

20 January 2020

Marion Gelder
Lancashire Association of Local Councils

Our Reference: Lanc 20/159
Your Reference:

By email only - marion@lalc.org.uk

Dear Marion,

Re: Client: Briercliffe Parish Council
Subject Matter: Provision of allotments to non residents

I have been allocated this request to advise upon and I have seen your email dated 15 January 2020 incorporating the body of an email from the Parish Clerk. I have also seen my advice on a separate allotment matter given on 17 July 2018.

The issue in this request is whether the Parish Council has acted illegally in providing allotments to non residents where there is a waiting list including residents.

The statutory duty to provide allotments is in the Allotments Act 1908 section 23. That requires a Parish Council to provide a sufficient number of allotments to let to residents. Providing allotments to non residents is not banned but clearly where there are residents awaiting the allocation of an allotment then the Parish Council is not fulfilling its statutory duty. This would be true whether or not allotments are allocated to non residents.

In the current circumstances the Parish Council should remedy the failure to comply with the statutory duty by terminating the tenancies of any non residents and re allocating those allotments. A notice of termination must give at least 12 months notice ending either before 6 April or after 29 September (Allotments Act 1922 section 1). There is no requirement for a reason to be given for the termination of an allotment tenancy but clearly the Parish Council could notify the tenants concerned of the duty to primarily provide allotments for residents.

I hope that this clarifies the position but if the council requires any further information or advice please contact NALC again.

Yours sincerely,

Gary Barker
Solicitor
NALC

Direct Line: 020 7290 0310