

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 - PART 9 – ALLOTMENTS

1.0 EXECUTIVE SUMMARY

- 1.1 The Community Empowerment (Scotland) Act 2015, which received Royal Assent on 24 July 2015, provides a legal framework that will promote and encourage community empowerment and participation. It creates new rights for community bodies and places new duties on public authorities.
- 1.2 To ensure compliance with the Act, a Working Group was established in August 2015, Chaired by the Executive Director of Customer Services, with Officer representation from across all relevant Council services. Argyll and Bute Community Planning Partners were also invited to attend these meetings.
- 1.3 The majority of those elements of the Act which impact on the Council have now been implemented including; Non Domestic Rates (NDR), Community Planning, participation Requests, and Asset Transfer Requests. The only remaining two components which have not been implemented yet are in respect of Part 8 – Common Good Property (subject to a separate report to Policy and Resources in October 2018) and Part 9 – Allotments, which this report deals with.
- 1.4 Part 9 of the Act updates and simplifies legislation on allotments and places a number of duties on local authorities, including:-
- A requirement to have regard to any guidance issued by Scottish Ministers about the carrying out of functions set out in Part 9;
 - A duty to establish and maintain an allotments waiting list;
 - When certain trigger points of demand are reached, a duty to take reasonable steps to ensure (1) that the number of people on their waiting list for an allotment does not exceed half the total number of allotments owned and leased by the authority; and (2) that a person on the list does not wait more than 5 years for an allotment;
 - A requirement to make allotment site regulations;
 - A duty to develop a local food growing strategy. This includes the identification of land for allotments and other community growing and describing how the authority will meet demand for such land; and
 - A duty to produce an allotments report for its area each year. This includes such matters as the location and size of each allotment site and the number of allotments on each site.
- 1.5 Members are asked to note the duties placed on local authorities arising from Part 9 – Allotments of the Community Empowerment (Scotland) Act 2015, and endorse the steps which will be taken by the relevant Council services to ensure compliance.

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2.0 INTRODUCTION

- 2.1 The Community Empowerment (Scotland) Act 2015 provides a legal framework that will promote and encourage community empowerment and participation. It creates new rights for community bodies and places new duties on public authorities.
- 2.2 To ensure compliance with the Act, a Working Group was established in August 2015, Chaired by the Executive Director of Customer Services. The majority of those elements of the Act which impact on the Council have now been implemented including; NDR, Community Planning, Participation Requests, and Asset Transfer Requests. The only remaining two components which have not been implemented yet are in respect of Part 8 – Common Good Property (subject to a separate report to Policy and Resources in October 2018) and Part 9 – Allotments, which this report considers.

3.0 RECOMMENDATIONS

- 3.1 Members are asked to note the duties placed on local authorities arising from Part 9 – Allotments of the Community Empowerment (Scotland) Act 2015, and endorse the steps which will be taken by the relevant Council services to ensure compliance.

4.0 DETAIL

- 4.1 Historically, allotments were governed by a complex framework of legislation:-
- The Allotments (Scotland) Act 1892 as amended by;
 - The Land Settlement (Scotland) Act 1919; and
 - The Allotments (Scotland) Acts of 1922 and 1950.
- 4.2 Part 9 of the Community Empowerment (Scotland) Act 2015 updates and simplifies allotments legislation and introduces new duties on local authorities to increase transparency on the actions taken to provide allotments in their area and waiting time limits.
- 4.3 Part 9 came into force on 1 April 2018, however the Scottish Government are still in the process of finalising the statutory guidance, which will assist local authorities in carrying out their functions, with the latest consultation concluding on 20 August 2018. Once published the Council will have regard to this when discharging our duties.
- 4.4 Detailed in Table 1 below is a summary of the main sections of the Act which impact on the Council and details of which service/department will be responsible for ensuring compliance moving forward.

	<p>for the local authority;</p> <p>ii. Disseminating information - develop adequate procedures for wide dissemination of information about allotment provision with the local authority area – e.g webpage on Council website listing all sites, including contact details for those managed by local authority, devolved sites, and privately owned sites.</p> <p>iii. Develop partnership working - work in partnership with a wide range of stakeholders (e.g. allotment associations, those on waiting lists, community councils) and engage in decision making processes around allotments;</p> <p>iv. Identify all land in the area that is suitable for growing – e.g. Planning Service could use an appropriate data set such as OS MasterMap to improve planning, analysis and decision making. Where there is an unmet demand, local authorities may wish to approach private landowners to discuss options for making additional land available for allotments provision.</p> <p>v. Ensuring there is sufficient suitable land to satisfy future demand – incorporate growing spaces in all planning briefs for regeneration and new developments</p> <p>vi. Understanding individual needs of those on the waiting list – the authority should offer the most appropriate allotment relevant to the specified area requested.</p>	<p>of PHRS</p> <p>Customer Services</p> <p>Customer Services/ Head of PHRS</p> <p>Customer Services/Head of PHRS</p> <p>Head of PHRS</p> <p>Customer Services</p>	
S114	Section 114 places a duty on local authorities to provide reasonable access to allotments and allotment sites that it leases to tenants.	Head of PHRS / Access Manager	April 2019
S115 / S116	Section 115 places a duty on local authorities to make allotment site regulations before 1 st April 2020, and section 116 makes further provision about the procedure local authorities are to follow in making such regulations.	Customer Services/Head of PHRS	1 April 2020
S119 / 120	<p>Section 119 places a duty on local authorities to prepare a food growing strategy for its area and must publish the strategy within 2 years of this section coming into force (by 1 April 2020) on a website or by other electronic means. The food growing strategy should identify land within the local authority area that may be used as allotment sites and other areas of land that could be used by a community for the cultivation of vegetables, fruit, herbs or flowers.</p> <p>Section 120 requires the local authority to review its food growing strategy within 5 years of the date of publication of the initial food growing strategy (by April 2025) and every 5 years thereafter. In reviewing the strategy, the local authority</p>	<p>Cross Council approach led by DIS</p> <p>Cross Council approach led by DIS</p>	<p>1 April 2020</p> <p>1 April 2025</p>

	should take account of relevant factors such as ongoing planning activity, refreshed local plans, and requirements to address any issues in respect of increasing allotment provision and grow-your-own opportunities within the area.		
S121	<p>Section 121 places a duty on local authorities to prepare and publish an annual allotments report for its area, as soon as is reasonably practicable after the end of each reporting year.</p> <p>Section 121 of the Act sets out the full range of information to be included within the annual allotments report, which includes, but is not limited to, the following information:-</p> <ul style="list-style-type: none"> • The location and size of each allotment site; • The number of allotments on each allotment site; • The period of any lease between the authority and the tenant of an allotment site; • The rent payable for each allotment site in the area of the authority; • Reasons for any failure to comply with S112 – duty to provide allotments; • The income received, and expenditure incurred, by the authority in connection with allotment sites. 	Cross Council approach	Annual – first due post April 2019

4.5 The Council currently own two allotment sites as follows:-

- The Meadows, Rothesay, Isle of Bute, PA20 0ED. The site, which is 0.28 Hectares in size, is managed by Bute Allotment Association.
- Henry Bell Street, Helensburgh. The site, which is 0.16 Hectares in size, is managed by the local Allotment Association.

4.6 At present the Council have not been made aware of, or have a waiting list in respect of any individuals or community groups seeking an allotment site.

5.0 CONCLUSION

5.1 Part 9 of the Community Empowerment (Scotland) Act 2015 places a number of duties on local authorities in respect of allotments and the main elements of this are summarised at Table 1 above and provides details of the relevant service who will be responsible for ensuring compliance moving forward.

6.0 IMPLICATIONS

6.1 Policy – proposals to ensure compliance with Part 9 Allotments

6.2 Financial – None

6.3 Legal – Compliance with Community Empowerment (Scotland) Act 2015

6.4 HR – none

6.5 Equalities and Socio Economic – policy applies equally to all

6.6 Risk – reputational damage if non-compliant with legislation

6.7 Customer Service – will assist in empowering communities and increase access to land for food growing purposes.

Douglas Hendry
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18 September 2018