

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 18 September 2017

**Public Authority:** Sefton Council  
**Address:** Magdalene House  
Trinity Road  
Bootle  
Merseyside  
L20 3NJ

#### Decision (including any steps ordered)

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1. The complainant requested information on self-managed allotment rent increases. The Sefton Council (the Council) confirmed that they did not hold any further information. The Commissioner's decision is that the Council does not hold any further information in this case. The Commissioner does not require the Council to take any steps.

#### Request and response

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2. On 9 February 2017 the complainant requested information regarding the increase of rents for the self-managed allotments 2017 to 2018:  
*Q1 – 'the increase in rents for self-managed allotments 2017/18'*  
*Q2 – 'is the increases different for each individual site?'*  
*Q3 – 'do you notify the Council run sites of what the increase will be?'*  
*Q4 – 'do you inform the self-managed sites per instruction or information only?'*
3. On 10 February 2017 the Council responded. It listed 7 allotment sites which were self-managed (including Queensway, Crosby) and explained that:  
*'Each individual allotment associated set allotment plot rentals for tenants. Rentals are not set by the Council, nor do we collect allotment*

*fees off tenants. As we do not determine rental increases we do not hold specific information on what each of the sites set as an increase...*

*The Council sets its allotment fees as part of the Councils budget setting process...and notify our tenants. We also notify the self-managed sites...the self-managed sites then set its own fees. Leases have varied, however, the terms of our agreements state that Associations cannot charge their tenants more than the fees being set by the Council.*

*We don't offer an instruction but if an association was found to be setting higher charges we would expect they reduce their proposed charges.'*

4. The complainant responded on 20 February 2017 and stated that the Council had still not provided the rent increases for 2017 and 2018.
5. The Council provided the outcome of its internal review on 28 February 2017 and answered each part of the request in more detail:

**Q1 – 'the increase in rents for self-managed allotments 2017/18'**

*'Each individual allotment associated set allotment plot rentals for tenants on self-managed sites. Rental increases are not set by the Council, nor do we collect allotment fees off tenants or maintain records of individuals payments. Therefore we had no information to disclose to you.*

*I think it is important to make clear to you that community groups are not covered by the requirements of FOIA. The Act is concerned only with disclosures by public bodies such as local authorities.'*

**Q2 – 'is the increase different for each individual site?'**

*'As we do not determine rental increases on these sites so we do not hold specific information (charts/tables etc) on what each of the Associations set as an increase.'*

**Q3 – 'do we notify Council run sites of what the increases will be?'**

*'Yes. We notify our tenants on Council run sites of allotment increases.'*

**Q4 – 'do you then inform the self-managed site of the increase of forth coming Council site increases? Instruction or information only?'**

*'Yes. We notify the self-managed sites that the Council has set its fees and indicate what we are charging for the year ahead, the self-managed*

*sites then set their own fees. The terms of our agreements state that Associations cannot charge their tenants more than the fees being set by the Council on Council managed sites. We don't offer an instruction but if an association was found to be setting higher charges we would expect they reduce their proposed charges.'*

## **Scope of the case**

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6. On 6 April 2017 the complainant wrote to the Commissioner stating that he had still not received the rent increases for 2017 and 2018. He also referred to a newspaper article from 2014 covering a High Court decision about Leeds allotment rent increases.
7. On 14 August 2017 the Commissioner asked the Council to provide the increase in rent for the Council run allotments even though this was not explicitly expressed in the original request. On 21 August the Council provided the levels of rent for Council owned allotments for the years 2015/16, 2016/17 and 2017/18.
8. On 21 August the complainant wrote to the Commissioner with comments on the level and legality of rent increases, the 1950 Allotment Act and that the Council had referred him to the Queensway allotment Association as the landlord.
9. The Commissioner has considered that the scope of the case is to determine whether section 1 of FOIA was correctly applied by the Council.

## **Reasons for decision**

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10. Section 1 of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to him.
11. The Commissioner understands that there are differences between the Council run allotments and the Association run allotments. The complainant's request was for information on the self-managed or Association run allotments.
12. The Council has explained that it does not hold information concerning the Association run allotments:

*'Each individual allotment associated set allotment plot rentals for tenants on self-managed sites. Rental increases are not set by the Council, nor do we collect allotment fees off tenants or maintain records of individuals payments.'*

13. The Commissioner notes the comments from the complainant on the level and legality of rent payable for an allotment, the application of a 2014 High Court decision in Leeds and the 1950 Allotment Act. However, the Commissioner cannot consider these comments as they are all outside the remit of the Commissioner. The Commissioner can only consider matters of compliance with FOIA, which only provides a right to request access to recorded information held by a public authority.
14. Having considered the Council's responses to the complainant, the Commissioner is satisfied that the Council does not hold any further recorded information within the scope of the request. In this case, the Council has provided all that it holds and has clearly explained to the complainant and the Commissioner why it does not hold anything further. Therefore, the Commissioner's decision is that the Council has met its obligations under FOIA and the Commissioner does not require the Council to take any steps.

## Right of appeal

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15. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**