

## ITEM No ...5.....

**REPORT TO: NEIGHBOURHOOD SERVICES COMMITTEE – 13 JANUARY 2020**

**REPORT ON: ALLOTMENT REGULATIONS**

**REPORT BY: EXECUTIVE DIRECTOR OF NEIGHBOURHOOD SERVICES**

**REPORT NO. 12-2020**

### **1. PURPOSE OF REPORT**

- 1.1 To agree to the statutory consultation of the proposed allotment regulations (Appendix1) as required by section 116 of Part 9 of the Community Empowerment (Scotland) Act 2015 and remit the Head of Democratic and Legal Services to make the regulations by 1<sup>st</sup> April 2020.

### **2. RECOMMENDATIONS**

- 2.1 Approve the statutory consultation process for the proposed allotment regulations and remit the Head of Democratic and Legal Services, as Dundee City Council's proper officer, to make the regulations, once the statutory consultation process is concluded.
- 2.2 Remit the Executive Director of Neighbourhood Services in consultation with the Head of Democratic and Legal Services to make adjustments to the proposed regulations that arise out of the statutory consultation period above, in advance of making the regulations.

### **3. FINANCIAL IMPLICATIONS**

- 3.1 There are no financial implications.

### **4. MAIN TEXT**

- 4.1 Reference is made to Article III of the minute of the meeting of this committee of 18<sup>th</sup> November 2019 where the statutory process for making Allotment Regulations, arising from Part 9 of the Community Empowerment (Scotland) Act 2015, was noted. The report also detailed the timeframe for making the regulations, which are to be made by 1<sup>st</sup> April 2020.
- 4.2 Section 115 requires that local authorities make regulations for allotment sites which are leased from the local authority, in addition to the sites it manages directly. In preparing such regulations, local authorities must take into consideration any existing allotment site rules, regulations or constitutions, including those onsite rules drafted by individual allotment associations
- 4.3 Local authorities must consult widely with a range of stakeholders in their area and take their views into consideration. Stakeholders may include allotment associations, allotment holders and other interested persons. Local authorities must be satisfied that they have engaged all relevant stakeholder groups in their local area.
- 4.4 In achieving 4.2 and 4.3 above, officers wrote to all plot holders on Council run allotment sites (Ancrum Road, Macaulay Street, Arklay Terrace and Magdalen Green) informing them that Dundee City Council was making new regulations and the timeframe for the process.
- 4.5. Officers also requested copies of existing allotment site rules, regulations or constitutions, from leased sites Allotment Associations (Kinnaird, West Law, City Road, South Road, Stirling Park, Murrayfield). The Dundee City Council allotment terms and conditions were also considered. These documents were reviewed and taken into consideration when drafting the new regulations (Appendix 1).
- 4.6 As Dundee has a well-developed allotment network, with the majority of Council owned allotment plots managed by Associations, they were given an opportunity to engage with the process of developing the draft regulations. To this end a consultation meeting was held on the 26<sup>th</sup> November 2019. Representatives from all leased sites were in attendance.

- 4.7 Section 115 sets out the scope of the regulations, which must include provision for or in connection with:
- a) allocation of allotments (individual plots);
  - b) rent, including a method of determining fair rent that takes into account of:
    - i. services provided by, or on behalf of, the local authority to tenants of allotments,
    - ii. the costs of providing those services, and
    - iii. circumstances that affect, or may affect, the ability of a person to pay rent payable under the lease of an allotment;
  - c) cultivation of allotments;
  - d) maintenance of allotments;
  - e) maintenance of allotment sites;
  - f) building or other structures that may be erected on allotments, the modifications that may be made to such structures and the material that may, or may not, be used in connection with such structures;
  - g) the keeping of livestock (including poultry), and;
  - h) landlord inspections.
- 4.8 The draft regulations (Appendix 1) follow the mandatory elements of Section 115 as above and apply them to Dundee's situation. Once made the regulations will apply to all sites, whether directly managed or leased to Allotment Associations from Dundee City Council.
- 4.9 The process for statutory consultation is contained within Section 116 of the Act. During the one month consultation period there will be opportunity for formal representations to be made. The consultation period will be advertised in a local newspaper and the draft regulations will be available for inspection in Dundee House. Before the regulations are made, any representations received will be taken account of. The Head of Legal and Democratic Services being the proper officer, will then make the regulations.
- 4.10 Once regulations have been made, section 116 (9) also requires that a copy of the regulations must be displayed the entrance to an allotment site to which they apply.

## **5 POLICY IMPLICATIONS**

- 5.1 This report has been subject to an assessment of any impacts on Equality and Diversity, Fairness and Poverty, Environment and Corporate Risk. A copy of the Impact Assessment is available on the Council's website at [www.dundee.gov.uk/ia](http://www.dundee.gov.uk/ia)

## **6 CONSULTATIONS**

- 6.1 The Council Management Team have been consulted in the preparation of this report and are in agreement with its contents.

## **7 BACKGROUND PAPERS**

- 7.1 None.

## **8 FURTHER INFORMATION**

- 8.1 None.

Elaine Zwirlein  
Executive Director of Neighbourhood Services

Tony Boyle  
Head of Environment

## APPENDIX 1

### DUNDEE CITY COUNCIL - DRAFT ALLOTMENT REGULATIONS

#### 1. Allocation of allotments

If a plot becomes vacant, the plot must be offered to the next person on the waiting list. However, the person or body managing an allotment site owned by Dundee City Council may offer a vacant plot to an existing tenant of that allotment site before recourse to the waiting list.

#### 2. Rent

The rent of allotment plots shall be charged on the basis of the square meterage of the allotment plot.

Rent for allotment plots managed by Dundee City Council shall be determined and published annually. The rent of Dundee City Council managed plots take account of any services provided by Dundee City Council to tenants of allotment plots, the cost of providing these services and any applicable concessions.

#### 3. Cultivation and maintenance of allotments

Allotment plots must be cultivated annually and prepared for the beginning of the next growing year.

An allotment plot shall be used for the cultivation of vegetables, fruit and flowers and shall be kept in a neat and tidy condition and free of seeding and invasive species.

Upon vacation of an allotment plot, the tenant will leave the plot in a cultivated condition.

#### 4. Maintenance of allotment sites

Tenants of allotment plots shall be responsible for the maintenance of paths immediately adjacent to their plot to the extent provided by the individual conditions of the allotment site.

Communal areas will be maintained in a neat and tidy condition by any person or body managing an allotment site owned by Dundee City Council.

Any person or body managing an allotment site owned by Dundee City Council shall maintain all communal structures on that allotment site in good and safe condition.

#### 5. Buildings and other structures

No buildings or other structures shall be erected on any allotment plot without prior permission by the person or body managing an allotment site owned by Dundee City Council. Any structure erected without permission shall be removed at the request of the person or body managing the allotment site.

Material to be used in the construction of any structures shall be submitted to and approved by the person or body managing an allotment site.

Upon vacation of an allotment plot, the tenant will leave the plot in cultivated condition and remove all structures erected during the tenancy unless the person or body managing the allotment site agrees that the structure will remain on the plot and confirms same in writing to the outgoing tenant.

#### 6. Keeping of livestock

The keeping of livestock and birds on any allotment plot or site is strictly prohibited.

#### 7. Landlord inspections

In order to monitor compliance with these regulations:

- a) the Council shall be entitled to inspect any allotment plot on an allotment site managed by the Council (presently Ancrum Road, Macaulay Street, Arklay Terrace and Magdalen Green allotment sites) at any time upon giving reasonable notice to the tenant of the allotment plot, and
- b) where a person or body manages an allotment site owned by Dundee City Council (presently Kinnaird, West Law, City Road, South Road, Stirling Park and Murrayfield allotment sites), that person or body shall carry out a regime of regular inspection of the allotment plots within the allotment site, and
- c) Dundee City Council may inspect an allotment site at any time upon giving reasonable notice to the tenant of the allotment site.

## **Glossary**

Allotment plot – land that is owned by Dundee City Council and is leased to another for use for the cultivation of vegetables, fruit, herbs or flowers, measured in square metres.

Allotment site – land consisting wholly or partly of allotment plots

Communal structure – a structure or facility on an allotment site that is accessed by a number of allotment plot tenants, but not including a communal structure on an allotment plot.

Livestock – excludes bees.