

EARL'S COURT SQUARE GARDEN MANAGEMENT SUBCOMMITTEE

14TH March 2025

Dear Neighbour

As promised, please find attached further information for your consideration for the Meeting on 24th March to allow Subscriber Keys in the garden in compliance with The Open Spaces Act. This is a critical decision as to who has access to the garden and what you will have to pay. If this Motion does not pass, your garden precept will effectively double. Please review this information and come and vote on 24th March.

The value of community is an important consideration in this debate and subscriptions have been offered since the start of the Garden Committee in 1977. In my opinion, the Management Subcommittee's role is that of a guardian: to use the funds available in the best way to maintain the garden for the benefit of the ratepayers thereby enhancing the immediate environment and community. The Subscriber key does defray the costs of running the garden but it also fosters community relations and allows us to include our neighbours and, in a small way, correct what some see as an injustice whereby those properties are excluded from access to the garden under the provisions of the 1851 Act.

To aid you in your decision, we have modelled two scenarios which can be found in the attached document showing the likely impact on what you would pay based on a number of assumptions:

- Scenario A: Motion denied therefore no Subscriber key income.
- Scenario B: Motion passed, maintaining status quo (75 Subscriber keys with a fee a third more than Band H levy).

While we have only modelled these two scenarios, you would vote as to number (from 0 to 75) and fee for Subscribers for the coming year at the AGM. In this modelling we have not allowed for an uplift for the reserves which are at a ten-year low.

The simple fact is that income from Subscribers last year was more than £17,000, which was more than 37% of the total income. The only way to make up this shortfall is to increase the ratepayer levy. The best estimate of this (see the enclosed budget projections) is that for 2026 it would effectively double: the Band D levy would rise from a projected £95 to £181 per year; the Band H levy would rise from £189 to £363.

To ensure compliance with all associated legislation, the Management Subcommittee has taken extensive legal advice from the solicitor provided by RBKC Council who advise garden committees on legal matters. The Management Subcommittee are aware of several points in relation to this vote and a summary of the legal advice received is as follows:

- Effect on property values.
 - In practice the garden committee has for many years granted rights to others to use the garden. Therefore if that did cause a reduction in the value of properties which enjoy a legal right the reduction happened many years ago.
 - The fact that others might be given the right to use the garden is unlikely to diminish the value of that right enjoyed by those who have a full legal right.
 - It is most unlikely that a valuer would say that the value of your property is less because the garden committee has offered keys to additional users on an annual basis.
- Subscribers pay too little for keys.
 - An annual licence probably has no capital value. Subscribers have an annual licence; they cannot rely on it being renewed and have no ability to require it to be renewed. This is very different from the situation referenced in the argument against having Subscribers.

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- The committee is quite entitled to consider other factors such as community relations, historic use etc. The committee exists to run an asset for the benefit of the community; it is not a profit-making enterprise driven by the need to maximise its financial assets.
- Proxy votes.
 - This resolution will be voted on at a special meeting called under the provisions of the Open Spaces Act 1906; it is not a Garden AGM/EGM subject to the provisions of the 1851 Act. The garden committee have taken legal advice on the voting procedure to be adopted under the Open Spaces Act 1906. That advice is that there should be careful adherence to the rules set out in that Act which require that any resolution is “passed by a majority of at least two thirds of the person present at a meeting summoned as herein after provided”. This wording is unambiguous and the committee’s hands are tied in this matter. There is no provision in the Act for proxy or postal votes.
- Possible compromises.
 - The resolution is in fact a compromise between those who want no subscriber keys and those who want no limit to their number; and between those who want to charge thousands of pounds per year for a subscriber key and those who would like to charge the same amount as garden ratepayers pay. Importantly, garden ratepayers will be able to review both the number of subscribers (subject to an absolute limit of 75) and the annual fee at the AGM every year.
 - If the Motion is rejected, it would not be possible to raise the subject again or benefit from the potential income until 2028.

I also attach a message from Charles Wood whose company has been involved in the maintenance of the garden for over ten years and, after all, the garden is the centre of this conversation although that is difficult to remember at times.

If you would like a printout of this email and the attached documents please do let me know. We will be posting a copy of this mailing to those households for whom we do not have email addresses but I would ask you to talk to your neighbours in your building and encourage them to attend the meeting on 24 March.

Whatever your views, please do come to the meeting and have your say. This is a vote for the Garden Committee of which you are a member if you have lived in the Square and paid the Garden Levy for more than a year, whether or not you own your property.

With all good wishes

Katrina Quinton
Chairman
Earl’s Court Square Garden Management Subcommittee