pool fencing support structures and other fixed conductive material near a pool. They also cover fencing erected after the pool electrical equipment and ancillary fittings have been installed.

In general, pool fences and support structures situated closer than 1250 mm to swimming pools may require connection of an equipotential bond (earthing). Equipotential bonding joins together all the conductive parts in and near the pool, such as the steel reinforcing in the shell and handrails, and connects them to an earthing point. This greatly reduces the risk of electric shock should an electrical fault occur. The installation of an equipotential bond is electrical work and may only be undertaken by a licensed electrical contractor.

The specific requirements are outlined in the relevant Wiring Rules Standard. The requirements are dependant on a number of factors which include, but are not limited to, the arrangement of electrical equipment associated with the pool (such as pool pumps and filters), the existence of an equipotential bond to the reinforcing metal of the pool shell, when the pool fence was installed and the distance the pool fence is away from the pool. Only a licensed electrical contractor can assess compliance with the Wiring Rules.

Compliance with the pool barrier standard is a separate matter to compliance with the Wiring Rules. Consequently a pool barrier cannot be deemed non-compliant with the pool safety standard solely on the ground it does not satisfy the Wiring Rules. Consumers constructing new pools are encouraged to consult a licensed electrical contractor early in the planning stage along with the pool builder, fence installer and landscaper. This can avoid unnecessary excavation work involving damaging concrete, decking or floor coverings for the purpose of installing electrical wiring.

For owners of existing pools, the PSC recommends that owners contact a licensed electrical contractor to discuss their pool's circumstances to ensure that the pool, pool fence and electrical equipment in the pool area are installed in an electrically safe manner.

Further information on equipotential bonding, pool fencing and electrical safety can be found at Electrical Safety Office' website at www.electricalsafety.qld.gov.au

Latest figures

As at 29 November 2011

Registered pools 306 942

(Register currently undergoing data cleansing for duplications, which will reduce the figure)

Licensed PSIs 1017

Pool safety certificates 36 692

(Register currently undergoing data cleansing for duplications, which will reduce the figure)

Industry news

Savings for pool owners—access to off-peak tariffs for pool pumps

The average pool pump accounts for more than 20 per cent of a household's electricity use, costing more than \$550 a year to run.

Since 1 July 2011 it has been possible to connect a pool filtration system to Tariff 33 via a standard power point. Previously, a licensed electrician was required to hard-wire the pool pump to access off peak tariffs. Tariff 33 is 40 per cent cheaper than continuous Tariff 11 and can significantly reduce running costs. Where connection to the off-peak tariff is not suitable, pool owners can consider the purchase of an energy efficient pool pump—these are up to 80 per cent more efficient than a standard pump. More information can be found on the Office of Clean Energy's website at www.cleanenergy.qld.gov.au.

Electricity distributors ENERGEX and Ergon Energy are currently offering incentives for switching to Tariff 33 or installing an energy efficient pool pump. More information about the incentive programs can be found at:

- www.energycc.com.au/OurOffers.aspx
- www.energex.com.au/residential-and-business/contact-energex/frequently-asked-questions/pool-rewards-program-faq or by calling 13 12 53
- www.ergon.com.au/your-home/save-on-your-bill/save-a-bomb-pool-pump-cash-back-offers



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