

Report on complaint from Mr D Kemplen 20 July 2017

1.0 BACKGROUND

1.1 Mr Kemplen has used the council's complaints procedure to raise an issue about the responsibility for maintaining hedges on one of the allotment plots that he rents from the parish council. Details of the complaint, together with evidence are contained in the council's Briefing Note dated 9 July 2017, circulated to councillors and the complainant on Monday 17 July 2017.

1.2 The chair of the council agreed to include resolution of the complaint on the agenda for the public meeting held on 20 July 2017, in closed session. Mr Kemplen was invited to attend.

1.3 At the public meeting, Mr Kemplen asked that his complaint be heard in public session not closed session so that a full report of the proceedings could be available to residents. The chair agreed to the request.

2.0 THE COMPLAINANT

2.1 Mr Kemplen made his complaint because his belief was that the parish council was responsible for maintaining hedges around the allotments. At the public meeting, Mr Kemplen stated that:

1. The current allotment tenancy agreement in force was different to the one he had signed originally.
2. He felt that all tenants should have a copy of the new agreement.
3. The new tenancy agreement did not introduce any new rules for maintaining hedges.
4. He disagreed with the legal advice that CALC (Cornwall Association of Local Councils) had given.
5. His own understanding of 'A Plot Holders Guide' (from the Office of Deputy Prime Minister) was that the council had a duty to maintain the hedges.
6. The tenancy agreement prevented tenants from lopping or felling trees.
7. He has a pile of brush that he cannot dispose.
8. Six other allotment holders have problems with overhanging bushes.
9. The underspend from allotment income should be used to maintain the hedges.
10. He can no longer cut the higher parts of the hedge himself.
11. He was losing the use of his fruit cage because trees growing nearby were taking water away from his plants.
12. Hedges are part of the security of the allotments.
13. Allotments holders whose plots are adjacent to a hedge are maintaining them on behalf of the council

14. The oak tree in the corner of the allotments takes a lot of ground water from the other plot he rent.
15. He is able to use water from the butts to maintain this plot.
16. The hedge line around the allotments use a large amount of water.

2.2 Mrs Jennie Harrison noted that there was a surplus of approximately £51 each year that came from the difference between income (from allotment rentals) and the cost of maintaining the properties. She asked if that money could be used to cut the hedges.

3.0 THE COUNCIL

3.1 The Chair maintained the council's position that it's legal advisors confirmed, which is that the council had the power, but not a responsibility to maintain hedges.

3.2 Council will continue to maintain the fence, gate and locks as security measures.

3.3 The council engaged the services of a contractor to trim the hedges in February 2017. This had cost £475 and had been carried out to a standard accepted by councillors.

3.4 Clerk explained that the surplus of income over expenses was an average figure calculated on less than 100% allotment occupancy (evidence based) and the average cost of water supplied. The surplus amount to approximately 9.6% of turnover, and is a reserve for unexpected allotment expenses. This has been available since 2016/17, so the accumulated surplus currently amounts to approximately £102, less the cost of the recent hedge trimming. The allotment account is currently £373 in deficit.

3.5 Cllr Medlen made an offer for the council to write to the owners of those hedges and ask them to maintain their hedges more frequently.

3.6 Cllr Clarke made an offer for the council to include hedge trimming as part of the service it provides to allotment holders, but that any extra cost would be passed onto tenants.

4.0 CONCLUSION

4.1 The council accepts the advice from CALC and does not change its position.

4.2 It was RESOLVED to write to the owners of overhanging hedges adjacent to the allotments and ask them to trim them back. Proposed Cllr Medlen. Seconded Cllr Kendall. All agreed.

4.3 Chair will inform Mr Kemplen of any response from the hedge owners.

4.4 Clerk will email a copy of the new tenancy agreement to all allotment holders with their annual invoice in December 2017.

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