

Local Authority not unreasonable to enforce pool fence requirements despite previous decisions

Legislation	Ombudsmen Act 1975, Fencing of Swimming Pools Act 1987
Agency	Local authority
Ombudsman	Leo Donnelly
Case number(s)	392681 (previously unpublished)
Date	2016

Local Authority previously allowed existing fence of swimming pool—new inspection revealed old decisions wrong—complainant considered change unfair—Ombudsman concluded Council entitled to insist on regulations

This complaint concerned a Council's requirement to enforce regulations under the Fencing of Swimming Pools Act. The complainant indicated that the 'fence' around his swimming pool had been approved following two previous inspections by the Council, several years earlier and that it was unreasonable for the inspectors to now insist that he complied with the regulations, of which he was not aware. The Council had placed a 'dangerous building' notice on the swimming pool because the complainant would not empty his pool, as he had been asked to do and which was by this time half empty and in a state of disrepair. The complainant believed that the Council was unreasonable to place the sign on the pool and that the Council should allow him to keep the existing 'fences'.

The Ombudsman became aware that the Council had failed to accurately assess the pool during previous inspections. However, the Council acknowledged that the earlier assessments were wrong and therefore unlawful. Section 8 of the Fencing of Swimming Pools Act 1987 required the immediate pool area to be fenced. The Council apologised for its unlawful inspections but was now taking appropriate steps to ensure compliance.

The Ombudsman considered that the Council was correct to take this step and that the decision to issue the dangerous building notice had not been unreasonable. The complaint was not sustained.

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