

From: [Grace Haden](#)
To: ["Doug.McKay@aucklandcouncil.govt.nz"](mailto:Doug.McKay@aucklandcouncil.govt.nz) (Doug.McKay@aucklandcouncil.govt.nz)
Cc: sasha.lockley@aucklandcouncil.govt.nz; ["Mayor Len Brown"](#); ["Councillor Penny Hulse"](#); ["Councillor George Wood"](#); ["Councillor Ann Hartley"](#); ["Cr Northey, Richard"](#); ["Councillor John Walker"](#); ["Councillor Cathy Casey"](#); ["des.morrison@aucklandcouncil.govt.nz"](mailto:des.morrison@aucklandcouncil.govt.nz); ["cameron.brewer@aucklandcouncil.govt.nz"](mailto:cameron.brewer@aucklandcouncil.govt.nz); ["Chris.Fletcher@aucklandcouncil.govt.nz"](mailto:Chris.Fletcher@aucklandcouncil.govt.nz); ["Councillor Alf Filipaina"](#); ["Councillor Sharon Stewart"](#); ["penny.webster@aucklandcouncil.govt.nz"](mailto:penny.webster@aucklandcouncil.govt.nz); ["Councillor Sandra Coney"](#); ["Councillor Calum Penrose"](#); ["Councillor Mike Lee"](#)
Bcc: [Penny Bright](#); [Gary Osborne](#)
Subject: Council abuse of powers and lack of accountability
Date: Friday, 8 June 2012 11:49:55 a.m.
Attachments: [Fencing of Swimming Pools Act 1987 No 178 \(as at 01 April 2008\). Public Act – New Zealand Legislation.pdf](#)
[notice to enter land.pdf](#)

Good morning Doug

LGOIMA & privacy act request

I am copying this to ethics and to the councillors as I believe it is an ethical issue when the council portrays itself to have powers which it does not have and I believe that the councillors need to know just how much council officers are out of line by taking the law into their own hands and making up laws which do not exist, while turning a blind eye to public accountability .

I have just received the attached letter “ notice to enter land” and a demand from the council to enter on to my property when for years I have been saying to them comply with the act and I will allow you to . Instead the council officers send me a letter which I know would convince 99.99% of the ratepayers but not me.

I note somewhat of the same coercive approach in the paper last week where a woman had her house broken into and her unregistered dog taken , I have reported that matter on my blog <http://www.anticorruption.co.nz/2012/06/03/shooting-the-messenger/> in this article I also cover the awinz matter which council has condoned for the past 6 years . (use of council, resources ,facilities & staff for a private income)

It appears that council officers are giving themselves powers they don't have on the one hand and no one is keeping them accountable on the other so much so that rate payers money is oozing out to trusts run by former councillors who simply write [\\$751.196 off to “ overheads](#) .the former councillors being [Derek Battersby](#), [Mike Jolley](#)

On that issue could you please provide by way of LGOIMA details of any and all grants, payments, contracts that the council has had with this ecomatters trust and the associated trusts as shown on [their web site](#) and also advise if the council owns the property at Olympic park and if so how much rent this trust pays for the use of this property and if no rent is paid please provide the documentation relating to the use of the premises at Olympic park by any third party probably the olympic park trust of which former councillors [Ross Clow](#) and [Derek Battersby](#) are trustees.

Now to the issue which brought about my letter to you

I have attached the letter “ notice to enter land”
The letter states that

1. *“An authorised and warranted officer attempted to carry out an inspection on 8 June 2008, 19 April 2012, and 16 February 2012.”*
2. *“This was to determine whether the swimming pool number SWP1998/3007799 it still fenced in accordance with the Fencing of Swimming Pools Act 1987. The inspection was unsuccessful because you refused access to the property.”*
3. *“I advise that in my opinion there are reasonable grounds to believe that there is on the above land a swimming pool that is required to be inspected in terms of section 10 of the Fencing of Swimming Pools Act 1987.”*

LGOIMA request

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Re statement 1

could you please provide details as to

1. Who the officer was on each occasion
2. The act and section under which he was warranted
3. The date that he was appointed
4. Details of how and where I can verify that information .. i.e. is there a register of warranted officers or are the appointments recorded in minutes at council meetings?
5. The method of appointing and warranting officers and what background screening is done, this is particularly important when I am allowing a total stranger into my home.
6. I also do not know what a legitimate warrant looks like could you please direct me to some legislation or by-law where a sample of the warrant can be found
7. Are the warrants general or are they issued on a case by case basis, ie is it a warrant for the inspector to inspect my property or is a discretionary warrant, again please provide legislative references for all replies.
8. The act and section where by councils can inspect pool whenever they feel like it by just turning up on the door step without having any reasonable grounds to believe—that the pool is not fenced as required by the Act,
9. Please provide the reports for each of those dates set out in the letter as recorded by the inspector

Re statement 2

10. Additionally under the privacy act I would like all copies of the correspondence covering the period mentioned and all council file notes which pertain to my property.
11. And please by way of LGOIMA advise me why I should have allowed the council employee to just arrive on my doorstep and claim that he was there to inspect the pool.
12. Please provide what legal authority he had to do so and why
13. I did not have a right to refuse the breach of privacy I was being subjected to out of the blue.
14. Please further provide any privacy policies which you have which consider the rights of residents and rate payers quiet and peaceful use of their own property safe from the unwarranted intrusion of council employees.

Re statement 3

15. I have previously requested this and I request again Could you please provide all

information under IGOIMA and the privacy act which is in possession of your officer to give him a foundation for his "opinion there are reasonable grounds to believe that there is on the above land a swimming pool that is required to be inspected in terms of section 10 of the Fencing of Swimming Pools Act 1987"

I do hope that the reasonable grounds are beyond speculation .

16. Please provide the act and section which the council relies upon to inspect swimming pools on the off chance that they no longer comply with the fencing of swimming pool Act.

My pool passed inspection a number of times and nothing has changed.

17. Please advise me of any legislative changes which may have an impact on my pool no longer complying since the last inspection

I have asked all of this before and it all goes in to a dark hole only to be followed again by a letter which assumes authority which the council does not have.

For 6 years I have been given the run around with regards to AWINZ council refused to investigate something of public interest on council land yet council are very quick to want to inspect my compliant pool .

Until I have these answers and a sample copy of the so called warrant I will not permit any inspection .

Your officers have previously threatened me with a court warrant and I have simply said what are the grounds you are going to put on that, If you have grounds for a warrant then you can tell me why you think my pool no longer complies. Warrants are not a fishing expedition and to do so is an abuse of process.

18. Your records show that my pool complies.. why does your employee think otherwise???
What evidence or information has he got? Please produce it

I wish to advise you that any council officer who enters onto my land is doing so illegally unless they can prove reasonable grounds to me prior to the event of entry.

The council finishes at my gate this is private property and for council to enter on to it they have to comply with the law.

I advise that any council officer entering on to my property is trespassing.

In a nut shell **if you claim my pool does not comply tell me why** and I will fix it and allow you to re inspect it when the work is done . Apart from sky diving toddlers I can assure you that my pool is safe.

In the mean time I have had to find and fork out \$125,000 because the council condoned corruption .

Regards
Grace Haden

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





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Fencing of Swimming Pools Act 1987

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Search within this Act

By sections	View whole (50KB)	Versions and amendments	Download PDF [432KB] 
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11 Power of entry for territorial authority officers

(1) Without limiting any other powers of any territorial authority, any officer of a territorial authority who has reasonable grounds to believe—

- that there is on any land within the district of the territorial authority a swimming pool to which this Act applies; and
- that the pool is not fenced as required by this Act, or any condition imposed under [section 6\(2\)](#) is not being complied with,—

may at any reasonable time enter on the land and carry out an inspection to determine whether or not there is on the land such a pool that is not fenced as required by this Act, or whether or not the condition is being complied with.

(2) Nothing in subsection (1) shall confer on any person the power to enter any house, home unit, or apartment building unless the entry is authorised by a warrant given by a judicial officer on written application on oath, which shall not be granted unless the judicial officer is satisfied that the entry is essential to enable the inspection to be carried out.

(3) Every warrant issued under subsection (2) shall be directed to a named officer of the territorial authority and shall be valid for a period of 1 month from the date of its issue or such lesser period as the judicial officer considers appropriate; and the period of validity shall be shown in the warrant.

(4) Every person exercising the power of entry conferred by subsection (1) shall carry a warrant of authority issued by the territorial authority and specifying—

- the name and the office or offices held by the person;
- that the person is authorised by the territorial authority to exercise the power conferred by subsection (1) to enter the land and carry out the inspection.

(5) Every person exercising the power of entry conferred by subsection (1) shall produce the warrant of authority and evidence of identity—

- if practicable on first entering the land or premises; and
- whenever subsequently reasonably required to do so.

6 June 2012

Posted

Me Grace Haden
23 Wapiti Avenue
EPSOM
Auckland City 1051

**NOTICE TO ENTER LAND AND INSPECT SWIMMING POOL
AT 23 WAPITI AVENUE: EPSOM; PURSUANT TO**

**Section 171 Local Government Act 2002 and
Section 11 Fencing of Swimming Pools Act 1987**

An authorised and warranted officer attempted to carry out an inspection on 8 June 2008, 19 April 2012, and 16 February 2012.

This was to determine whether the swimming pool number SWP1998/3007799 it still fenced in accordance with the Fencing of Swimming Pools Act 1987. The inspection was unsuccessful because you refused access to the property.

Further to the above, and to letters and e-mails sent to you at this address, I advise that in my opinion there are reasonable grounds to believe that there is on the above land a swimming pool that is required to be inspected in terms of section 10 of the Fencing of Swimming Pools Act 1987.

I hereby give you NOTICE and DIRECT:

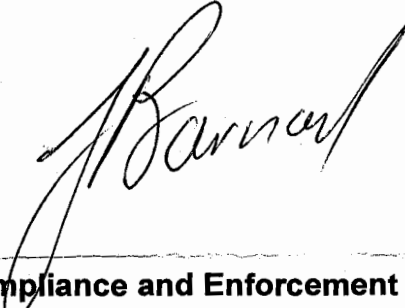
- a) That an authorised and warranted officer is entitled to enter land and carry out an inspection at the above address (not being a dwelling house) pursuant to the above legislation; and
- b) That such entry and inspection will take place at a reasonable time on 13 June 2012 at or near 12:30 pm, unless you arrange another date and time before then; and
- c) THAT YOU MUST ENSURE THAT THERE IS FREE AND READY ACCESS TO THE POOL ON THE ABOVE DATE/s.

Please Note: You do not have to be present when the inspection takes place unless:

1. The officer cannot gain access to the immediate pool area (eg; locked gates, dog free on the property, pool only accessible through the house), or
2. The house opens directly onto a swimming pool or spa pool and the house wall forms part of the barrier/fence. The officer will need to check latches and self-closers on doors and windows, or
3. You would like to be present when the inspection is conducted.

If one of the above applies, please telephone 09 3539143 as soon as possible and arrange a mutually convenient time for the inspection.

It is an offence to fail to comply with a direction given under the Local Government Act 2002 (section 238). It is also an offence to obstruct an officer from exercising a power of entry conferred by the Local Government Act 2002 (section 229). A fine of up to \$5000 may be imposed if prosecuted and convicted.



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