

16 November 2022

Kia ora

Trespasses and bans from Council facilities

Thank you for your request made under the Local Government Official Information and Meetings Act 1987 received on 26 October 2022. You requested the following information:

- The details of (including location and date) incidents which resulted in bans and trespasses from council facilities, from 1 January 2022 until the most recent date for which information is available;
- The durations of those bans and trespasses from council facilities, linked to the specific incidents; and
- Including facilities such as libraries, pools, parks, stadiums, offices, and any other facilities the council controls (such as community centres).

Wellington City Council has **granted** your request for information.

Council takes the safety of our patrons and staff extremely seriously. Our staff are held to a high standard of customer service, and as such we ask that customers also adhere to a respectful and safe conduct. These behaviours are outlined in the library [Customer charter \(wcl.govt.nz\)](https://www.wcl.govt.nz/customer-charter) and the [Facilities and centres - Pool rules and safety - Wellington City Council](#).

A ban

The Council supports a ban process, which sits between a section 3 and section 4 trespass. A ban could be used in events where a visitor does not engage in discussions with staff onsite and continues inappropriate behaviour.

For a ban to be considered we will have:

- spoken to the customer about the impact of their behaviour and that they're in potential breach of the site's Code of Conduct.
- advised them that a ban may be issued.

The length of time for a ban is varied based on the issue and usually starts as a short amount of time, as an attempt to change the behaviour to an acceptable type and progress up to a month for repeat or more serious concerns.

Where the user of a Council facility acts in a threatening, disorderly, harassing, or other disruptive way, or, despite warnings, refuses to moderate or mitigate their behaviour, the Council can consider the issuing of a trespass notice.

Under the Trespass Act 1980 (the Act) there are two types of trespass that may be employed by the Council.

1) Section 3 Trespass:

Under section 3 of the Act any Council officer can ask someone to leave a Council facility if their behaviour gives cause for concern. Such a request would generally mean that the person leave immediately though they should be allowed reasonable time to collect any personal possessions and leave. There is no legal requirement to give notice in writing when requesting a person leave under section 3 of the Act. Where an individual refuses to leave the facility, the Police should be called to assist.

2) Section 4 Trespass:

The trespassing of a person under section 4 of the Act differs significantly from section 3 in that it is a formal written notice which requires the individual to 'stay away' from that place for two years.

Where the Police have been involved in an incident (and possibly verbally trespassed an individual under section 3) they may also recommend the individual be formally trespassed under section 4 of the Act.

Requests for trespass under section 4 of the Act are considered (and progressed) by the Health, Safety and Security Team. When seeking a trespass notice under section 4 the following process applies:

- The relevant business unit manager, or above, will contact the Security/Health & Safety Team to discuss the option of a section 4 trespass. Sometimes there may still be steps that could be taken to moderate an individual's behaviour that a business unit has not considered or tried.
- All information related to a specific incident or an individual's behaviour should be recorded, and should be available to the Health, Safety and Security Team for drafting of the Trespass Checklist and Memo. The drafting process requires the Security/Health & Safety Team to consider several legislative requirements in ensuring the Council reaches the correct balance between the rights of the individual and the greater good of the group when considering trespass as a tool to mitigate at-risk behaviour. Sometimes, after undertaking the checklist process, it may be that there are other options available to Council for managing behaviour and a Trespass Notice may not be recommended.
- If the checklist confirms that a trespass should be requested, the Health, Safety and Security Team provide all the relevant information detailing the issues to the General Counsel (Legal Team). If the General Counsel agrees that facts demonstrate that a Trespass Notice is appropriate, they will then draft a memo to be sent to the CE for consideration and approval and signing of the section 4 Trespass Notice.
- Service of the trespass notice can be affected in several ways including by Police, on-site security staff, the facility manager, or registered post.
- The Health, Safety and Security Team will notify all relevant business units and relevant externals once the Trespass Notice has been served and the two-year period commences.

- Staff should be advised that despite the Trespass Notice, an individual may still return to the facility they have been asked to stay away from for 2 years. If this occurs, then staff must ring the Police for assistance immediately as the individual is now 'trespassing' on Council property. Police can arrest the individual and they can be charged with trespassing under the Act.

The below table outlines the issues that have arisen from 1 January 2022 which have resulted in a ban or a trespass. We cannot provide the personal details of the individuals; however, I have labelled each person A, B etc. so you can identify when the ban or trespass relates to the same person on separate occasions

Person	Location	Date	Action taken	Duration	Incident
A	Te Awe	From 8 September	Ban	21 days	Multiple instances of abusive and aggressive language towards staff. In most recent incident, police requested onsite by Security Team.
B	Freyberg Pool and WRAC	From 13 May	Ban	7 days	14 April – aggressive language towards staff, required Manager to intervene. 23 April - Failure to follow instructions given by staff, became aggressive and began recording staff. Police were called. 24 April – Manager tried to discuss past behaviour, became aggressive and police were called to escort from the facility.
C	Kilbirnie Library	From 1 October	Ban	7 days	Breach of customer charter on five occasions by being rude and aggressive to staff, had not modified behaviour as agreed.
C	Te Awe	from 28 April	Ban	7 days	Offensive behaviour – racism towards security guard.
D	Freyberg Pool	from 14 April	Ban	7 days	Failure to follow instructions given by staff regarding their use of oils in the sauna.
D	All pools	from 29 April	Ban	7 days	Failure to follow instructions given by staff regarding their use of oils in the sauna.
D	All pools	From 28 July	Section 4 Trespass	2 years	Continued breach of customer code of conduct.
E	Linden Community Centre	From 1 March	Ban	21 days	Threatening and abusive behaviour towards staff between December – February. Customer did not read the ban notice and ripped it up. Constable also issued a warning regarding harassment of staff.
E	Linden Community Centre	From 21 April	Section 4 Trespass	2 years	Threatening and abusive behaviour to staff.

Right of review

If you are not satisfied with the Council's response, you may request the Office of the Ombudsman to investigate the Council's decision. Further information is available on the Ombudsman website, www.ombudsman.parliament.nz.

Please note, we may proactively release our response to your request with your personal information removed.

Thank you again for your request, if you have any questions, please feel free to contact me.

Kind regards

Claudia Holgate

Senior Advisor, Official Information