

## Coroner makes recommendations to Local Governments in relation to pool safety issues

### Local Government Update

With summer just around the corner, and some unseasonably hot weather already upon us, the decision of the Coroner of Western Australia in the investigation into the death of James Gregory Box in March 2012, the report of which was published on 30 October 2013, is a timely reminder of the dangers associated with children and swimming pools. Further, in his report the Coroner makes two recommendations that are directed expressly to Local Governments.

In March 2012, 3-year-old James Box tragically died when he accessed the swimming pool at the house in Kalgoorlie where he was living with his mother.

The Coroner's investigation into James' death found that the death was accidental and that a series of circumstances contributed to it, but that *"the central factor contributing to the death was a failure at both an individual and a systemic level to place sufficient importance on the need to ensure that an effective pool safety barrier was in place"*.

Amongst the background facts, the Coroner noted that the swimming pool at the property had been approved by the City of Kalgoorlie-Boulder in February 1999 and had been inspected on a number of occasions from August 1999 through to at least November 2010. On some occasions there had been issues with the sufficiency of the barrier fencing, and particularly with whether a sliding door and/or security door were properly self-closing, but any issues were resolved and inspections in 2003, 2005, 2009 and 2010 found that the pool complied with all relevant safety requirements. No criticism was made of the City or its officers in the carrying out any of these inspections.

It appears that in the period leading up to March 2012 there were problems with the security door leading from the dining room of the house into the pool area. The door regularly jammed and did not self-close. James' mother and her

#### Who does this affect?

- Local Governments

#### Article Highlights

- The WA Coroner has recommended that Local Governments consider implementing a regular public awareness process to remind persons responsible for children of the importance of maintaining proper supervision where the children may have access to swimming pools and for the need for proper pool safety barriers to be provided and maintained.
- The Coroner has also recommended that WALGA consult with REIWA with a view to adopting a process whereby new tenants at properties at which there is a pool are notified of their right to notify local government as well as the estate agent about matters relating to the safety of the pool.

partner, who were tenants at the property, were aware of the problems. They notified the real estate agents on several occasions, who in turn notified the owner, but no-one undertook the necessary repair or replacement of the door.

It also appears that no-one thought to notify the City, or to request any further inspection of the pool by the City. James' mother and her partner gave evidence that they were not aware that they could have notified the City's pool inspectors of the problem, who the Coroner found would have enforced the requirement to have the door working properly.

## Recommendations by the Coroner

As noted above, the Coroner made two recommendations that are directed towards Local Governments. These recommendations, together with the Coroner's comments made under section 25(2) of the *Coroners Act 1996 (WA)*, are reproduced below:

*175. The evidence suggests that a first step in reducing [the likelihood of other deaths occurring in similar circumstances] would be to bring to the attention of parents and others who are responsible for the safety of young children the fact that even a brief breakdown in supervision around swimming pools can have tragic consequences, and to exhort them to take steps to ensure that such breakdowns do not occur.*

*176. The inquest did not receive evidence directly related to how such a public awareness process could or should be done. However, it is not difficult to envisage a public awareness campaign involving mail-out pamphlets or advertising. Local Governments appear to be well-placed to put one in place, and an annual reminder to occupiers and rate-payers enclosed in the rates notice may be a practicable method.*

*177. Such a process could and should also include reference to the need to ensure that proper barriers are in place around swimming pools as the second layer of protection for young children. In particular, owners and occupiers of properties where sliding security doors form part of the barriers should be informed of the problematical nature of that type of door and the need to ensure that the self-closing and latching function is maintained.*

Recommendation 1: Local Governments consider implementing a regular public awareness process to remind persons responsible for children of the importance of maintaining proper supervision where the children may have access to swimming pools and for the need for proper pool safety barriers to be provided and maintained.

*181. As noted, tenants could be made aware of their right to notify local government pool inspectors with concerns about the compliance of their pool safety barriers with the relevant legislation.*

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182. Notifying a tenant of the right to notify the local government of an issue related to swimming pool barriers would not give the tenant anything at a cost to the owner, nor would it take anything from the owner, so an owner could hardly object. An example of how it might be done would be to include in the documentation provided to a new tenant a card or pamphlet outlining the tenant's rights.

Recommendation 3: The Western Australian Local Government Association consult with REIWA with a view to adopting a process whereby new tenants at properties at which there is a pool are notified of their right to notify local government as well as the estate agent about matters relating to the safety of the pool.

While these recommendations may be seen as simply imposing a further burden on Local Governments, they are relatively straightforward matters, and while it may be thought that the prospect of the measures having any real effect is low, the magnitude of the potential consequences makes any such prospect worth pursuing. Also, the fact that these measures have been the subject of specific recommendations by the Coroner pursuant to the power under section 25(2) of the *Coroners Act 1996 (WA)* requires that they be given proper consideration by Local Governments, where they are not already being undertaken.

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