

APPENDIX 3

The powers and obligations vested in the Council are contained within the Allotment (Scotland) Acts 1892 to 1950 and the Land Settlement (Scotland) Act 1919.

Where written representations are made by local residents (any six registered parliamentary electors or ratepayers resident in the area) to the effect that the local authority needs to take action in terms of the 1892 Act, the local authority must take these views into account. Where the local authority is satisfied there is a demand for allotments, it must acquire any available and suitable land to provide a sufficient number of allotments to local residents.

In order to achieve this, the Council has powers to acquire land through purchase or lease and to do so by agreement or through compulsory measure. The legislation does however place restrictions on the type of land which can be acquired through compulsory measure. A local authority may also, with consent, make temporary use of suitable land not immediately required for the purpose for which it was acquired. It may also use unoccupied land, providing it first serves the appropriate notice.

A local authority has the following duties in terms of the Allotments legislation:

- To keep a register, available for public inspection, showing the details of –
 - (i) the tenancy acreage and rent of each allotment and
 - (ii) any unlet allotments;
- to keep an annual statement of accounts in respect of the area's allotment provision; and
- where it "provides" allotments to make provision for access by suitable roads or paths where these are not already available.

The Council also enjoys the following powers:

- to improve the land acquired for allotments. This may be by enclosing the land, draining it or dividing it into allotments;
- make, vary or revoke Regulations regulating the letting of allotments. These can regulate eligibility, size of allotments, rent, period of notice etc. Where a local authority wishes to make regulations, these require to go to public consultation and then to Scottish Ministers for confirmation.

Where the local authority leases ground for the purpose of an allotment, the rent charged should be the fair rent for such use. There is power to let at a reduced rent if there are special circumstances affecting the tenant. The legislation also makes provision for the termination of allotment leases and provides for a minimum of 12 months notice. Tenants may not sub-let and are restricted as to the buildings which are permitted. A tenant must not live more than one mile outside the local authority district otherwise the Council may terminate their lease.

COSLA has produced "Guidance Notes for Scottish Councils" (These make the following recommendations as a matter of **good practice**):

- Councils are encouraged to establish a clear point of officer contact for all queries relating to allotments. Requests for allotments should be dealt with in a clear and transparent manner;
- Councils are encouraged to accurately assess the number of plots within their area and the demand for them. When forming local plans, councils should count allotments separately from other forms of green space;
- Councils should undertake the promotion of underused sites and take steps to promote allotment gardening as part of sustainability and healthy living initiatives; and
- In line with the likely future requirements for local authorities to have regard to open and green space audits, an “early warning scheme” should be established to alert officers with responsibility for allotments as to any planning application that might impact on allotment sites.