

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 February 2021

Public Authority: Bicester Town Council
Address: The Garth
Launton Road
OX26 6PS

Decision (including any steps ordered)

1. The complainant requested information from Bicester Town Council ("the Council") relating to allotment tenancy agreements.
2. The Commissioner's decision is that the Council responded to the request within 20 working days as required by section 10 of the FOIA.
3. No steps are required.

Request and response

4. On 25 June 2020, the complainant wrote to the Council and requested information in the following terms:

"I refer to my letter of 14th April 2020 to which I have neither received an acknowledgement or reply.

I particularly wish to understand the basis of the Council's contention that it can proceed along the lines of the Resolution to increase allotment rents, and its letter of 2nd March 2020. The Council have been formally asked various questions with respect to the contents of the letter, and a purported tenancy agreement, signed only by [name redacted], sent to me by the Council in December 2019 , and to which the Council appears to

rely. It is obliged to answer these questions but to date they have been ignored.

These questions are further listed below, and I will be grateful for your formal response. I also draw the council's attention to my email of 1st December 2019 which raises serious doubt into the legitimacy of the Resolution to increase allotment fees without the statutory notice, if at all. This email also remains unanswered, and in particular the direct request for information contained therein.

The council states that 'research indicates' that the average allotment rental is £50 per annum for a 10 rod allotment. Will you please let me know the source and detail of this research?

Your failure/refusal to answer these questions adds to my believe you are aware your case has no merit. This will be brought to the attention of any court should it become necessary. Those unanswered questions are as follows;

When was this purported Tenancy Agreement agreed by council and when did it become effective?

What record is held by Council of the agreement by council?

What notification and/or notice was given to tenants of this Tenancy Agreement, and when?

The following request was also made. I was told this was passed to the Chief Officer,

Please let me have a copy of my current Tenancy Agreement signed by both parties.

In addition, with respect to the purported undated Tenancy Agreement supplied in December 2019 please advise

- 1. Whether the Council considers this document binding on me, and on what basis, and whether it contends that this document includes a right to revise rent without notice or notification? If so please supply the number(s) of the clause(s) which it considers allow for such revision.*
- 2. A tenancy agreement is required to include the reserved rent. Where specifically in this purported agreement is the reserved rent payable by the tenant?*

Your earliest reply will be appreciated, certainly within twenty working days. Alternatively please let me have your confirmation of the cancellation of the letter of 2nd March 2020 and the withdrawal of the threats therein. BTC may also wish to consider making arrangements to refund all tenants who have paid amounts in excess of what they are contracted to pay, as it did in its letter of 23rd March 2015. If for unavoidable reasons BTC should you not be able to respond within the time given, kindly respond giving those reasons and a date by which you will respond."

5. The complainant contacted the Commissioner 16 October 2020 to complain about the Council's failure to respond to his request.
6. The Commissioner contacted the Council on 4 November 2020 and asked it to provide a substantive response to the complainant within 10 working days.
7. The Commissioner also contacted the complainant on 4 November 2020 to explain that the Council had been given 10 working days from that date within which to provide a response to their request.
8. The Council responded to the Commissioner on 27 November 2020 and confirmed that it provided the complainant with a response to his request on 22 July 2020.
9. The complainant contacted the Commissioner on 30 November 2020 to inform her that he did not consider the Council to have responded on 22 July 2020 as he had not received any correspondence from the Council on that date.
10. The Commissioner contacted the Council on 30 November 2020 and asked the Council to provide evidence of when its response to the Complainant's request was originally sent.
11. The Council responded to the Commissioner on 17 December 2020 and provided evidence that it responded to the Complainant's request on 22 July 2020. It also confirmed that the Council's response was sent to the complainant's email address.

Scope of the case

12. On 2 February 2021, the complainant contacted the Commissioner to request a decision notice considering the Council's compliance with the FOIA.

13. The scope of this notice and the following analysis is to consider whether the Council has complied with section 10 of the FOIA.

Reasons for decision

14. Section 10 of the FOIA states that:

Any person making a request for information to a public authority is entitled –

- (a) To be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) If that is the case, to have that information communicated to him.*

15. The Commissioner considers that the request in question fulfilled the above criteria and therefore constituted a valid request for recorded information under the FOIA.

16. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

17. The Commissioner recognises that the complainant does not consider the Council to have responded to his request within 20 working days.

18. However, the Council has provided sufficient evidence that a substantive response to the request was provided within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council complied with section 10 of the FOIA.

Right of appeal

19. 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@justice.gov.uk

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

20. 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.
21. 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

**Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**