

# Highland Council Allotment Policy

## 1. Introduction

- 1.1 Allotment gardening offers the benefit of a healthy lifestyle all year round that is active, sustainable and socially inclusive. The Highland Council is committed to working with all stakeholders in order to increase the provision of allotments in line with demand across the Highlands. In doing this, the Council aims to increase the provision of allotments which are:
- valued and valuable local green spaces, which protect and enhance the environment, promote improved biodiversity and provide amenity
  - easily accessible to all users
  - well maintained
  - well used, with a high rate of occupancy
  - fit for purpose, with appropriate facilities
  - managed consistently and well, in collaboration with empowered community groups
  - community-led
  - economically sustainable for the Council
  - suitable for use, considering previous land use
- 1.2 Allotments provide a diverse range of benefits for people, communities and environments. Among these benefits, the following are prominent:
- Allotments contribute to physical wellbeing by supporting a healthy lifestyle, through both the opportunities for exercise they provide, and the abundance of fresh, healthy produce to support healthy diets.
  - Allotments also contribute to mental wellbeing, through the well-documented benefits of purposeful physical activity and from the socially inclusive nature of the activity.
  - The social inclusiveness also helps to strengthen communities, with many opportunities to share something of value across the generations and across communities.
  - Lifelong learning opportunities, with the sharing of knowledge and learning together further enhancing the social cohesion benefits of allotment gardening.
  - Economic benefits through the provision of low cost fresh food.
  - Sustainability benefits in reducing carbon footprints through lowering food miles and through incorporation of ecologically aware practices and principles into the design and use of allotments.
  - Biodiversity benefits from the range of habitats supported by allotments.
  - Improved landscape quality.

- 1.3 The purpose of this policy is to establish the principles which will guide the partnership between the Council, community groups and other organisations in establishing and managing allotments in Highland. It will define the responsibilities of each party.
- 1.4 In order to promote an inclusive policy and to encourage widespread involvement in allotment gardening, the following individuals and groups will be considered eligible to apply for allotments:
  - Any individual or family resident in the Highland Council area
  - Community groups
  - Voluntary sector organisations and charities
  - Statutory organisations (eg Schools, Health Centres, etc)

Whilst allotments may not be used for commercial purposes, allotments legislation allows for the selling of surplus produce from allotment gardens. The Council will consider use of its powers to advance wellbeing, embodied in the Local Government in Scotland Act 2003, to facilitate use of allotments for community-based food production projects where this is seen to benefit the wellbeing of the community.

## 2. **General**

- 2.1 The Council will consider applications for development of new allotment sites, working with groups to support their ambitions wherever practicable. The Council will also work with existing allotment associations to promote high levels of allotment uptake where appropriate.
- 2.2 The Council will keep a record of all expressions of interest received and will keep a register of allotments under its direct management. It will require all allotment associations managing sites on Council land to do the same and to make those registers available to the Council. These registers will be available for public inspection.
- 2.3 The Council will ensure that all land intended for use as allotments is suitable for such use, in accordance with the Environmental Protection Act 1990.

## 3. **Allotments on Council Land**

- 3.1 Where Council-owned land is identified for provision of allotments, the Council will lease the land to an allotments association which is properly constituted and governed, following the guidance available from the Scottish Allotments and Gardens Society (SAGS). An economic rent will be agreed between the Council and the allotments association, at a level which covers the Council's costs in providing the land without yielding income from it.
- 3.2 The allotments association will be responsible for the works

undertaken to establish the allotments. This will include, but not be limited to, the division of the land into allotment plots, fencing, creating pathways, water supply and toilet facilities. The allotments association will also be responsible for raising funds for the establishment and running of the allotments (but see also 3.4), allocation of plots, collection of rents, management of waiting lists (see 3.5), keeping of accounts and ensuring proper usage of plots.

- 3.3 The allotments association will be required to maintain a register showing details of tenancy, acreage and rent of each allotment, and any unlet allotments. It will also be required to provide annual statements of accounts. These must be made available to the Council on demand, to enable it to comply with the requirements of the Allotments (Scotland) Act 1922.
- 3.4 The Council will be responsible for guidance and assistance in establishing an allotments association. This will include facilitating an initial public meeting to gauge interest in forming an association. The Council will also provide guidance regarding funding sources and applications, and on the association's constitution.
- 3.5 Waiting lists will be maintained by the allotments association, separately for each allotment site. Applications must be renewed annually and allotments associations will publish the waiting list annually and invite renewals.
- 3.6 The lease between the Council and allotments association will be based upon the model lease in Appendix 2. No access will be allowed to the land until the lease is signed by both parties. To provide security of tenure as an enabler of funding applications, the term of the lease will be at least 10 years. The allotments association will be required to engage independent legal advice in respect of the lease agreement.
- 3.7 The Council will implement statutory consultation for all planning applications which might affect existing allotments. Where a planning application is approved which will remove allotments, provision must be included to establish alternative allotments of at least the same number and size as those displaced, within 0.5Km of the displaced allotments, subject to availability and suitability of land. Any costs involved in doing this will be borne by the applicant.
- 3.8 The Council's aim is to provide allotments within walking distance of as many residents as possible. Whilst it will not always be possible to achieve this aim, allotments will be located with due regard to journey times and, where possible, to enable access without the necessity of car use.

#### **4. New Housing Developments**

- 4.1 Within the planning process, developers of new housing developments

will be required to follow the guidance in the Highland Council's Open Space in New Residential Developments: Supplementary Guidance. In it, a standard of 1 sq m per person of allotment space is specified.

- 4.2 The developer will be encouraged to follow the provisions for allotment associations in 3.1 and 3.2 and the Council will be prepared to assume the responsibilities described in 3.4

## 5. **Allotments on land owned by other bodies or people**

- 5.1 The Council is committed to working with its public sector partners and with private landowners to identify land for allotments. That land might be leased directly to an allotments association by the owning body. Alternatively it might be leased or sold to the Council and then subleased to an allotments association. The Council's preferred position is that the land is leased directly by the owning body to the allotments association.
- 5.2 Where the Council is leasing land from another public sector body and subleasing it to an allotments association, the provisions in section 3 of this policy will apply. In such cases, the costs to the council of buying or leasing the land will be passed on to the allotments association and will be kept to as low a level as is possible.
- 5.3 Where the land is leased directly between another public sector body and an allotments association, the Council will recommend that the provisions in section 3 of this policy should apply as appropriate. In such cases, where the terms of the lease empower the lessor to intervene in the event of ineffective management, misuse or disuse of allotment sites, the Council will agree to intervene on behalf of the lessor if requested.

## 6. **Small Sites**

- 6.1 Where demand for allotments is not substantially satisfied from allotment sites which are large enough to be managed through an allotments association, the Council will consider establishing and managing smaller sites itself. This will only be done where it is possible to secure external funding for the associated costs and/or the costs can be passed on to plot holders. In these cases, plots will be allocated, rents collected and a waiting list maintained by the Housing and Property Service (Housing Management Officer).

## 7. **Suitability of land**

- 7.1 Land that is known or suspected to be contaminated will be considered for use as an allotment site if it can be demonstrated through investigation that the land will not present an unacceptable risk to human health or the environment as a result of its previous use, in accordance with the Scottish Government's "suitable for use" approach

as set out in Planning Advice Note 33 (“Development of Contaminated Land”). Advice on potential contamination associated with previously-used land shall be sought from The Highland Council’s Contaminated Land Team. All proposals for allotments made under the provisions of this Policy shall be reviewed by the Contaminated Land Team, who will give advice in accordance with the PAN33 “suitable for use” approach. Where appropriate, conditions will be attached to planning consents for allotment developments in order to ensure that sites are brought to a standard suitable for use in accordance with PAN33.

- 7.2 The Council will aim to ensure that allotment land is suitable for growing. For example, excessively stony land or land with poor soil or poor drainage will be avoided where possible, to reduce the effort required to make it suitable for cultivation.
8. **Minimum standards and recommended practices**
- 8.1 The following minimum required standards and recommended practices are arranged together for readability. The minimum required standards are then summarised together in section 8.6
- 8.1.1 Parking facilities will be designed to meet the needs of the allotment site users. As a minimum, parking facilities for at least 1 car per 10 allotments must be provided, with a minimum provision of 2 spaces and it is recommended that secure cycle storage facilities are provided.
- 8.1.2 All sites must have mains water provision, but this should be used only to supplement primary use of collected rainwater. Any buildings, sheds or glasshouses must incorporate rainwater collection systems.
- 8.1.3 Paths giving access to allotments must comply with the requirements of the Disability Discrimination Act 1995. Wherever possible, it is recommended that paths are built using reclaimed materials.
- 8.1.4 Glasshouses and any other covered areas must be no more than 30% of the area of each allotment plot, with the remainder of the allotment being available for outdoor cultivation, erection of a shed and composting.
- 8.1.5 Sheds must be limited to one per plot, no more than 8 feet by 6 feet in size. A larger shared site hut may be erected on a communal plot.
- 8.1.6 The Council promotes waste awareness and encourages the principles of “Reduce, Reuse, Recycle”. Composting should take place on all sites, either communally or by individual plot holders. All other waste should be reduced to a minimum and be taken home or to the Council recycling centre for disposal.
- 8.1.7 It is recommended that toilets are provided, except where there are alternative public facilities within 500 metres. Composting toilets are

recommended as both the cheapest solution and that with the least environmental impact. On small sites (see section 6) where it is not feasible to provide toilets, distance from home should be considered when letting allotment plots.

- 8.2 The site must be secure. Site security considerations will depend on local factors. Sites bounded by housing may require less security than those in more open, unsupervised areas. Fencing must be designed to meet local needs on a site-by-site basis. Where possible, hedge planting is encouraged to support biodiversity and to provide shelter and privacy.
- 8.3 The following recommended practices should be adopted wherever possible:
- Allotments should be designed to fit well into the landscape
  - Where space allows, a communal garden area will help to support the social inclusion and community cohesion benefits of the allotments.
  - Sustainable technologies should be used wherever possible, for example building design and construction, waste water and energy sources.
  - Cultivation techniques, and in particular the use of pesticides, herbicides and fertilizers, should bear biodiversity and environmental quality in mind. Where used, pesticides, herbicides and fertilizers must be applied in a way that avoids contamination of surrounding ground and other allotment plots.
  - Both the Council and allotments associations should promote the benefits of allotment gardening, especially where there is under-use of existing allotments
- 8.4 Plot sizes will vary according to the physical characteristics of the site. As a guideline, the following allotment sizes should be considered as a standard:
- For a full plot, 18m x 9m
  - For a small plot, 9m x 9m
  - For a community plot, 18m x 18m
- 8.5 A sign must be displayed at the allotment site, giving details of the ownership & management of the site, details of how to apply for an allotment plot and emergency contact phone numbers.
- 8.6 Summarised from the sections above, these are the minimum required standards for allotment sites on Council land:
- As a minimum, parking facilities for at least 1 car per 10 allotments must be provided, with a minimum provision of 2 spaces
  - All sites must have mains water provision. Any buildings, sheds or glasshouses must incorporate rainwater collection systems
  - Paths giving access to allotments must comply with the

- requirements of the Disability Discrimination Act 1995
- Sheds must be limited to one per plot, no more than 8 feet by 6 feet in size
- Glasshouses and any other covered areas must be no more than 30% of the area of each allotment plot
- The site must be secure
- A sign must be displayed at the allotment site, giving details of the ownership & management of the site, details of how to apply for an allotment plot and emergency contact phone numbers

## 9. **Process for New Allotment Sites**

9.1 The following process will be followed to address requests from groups for new allotment sites and where there is demand for individual allotments that cannot be satisfied from existing sites:

1. Application is made to the Council by a community group, for a new allotment site to be established. Alternatively, individual applications are received from residents.
2. If requests can be met from existing allotment provision, applications are passed to the appropriate allotment association or Council department managing the site.
3. If a new allotment site is needed to satisfy the requests, Ward Manager will engage with interested parties to support them in forming an allotment association, if this has not already occurred. This will include facilitating an initial public meeting to gauge interest in forming an association and provision of guidance pack regarding funding sources and applications, and on the association's constitution.
4. Examine any potential sites identified by the community group to determine ownership and any conflicting interests (Ward Manager working with Housing & Property and Planning & Development).
5. Determine whether any other Council-owned land might be suitable and liaise with other Public Sector bodies (Ward Manager working with Housing & Property).
6. Verify suitability of any land identified (soil, drainage, contamination). (Ward Manager working with TEC Services, Planning & Development and, where appropriate, SEPA)
7. Verify whether planning permission is required and make application (Ward Manager working with Planning & Development).
8. Ward Manager works with allotment association to help them secure funding, develop constitution, and management plan for site.
9. Ward Manager coordinated lease agreement between owner and allotment association (possibly sub-leased via Council from other public sector body).

## Appendix 1 – Definitions

| <b>Term</b>            | <b>Definition</b>  |
|------------------------|--|
| Allotment association  | A community group which takes responsibility for establishing and managing an allotment site. It will be constituted according to the guidance available from the Scottish Allotments and Gardens Society (SAGS), and will be required to manage waiting lists and accounts which are available for public scrutiny in accordance with allotments legislation and the terms of any lease agreement with the Council. |
| Allotments legislation | The Allotments (Scotland) Acts of 1892, 1922 and 1950. The Land Settlement (Scotland) Act 1919.  |
| Allotment plot         | An individual allotment within an allotment site (guidelines to plot sizes are in section 8.4). A plot may be held by one person, family or group, alternatively it may be subdivided into 2 half plots which are held separately.   |
| Allotment site         | A group of allotment plots located together and managed by a single allotment association, or by the Council.  |

Draft for consultation

## **Appendix 2 – Model Lease**

The model lease for land owned by the Council and leased to an Allotments Association is appended on the following pages.

Draft for consultation

LEASE

- between -

THE HIGHLAND COUNCIL, incorporated under the Local Government Etc. (Scotland) Act 1994 having their principal office at Glenurquhart Road, Inverness (hereinafter referred to as "The Council")

- and -

*names & addresses of officers and offices held representing name of allotments association* (who and whose successors and hereinafter referred to as "The Association")

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WHEREAS The Council own ALL and WHOLE that area of ground extending to *area of site* square metres or thereby situated at *location of site* as shown delineated in red on the plan annexed and signed as relative hereto (hereinafter referred to as "the allotment gardens area"):

AND WHEREAS The Council exercise the functions of a local authority under the Allotments (Scotland) Act 1892 – 1950 (hereinafter known as "the Act"):

AND WHEREAS The Council as local authority have within their area a population exceeding Ten Thousand and therefore are only obliged under the Act to provide allotment gardens not exceeding twenty poles (equivalent to Five Hundred and Six square metres or thereby):

AND WHEREAS The Association are an unincorporated body constituted and empowered under the Association's Constitution ("the Constitution"), a copy of which is annexed and signed as relative hereto and approved for the purposes of this lease by the Council, to accept responsibility for management of the allotment gardens area:

AND WHEREAS The Council have agreed, notwithstanding that the allotment gardens area provided by the Council is in excess of their obligations under the Acts, to allow the Association in accordance

with the Association's Constitution to manage the allotment gardens area on behalf of the Council and the Association have agreed that they and their subtenants shall use the allotment gardens area for horticultural purposes and no other purpose whatsoever all in accordance with the Acts, all statutory repeals, modifications and re-enactments thereof and all Regulations thereunder or all other relevant legislation;

NOW THEREFORE it has been agreed between the Council and the Association as follows:-

FIRST The period of let shall be for an initial *number* years from *date* and then for one year periods thereafter unless terminated as after mentioned;

SECOND The rent shall be *amount* Pounds Sterling (£*n*) if asked. The Association shall be responsible for all costs of any kind arising in connection with management and use of the allotment gardens area including without prejudice to the foregoing generality, the rates, taxes and other annual charges and electricity and gas (if any) in connection with the allotment gardens area.

THIRD (i) Access to the allotment gardens area shall be along the pathway constructed or to be constructed and shown outlined and hatched in blue on the said plan. Except as hereinafter specified, only pedestrian access shall be permitted along the said pathway. Vehicular access shall only be permitted for the loading and unloading of such material and equipment as shall be necessary in connection with the purpose for which the allotment gardens area is let. The Association shall not obstruct or suffer to be obstructed the access pathway.

(ii) The Council reserves the right to amend the route along which the Association shall take access to the allotment gardens area on giving one month's written notice to the Association and conditions THIRD (i) and SIXTH hereof shall apply to any amended access route unless said conditions are varied by the parties hereto.

FOURTH The Association shall be responsible for managing the allotment gardens area and for designing, demarcating and varying whenever necessary a layout scheme for the allotment gardens area.

- FIFTH The Association shall have complete discretion as regards the size of each of the individual allotment plots within the allotment gardens area and shall be entitled to allocate the allotment plots to such individuals (being members of the Association) as the Association thinks fit. For the avoidance of doubt all individuals to whom the allotment plots are allocated must be and must remain as members of the Association. No holders of allotment plots shall have and rights of tenure or occupation other than those set out and provided for in the Constitution and proforma sublease for individual allotment plots annexed thereto.
- SIXTH The Association shall be responsible for erecting and thereafter maintaining, repairing and if necessary renewing a fence on all four boundaries of the allotment gardens area all to the reasonable satisfaction of the Council. The said fence shall be erected in accordance with the specifications of such officer of the Council's Housing and Property Service as may be authorised by the Council for that purpose. The Association shall be responsible for the management of any tree branches overhanging the boundary and for the maintenance, repair and if necessary renewal of the said access pathway all to the reasonable satisfaction of the Council. The Association shall be responsible for the appropriate collection and disposal of refuse, for water and sewerage services, for maintenance thereof and the costs including supply of water to the allotment garden area.
- SEVENTH The Association shall be entitled to amend or replace the Association's Constitution and the terms of the proforma sublease for individual allotment plots annexed thereto at any time provided such amendments or replacements have the prior written approval of the Council, their statutory successors or such employee as may be authorised by the Council.
- EIGHTH There shall be reserved to the Council, their officers and any other person duly authorised by them a right to enter upon the allotment gardens area (including the allotment plots whether let at the time or not) for all necessary purposes and without prejudice to the foregoing generality for the purpose of inspecting, surveying and like purposes.
- NINTH The Association's Constitution and subleases for individual allotment plots shall include a requirement

on the holders of the individual allotment plots to use them for horticultural purposes only and to maintain them in a neat and tidy condition to the satisfaction of the Council. Should the Council or appropriate employee authorised by the Council to inspect the allotment gardens area and the allotment plots not be satisfied in that regard then on being served with a Notice by the Council to this effect the Association will take immediate steps to remedy the situation.

TENTH

The Association shall ensure that the individual holders of allotment plots comply with and obtain all necessary permissions required under the Environmental Protection Act 1990, all statutory repeals, modifications and re-enactments thereof and all regulations thereunder or under all other relevant legislation.

ELEVENTH

The Association shall agree to ensure that all of the individual holders of allotment plots store all chemicals, tools, fertilizers and all other equipment necessary for cultivation of the individual allotment plots in a safe and secure place, manner and condition. The Association shall ensure that only chemicals and fertilizers suitable for the amateur gardener are used within the allotment gardens area and that any leakage or contamination from chemicals is eradicated from the allotment garden area. For that purpose the Association are authorised to approve such structures including sheds of a reasonable size, design and colour but not requiring permission of the planning authority or other statutory consents or warrants other than those of a temporary nature subject to the Association first obtaining the approval of such officer of the Council's Housing and Property Service as may be authorised by the Council for that Purpose.

TWELFTH

The Association shall not permit anything upon the subjects which may cause a nuisance to owners or occupiers of any neighbouring properties nor shall they make use of the subjects in such a way to cause such a nuisance. The Council shall be the sole judge of what constitutes a nuisance.

THIRTEENTH

Should the Association terminate the right of an individual or group of individuals to hold an allotment plot or allotment plots under the Constitution then the Association shall forth with take such steps as are necessary to have the individual holder or holders and their effects removed from the allotment gardens area.

FOURTEENTH

(i) The Association shall insure against Third Party Liability and Property Occupiers Liability at least in the sum of Five Million Pounds or such other figure as the Council may reasonably require and indemnify and keep indemnified the Council from liability in respect of any injury or the death of any person, damage to any property, heritable or moveable and the infringement or disturbance of any rights, servitude or privilege or otherwise by reason of arising directly or indirectly out of the repair, state of repair, condition or any alterations of the allotment gardens area or any use to which the allotment gardens area may be put by the Association and from all proceedings, costs, claims and demands of whatsoever nature in respect of such liability or alleged liability.

(ii) The Association shall not do knowingly or permit to be done or omit or suffer to be done any foreseeable act, matter or thing whatsoever the doing or omission of which would make void or voidable the insurance of any adjoining or neighbouring property.

(iii) The Association shall produce to the Council annually and within seven days of a written demand a copy of the relevant policy of insurance entered into by the Association with a receipt in respect of the current year's premium.

FIFTEENTH

At all times the Association shall ensure that the Council is provided with up-to-date details of (i) the tenancy acreage and rent of each individual allotment plot and (ii) any unlet allotment plots to enable the Council to keep a register of tenancies available for public inspection as required by Section 14 of the Allotment (Scotland) Act 1892.

SIXTEENTH

The Association shall not be permitted to assign or delegate their rights, powers or obligations under this lease to any other individual, group or organisation. Without prejudice to this general prohibition the Association shall be entitled to employ at their own expense contractors to carry out such work or provide such services as were needed to the allotment gardens area.

SEVENTEENTH

At expiry or on termination of this lease the Association shall undertake to ensure that all structures of whatever nature are removed from the allotment gardens area and that the said area is left in a neat and tidy condition to the satisfaction of the Council.

- EIGHTEENTH The lease may be terminated by the Council (i) by Twelve months Notice in writing expiring on or before First May or on or after First November in any year; or (ii) in the event that the subjects are required by the Council for development in pursuance of any of its functions by the giving of three months notice in writing of the Councils intention to resume possession of the subjects. The Association undertake on receipt of any Notice in terms of this clause Eighteenth to serve within one month notice to the same effect and for the same period of time on each of the holders of the individual allotment plots.
- NINETEENTH If there shall be any breach or non observance or non performance by the Association of any of their obligations under this lease and the Association have failed to rectify the breach, non observance or non performance after having received written notice from the Council calling upon them to do so within a period of one month, then and in such case the lease will be in the option of the Council become *ipso facto* null and void the Council will be at full liberty to resume possession of the subjects without declarator or any process of law and without prejudice to any claims which the Council may have against the tenants.
- TWENTIETH Without prejudice to conditions (Eighteenth) and (Nineteenth) the Association may serve on the Council twelve months Notice of Termination at any time but they shall only do so having first satisfied the statutory requirements as regards service of Notice on the holders of the individual allotment plots.
- TWENTY FIRST Any dispute as regards interpretation or effect or any provisions within this agreement shall be referred to an expert mutually appointed or failing agreement by an expert appointed by the Sheriff of Grampian, Highlands and Islands at Inverness. The decision of the expert however appointed shall be final. Section 3 of the Administration of Justice (Scotland) 1972 shall not apply.
- TWENTY SECOND The parties certify there are no missives of let (constituting a lease) to which this lease gives effect.
- TWENTY THIRD The parties consent to registration hereof for preservation and execution: IN WITNESS HEREOF these presents typewritten on this and the preceding six pages together with the plan, copy Constitution and

pro forma sub-Lease for individual allotment plots annexed are subscribed by *name & address of Association officer* at *place* on *date* before this witness *witness name & address* and they are subscribed by *names & addresses of other Association officers* all before this witness *name & address of witness* at *place* on *date* and they are sealed with the common seal of The Highland Council and subscribed for on behalf of The Highland Council by *name and designation* at *place* on *date*.

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