

Consultation - Part 9 Further Guidance for Local Authorities

August 2017

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MINISTERIAL FOREWORD



I love growing my own fresh vegetables and fruit and I want many more Scots to have the opportunity to do exactly that.

It's good for the environment, it's good for our physical and mental health and, despite the challenges and frustrations, it's a lot of fun too.

Growing our own food, whether it's on an allotment or anywhere else for that matter, increases the availability of tasty, healthy and affordable fruit and vegetables.

That, in turn, will help ensure Scotland becomes a Good Food Nation -- by fostering a culture of enjoying nutritious and healthy food.

Good food can have major impacts on our health, environment and society. It can help reduce dietary-related diseases, mitigate the environmental impact of our food consumption, and bring communities together too.

Allotments and other grow your own initiatives help us deliver these benefits. I am launching this consultation to ensure that we take this opportunity to put the foundations in place to develop sound guidance for local authorities when delivering on their new functions, and ensure we have a legislative framework that is fit for purpose.

I want as many interested parties as possible contribute to the consultation process so our guidance is appropriate and beneficial, and I really hope you take the opportunity to contribute to this process.

Thank you in advance for taking the time to respond.

A handwritten signature in black ink, appearing to read 'R. Cunningham'.

Roseanna Cunningham

Cabinet Secretary for Environment, Climate Change and Land Reform

August 2017

Introduction

The Scottish Government's Programme for Government focuses on the themes of an education system providing opportunities for all, an economy with more jobs and fair work, public services fit for the future, empowering people and communities through strengthened local democracy and safeguarding Scotland's place in the world.

The Community Empowerment (Scotland) Act 2015, was brought forward with the aim of empowering our communities by boosting the rights of community bodies and placing new duties and functions on public sector authorities.

The implementation of the Community Empowerment (Scotland) Act 2015 will help empower communities across Scotland and will increase access to land for food growing purposes, be that on allotments or any other Grow-Your-Own initiatives.

Allotments

Legislative Framework

Currently allotments are governed by a complex framework of legislation:

1. The Allotments (Scotland) Act 1892 as amended by;
2. The Land Settlement (Scotland) Act 1919; and
3. The Allotments (Scotland) Acts of 1922 & 1950

Part 9 of the Community Empowerment (Scotland) Act 2015 updates and simplifies allotments legislation, bringing it together in a single instrument, introducing new duties on local authorities to increase transparency on the actions taken to provide allotments in their area and limit waiting times.

Allotments are defined in Part 9 as land that is owned or leased by a local authority and used wholly or mainly for the cultivation of vegetables, fruit, herbs or flowers, and not for profit.

Policy Framework

In 2009 the Scottish Government published its first National Food and Drink Policy – Recipe for Success. This Policy made a clear commitment to strategically support allotments and community growing spaces. To help Scottish Government meet this end the Grow Your Own Working Group was established in 2009 and one of its recommendations was to amend the legislation governing allotments and specifically to review the duties placed on local authorities.

The SNP Manifesto in 2011 made a commitment to bring forward a Community Empowerment Bill and to update the legislation relating to allotments. This commitment acknowledged the view that the legislation was outdated and recognised that demand for suitable land to allow people to grow their own food continued to be high¹.

The next phase of Scotland's 'National Food and Drink Policy; Becoming a Good Food Nation' was launched in June 2014. The Policy highlighted the successes of Scotland's first food and drink Policy whilst recognising the continuing challenges within Scotland's food and drink sector. The focus of the Policy is that everyone in Scotland is able to buy, eat and serve food that is affordable, healthy and sustainable.

Grow-Your-Own (GYO), be it on an allotment or community garden, can increase access to affordable, healthy, sustainable food; a key aspect of our national Policy: Becoming a Good Food Nation

Purpose of Consultation

Part 9 of the 2015 Act brought forward a requirement for local authorities to have regard to any guidance issued by the Scottish Ministers about the carrying out of functions conferred on the authority by this Part.

A consultation is now underway, seeking to inform this guidance.

¹ Greenspace Scotland – Omnibus Survey (2011) – Twenty six percent of people in urban Scotland who wished to grow their own but were unable to do so indicated that one of the key reasons for this inability was a lack of space.

The Consultation

Further Guidance for Local Authorities

Much of Part 9 will not require further guidance as the wording needs no further explanation or expansion. The consultation focuses on those sections describing functions which may benefit from guidance. Note that the power of the Scottish Ministers to issue guidance, and the duty for local authorities to have regard to it, is specifically linked to local authority functions in Part 9. We are not proposing to issue non-statutory guidance covering other aspects of Part 9.

For this reason, the consultation looks at sections:

- 110. Offer to lease allotment.
- 111. Duty to maintain list.
- 112. Duty to provide allotments.
- 114. Access to allotment and allotment site.
- 115. Allotment site regulations.
- 116. Allotment site regulations: further provision.
- 119. Duty to prepare food-growing strategy.
- 120. Duty to review food-growing strategy.
- 123. Delegation of management of allotment sites.
- 124. Promotion and use of allotments: expenditure.

You will be presented with a proposed statement under each of the above sections and asked to what extent you agree with that statement. Each statement sets out the proposed wording of the guidance.

There will be an opportunity at the end of the consultation to feedback your views on whether other sections could benefit from guidance.

Responding to the Consultation

The consultation is taking place over a 12 week period. The consultation will close on **17 November 2017**.

We have provided a 'Respondent Information Form', that asks information about you or your organisation and 'Response Form', that lists the questions associated with this consultation. It is very important that the 'Respondent Information Form', - the first page of the form – is returned along with your response as this will ensure that we handle your response appropriately.

You may answer as many of the questions detailed in the 'Response Form', as you want; there is no need to answer them all. Everything you tell us will help us know what you think about what should be included in further guidance for local authorities when carrying out their new functions under Part 9 of the Community Empowerment (Scotland) Act 2015.

We are inviting written and online responses to this consultation paper. The consultation closes on **Friday 17 November 2017**.

We are happy to accept your answers either on the completed form or on a separate piece of paper. Once again, please ensure that the 'Respondent Information Form', - the first page of this form – is sent to us along with your response.

The consultation can be accessed online at: <https://consult.scotland.gov.uk/food-and-drink/allotments-part-9-community-empowerment-act>



**Part 9, Community Empowerment (Scotland) Act 2015,
Statutory Guidance - Consultation**

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

**Part 9, Community Empowerment (Scotland) Act 2015,
Statutory Guidance – Consultation**

CONSULTATION RESPONSE FORM

110. Offer to lease allotment.

This section has the effect that a person on a waiting list is entitled to wait for a standard allotment of approximately 250 square metres or a smaller size (a “specified area”) if it is requested. The standard allotment plot should be considered as 250 square metres plus or minus 5%. When a lease is offered for an allotment, the potential tenant should be made aware whether the land is leased rather than owned by the local authority, as different procedural requirements apply in relation to termination (see sections 128 and 129).

Q 1. To what extent do you agree with this statement?

Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comment:

111. Duty to maintain list.

This section places a duty on local authorities to produce and manage a waiting list in relation to the requests it receives to lease an allotment that the authority owns or leases. Where a request is submitted jointly, this should be regarded as a single request for the purpose of the waiting list and the first named person on the request should be considered the lead person (and will count as one person for the purposes of the duty in section 112). The form of the list is to be determined by the local authority but it should include the following:

- Name of lead person
- Address of lead person
- Special requirements
- Size of allotment requested, if specified
- Information about distance from nearby allotment sites
- Date added to the list

Q 2. To what extent do you agree with this statement?

Strongly Agree <input type="checkbox"/>	Agree <input type="checkbox"/>	Neither agree nor disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>	Strongly Disagree <input type="checkbox"/>
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Comment:

112. Duty to provide allotments.

This section places a duty on local authorities to take reasonable steps to ensure (1) that the number of people on their waiting list 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 five years for an allotment. In respect of (2), as agreed during the passage of the Bill, that part of the duty will take effect later than the rest of Part 9. For local authorities which do not, when section 112 comes into force, own or lease any allotments, this duty applies when there are 15 people on the waiting list maintained under section 111. For local authorities which already own or lease allotments when the section comes into force, the duty applies when only one person is on the waiting list.

Subsection (4) provides that local authorities must have regard to the desirability of making available allotments that are reasonably close to where people on the relevant authority's waiting list reside. There is no definition of "reasonably close" but as a guide, allotments within a 5 mile radius, or within a 30 minute journey on public transport from where people on the waiting list reside is considered reasonably close.

Q 3. To what extent do you agree with this statement?

Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comment:

114. Access to allotment and allotment site.

This section places a duty on local authorities to provide reasonable access to allotments and allotment sites that it leases to tenants. Reasonable adjustments should be made in order that all tenants, including those with a disability, have physical access to their allotment plot.

Q 4. To what extent do you agree with this statement?

Strongly Agree <input type="checkbox"/>	Agree <input type="checkbox"/>	Neither agree nor disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>	Strongly Disagree <input type="checkbox"/>
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Comment:

115. Allotment site regulations. 116. Allotment site regulations: further provision.

Section 115 places a duty on local authorities to publish allotment site regulations within two years from the date this section comes into force, and section 116 makes further provision about the procedure local authorities are to follow in making such regulations. Local authorities should have consulted widely with relevant stakeholders within their areas prior to publication of new regulations. In preparing their regulations, local authorities should take into consideration any existing allotment site regulations already in place at independently managed sites.

Q 5. To what extent do you agree with this statement?

Strongly Agree <input type="checkbox"/>	Agree <input type="checkbox"/>	Neither agree nor disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>	Strongly Disagree <input type="checkbox"/>
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Comment:

119. Duty to prepare food-growing strategy

When developing their food growing strategies, it would be good practice for local authorities to consult, wherever possible, with Grow-Your-Own communities within their areas to understand how best to offer Grow-Your-Own opportunities and to assist with managing waiting lists.

Q 6. To what extent do you agree with this statement?

Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comment:

120. Duty to review food-growing strategy

As part of the review of the food-growing strategy, the local authority should compare the total number of people on their allotment waiting list with the total number of allotments in their area. They should also look at the length of time a person has been on the waiting list. If the number of people waiting for an allotment site is more than half the total number of allotments, or the person on the list has waited longer than 5 years to be offered an allotment, the local authority should make changes to their food-growing strategy and look at increasing Grow-Your-Own opportunities within their area.

Q 7. To what extent do you agree with this statement?

Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comment:

123. Delegation of management of allotment sites

This section allows a person (usually an allotment association) to request to take on some of the functions of a local authority. The functions that may be delegated are clearly described in section 123(3). If an authority agrees to delegate functions to a person, consideration should be given to whether a reduction in rent might be warranted.

Q 8. To what extent do you agree with this statement?

Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comment:

124. Promotion and use of allotments: expenditure

This section provides a specific power for local authorities to incur expenditure for the purpose of promoting allotments in its area and providing training to allotment tenants and potential tenants about the use of allotments. In exercising this power, local authorities should consider how best to promote allotments in their area. This can include linking with organisations such as health boards and housing associations to encourage non-growers to visit allotment sites in their areas in recognition of the wider benefits growing food has in our communities.

Special consideration should be given to how best to engage with communities in areas of multiple socio-economic disadvantage.

Local authorities should use waiting lists to understand the demand for allotments in their areas and may choose to offer funded training to those on the list who are going to be offered a lease. This will ensure that newly awarded plot-holders have the skills to begin growing their own food.

Q 9. To what extent do you agree with this statement?

Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comment:

Further Guidance

Q 10. Do you think we have captured all those sections, relating to functions of local authorities that require further guidance?

Strongly Agree <input type="checkbox"/>	Agree <input type="checkbox"/>	Neither agree nor disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>	Strongly Disagree <input type="checkbox"/>
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Comment:

Thank you for completing this consultation. Please return your completed 'Respondent Information Form' and your 'Consultation Response Form' to:

AllotmentsConsultationGuidance@gov.scot

Or alternatively you can send written responses by post to:

Robin MacLean
Food, Drink & Trade Division
B1 Spur
Saughton House
Broomhouse Drive
EDINBURGH
EH11 3XD



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