



Llywodraeth Cymru
Welsh Government



Guidance for Local Authorities, Town & Community Councils





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Introduction

This is the second edition of this guidance, following its successful introduction in 2015. Since that time, the contribution that allotments and community gardens can make to tackling some of today's most urgent priorities, from health and wellbeing to the climate and nature emergencies, has become even more apparent.

Wales has always been a nation of growers. Our love of good food and our desire to provide high quality produce for our families has shaped the way we use our land from the countryside to our back gardens. From our urban centres to rural villages across Wales, this desire to grow our own fruit and vegetables is stronger than ever and more and more people are enjoying the benefits of growing on allotments or at community gardens.

The benefits of gardening on individuals and the environment are clear. Increased physical activity and mental wellbeing, access to fresh fruit and vegetables and well used and cared for public spaces, are natural by-products of growing your own. When gardening on an allotment plot or community garden, the added bonuses of closer community relationships, reduced social isolation and the chance to work together and celebrate with your neighbours are recognised as making a dramatic improvement to quality of life. For many, allotments and community gardens are seen as essential elements of living happier, healthier and more sustainable lives and as we work towards creating a healthier, happier and more sustainable Wales they have never been more important.

The Well-being of Future Generations (Wales) Act 2015 sets out a clear obligation for public bodies to enable positive change that leads to a more resilient, secure and healthy Wales. By protecting and managing the current provision of allotments and growing spaces and supporting the demand-led development of new allotments and community growing projects, all public bodies in Wales can enable us to create a healthier and happier population and a more sustainable and secure food supply.

The purpose of this guidance is to share and increase good practice and enable more people to get their hands dirty and grow their own.

Allotments and the Law

Statutory Allotments

Only Statutory Allotments are covered by Allotment Law. If a site has been acquired or appropriated by a local authority (of any type, from parish, community to town council) for the specific purpose of being used as allotments, then this site has special protection and is known as a 'statutory allotments' site.

Statutory allotments have some legal protection. They cannot be sold or used for other purposes without the consent of Welsh Ministers. Consent for such changes should not be given unless the Welsh Ministers are satisfied that adequate provision will be made for allotment holders displaced by the action of the local authority.

The 'statutory' status does not change – even if the management of the site has been devolved, or a lease of the site granted from the local authority to an allotment's association or similar managing body. Where management has been devolved or leased to an allotments association it is often known as a 'self-managed' site.

Temporary allotments sites

If land has been acquired or held by a local authority for another purpose, but in the meantime is used as allotments, then these are known as 'temporary allotments' even though they may be in use as allotments for decades. Temporary allotments are not covered by allotment law and do not benefit from statutory protection regulating their provision and disposal, aside from the usual planning regulations.



Privately owned or community led allotment sites

If allotments are offered on a private or community owned site, then like temporary allotments, they are not covered or protected by allotment law.

Which Acts of law are most relevant?

The main Acts of Parliament that govern allotments are:

- Small Holdings and Allotments Act 1908
- Allotments Act 1922
- Allotments Act 1925
- Allotments Act 1950

Legislation under the 1950 Act makes provision in relation to:

1. the use of individual plots, and
2. the provision and disposal of sites by local authorities.

In this chapter, the term ‘plot’ means an individual allotment. ‘Site’ means a larger area on which a number of individual allotment plots are located. None of the Acts have been repealed in their entirety but sections of each have been superseded by more recent Acts. All the relevant Acts, original and reviewed can be found at www.legislation.gov.uk/

Responsibility for allotments

The legislation provides that allotment authorities are responsible for providing and administering council owned allotments. Community, Town and County Councils (including county boroughs) are defined as allotment authorities in law.

Use of individual allotment plots

When an individual rents an allotment plot under an allotment tenancy agreement, occupation of the plot is governed by the Allotments Act 1922 and the content of the agreement itself.

The Allotments Act 1922 includes the following restrictions:

1. the notice period that has to be given to leave the plot
2. what can be grown on the plot and restrictions of keeping animals on the plot
3. the size of an individual plot
4. what can be done with the produce grown on the plot
5. limits on sharing and transferring the plot.

Ending a tenancy on an allotment plot

For an allotment authority to end an allotment tenancy, a notice to quit in writing needs to be served of twelve months’ or longer, expiring on or before 6 April or on or after 29 September in any year. This means that the tenancy ends in the winter months, so that there are minimal crops growing and that a new tenant can take over the plot in time for the new season.

However, if the tenant fails to pay rent for 40 days or breaks the terms of the tenancy agreement then they can be given a months’ notice to quit.

There is no legal requirement for the tenant to end the tenancy by giving a certain amount of notice.

What can be grown on a plot?

An “allotment garden” plot is to be cultivated by the occupier for the production of vegetable and fruit crops.

The growing of fruit trees is not prohibited by law but it is quite usual for tenancy agreements to restrict this.

Animals on allotments

Under the 1950 Allotments Act, the prohibition on the keeping of rabbits and hens was removed, as long as they are for the tenant's own use and not for business or profit (1950 s12 (1)). It is important to note that the law excludes cockerels.

The animals must not be kept in a way that is harmful to health, or a nuisance. The keeping of bees, pigs, goats and other livestock is not prohibited by law. However – permission to keep any animal or livestock on allotments is always subject to the landlord's permission – details should be included in the tenancy agreement.

See the chapter 'Animals on Allotments'.

The size of the plot

The 1922 Act states that an allotment garden is 40 poles which is $\frac{1}{4}$ acre or 1012 square metres. It is quite usual for half and quarter plots to be offered, as they are more suitable for modern

lifestyles. There are no limits in law on how many plots an individual can have, but many sites will restrict the number to one or two.

What can be done with the produce from the plot?

The 1922 Act states that the produce grown has to be wholly or mainly for the consumption of the plot holder and his family.

It's the use of the word mainly that gives the freedom to sell the surplus produce as well as the ability to grow a few flowers and the like. However, specific allotment tenancy agreements might have further restrictions in them about trading.

Sharing and transferring the plot

An allotment cannot be sublet without the permission of the allotment authority. Each allotment authority will have specific rules on who can take over a plot, or if you are allowed to share it or divide it. To do so would be at risk of having notice served to end the tenancy.



The provision of allotments

There is a statutory duty on Local Authorities to provide allotments if there is demand. If six residents of the authority want an allotment, and there are none available, then they can request that the relevant allotment authority provide them. See the Smallholdings and Allotments Act 1908 section 23 – revised.

Allotment authorities have compulsory purchase & leasing powers to obtain land for allotments, although this is not often used. Although the legislation gives no timeframes for meeting the demand, the Welsh Government would expect to see some progression made within a year.



Small Holdings and Allotments Act 1908 (Revised) Duty of Certain Councils to Provide Allotments

- (1) *If the council of any borough, urban district, or parish are of opinion that there is a demand for allotments ... in the borough, urban district, or parish, ... the council shall provide a sufficient number of allotments, and shall let such allotments to persons ... resident in the borough, district, or parish, and desiring to take the same.*
- (2) *On a representation in writing to the council of any borough, urban district, or parish, by any six registered parliamentary electors or [persons who are liable to pay an amount in respect of council tax] resident in the borough, urban district, or parish, that the circumstances of the borough, urban district, or parish are such that it is the duty of the council to take proceedings under this Part of this Act therein, the council shall take such representation into consideration.*

For further information

- All the Acts relating to allotments are available online at www.legislation.gov.uk/
- ‘The Law of Allotments’ by Paul Clayden, published by Shaw & Sons (currently in its 5th edition).
- Advice is also available from the National Allotments Society www.nsalg.org.uk
- Allotments Act 1925 section 8 & 24 (4)
- Small Holdings and Allotments Act 1908 section 23 (revised), 25, 29 & 39
- Local Government Wales Act 1994
- Allotments Act 1922 section 1 (1) (a), section 22 (1) & (4)(b)
- Small Holdings & Allotments Act 1908 section 27 (4).
- Allotments Act 1950 section 1
- Land settlements & facilities Act 1919
- Allotments and Cottage Gardens Compensation for Crops Act 1887
- Poor Allotments Management Act 1873



Local authorities and allotments – A guide to good practice

Allotments contribute to a healthier and more resilient Wales (The Well-being of Future Generations (Wales) Act 2015). They fit right in to the Five Ways of Wellbeing – connect, be active, take notice, keep learning and give. They do all this for very little financial input or staff time. Good practice doesn't need to cost a lot and communities are generally aware of budgetary constraints and are willing to work with local authorities to lighten the load.

Clear and accessible information

All information about allotments should be clear, up to date and accessible on its own dedicated page on the local authority website. It should contain the following information;

- **Who is responsible?**

Each local authority should have a staff member responsible for allotments and they should also be part of the portfolio of an elected cabinet member. Contact details for both these people should be on the webpage.

- **Provision**

All existing provision should be mapped and described – number of plots, facilities, number of people on the waiting list. This should include self-managed and community sites.

- **Application process**

A simple online form and a phone number should be available to apply for an allotment.

- **Recording unmet demand**

Local authorities are encouraged to record unmet demand through an online process on their website if there are no allotments available in their area. Without recording unmet demand, it's impossible to see

where demand exists and is not being met. Community and town councils and community groups can also do this and make the numbers publicly available.



Waiting lists and managing demand

Authorities may have their own databases which can be used to record this – and to send out group mailings – for example, to check if people are still waiting for an allotment or would use new provision in their area. Yearly updates of information from self-managed and community sites should be sought. For ease of use and to comply with GDPR, local authorities may choose to ask only for data which does not explicitly or indirectly identify users, for example:

- How many plots, half plots, quarter plots
- How many are occupied
- How many people are on the waiting list

To avoid double counting, people filling in the forms on the local authority website should be asked if they are already on a waiting list elsewhere.

Specialist software exists to help manage allotments if authorities don't have suitable databases or have a lot of sites to administer. They can manage billing, send mass mailings, reminders, notices to quit and record data and photographs from site visits in real time. There is a cost associated but it may be offset by staff time saved:

www.mcpcsystems.co.uk/colony/

www.rbssoftware.co.uk/index.php?section=14

www.edgeitsystems.com/advantedge/products/advantedge-allotments/

Managing demand

Local authorities are obliged to consider representation, and to provide what is in their opinion a sufficient number of allotments. (See Allotments and the Law)

Local authorities should do their duty in considering meeting demand for new sites in the spirit of the law. There are several ways this can be achieved:

- geographically map demand and provide new sites on local authority land
- buy or lease private land (if no suitable local authority land is available)
- allocate new development sites as mixed use to include allotments and use developer contributions to establish sites
- support community groups, community or town councils to set up allotment sites
- manage waiting lists more effectively, provide half plots, and even starter plots. Often there are many people on waiting lists who will find once they get an allotment that they don't really have the time to keep up with it. Having quarter size starter plots will give people an idea of what's involved. However you should retain the option to have full plots and not just divide your plots until you've seemingly met demand.

While there is a duty to respond to demand – there is no statutory obligation to provide a certain number of allotments per head of population. Local Authorities should have a clear strategy for offering up land to communities that wish to set up allotments and community growing spaces in their local area.

Allocating plots

Most allotment sites will have a plot allocation policy. The simplest process is to give the person at the top of the list the vacated plot. However there are often clauses that include family members having the option of inheriting a plot, or, where people have been sharing a plot (but the tenancy was held by one) the other should have the option of taking over the plot. It is worth recording that an allotment is being shared so the tenancy can be transferred easily.

If an allotment site is close to the border between local authority areas it should be accessible to people from either county. Through collaborating and sharing information, local authorities would be better able to meet local demand more efficiently.

However small and friendly the site, it is worth having a non-cultivation policy, so a plot can be reclaimed when it is not used. These policies should be included with the tenancy agreement to avoid disagreements. People should be supported if they have a temporary life situation that means they can't cultivate a long standing plot. You can also offer to split plots to make them easier to manage. It is also worth bearing in mind that people might be managing their plot according to permaculture principles which may mean their plot looks less traditional. Leaving areas of your plot uncultivated for wildlife or leaving plants to flower or go to seed for birds and pollinators, should also be encouraged and not penalised.

Allotment strategy

An allotment strategy, support for allotments from the Leader and their Cabinet, and support for allotments and community growing in the Local Development Plan is important. If a local authority's targets and goals include health promotion by encouraging community growing, then a community group or allotment officer will have a much stronger case for accessing a piece of local authority land, or including allotments in a development using developer contributions (Section 106 agreements or Community Infrastructure Levy) This can be supported as mitigation for the loss of green space. The Well-being of Future Generations (Wales) Act 2015 also strengthens the case for local authorities to consider the wider benefits of sustainability and resilience when assessing land access and usage.

An allotment strategy should include:

- benefits of allotments for health and wellbeing and how they support delivery of council policy and the Wellbeing of Future Generations Act
- a summary of legal duty to provide allotments
- a map and describe all local provision including onsite facilities
- a waiting list and unmet demand data – where this isn't complete – a strategy to improve
- a strategy for meeting demand
- procedures for obtaining an allotment
- tenancy rules
- costs and income
- a link to local and national support organisations
- management process, data recording and reports
- action points and timeframes.

Costs and charges

The rent charged for an allotment plot 'shall be let at such rent as a tenant may reasonably be expected to pay for the land' (Allotments Act 1950 section 10). While the temptation may be to increase rents to cover the cost of providing allotments, this may exclude the very people who need them most. Rents should be in line with the national average of approximately £45 a year for a full plot (correct as at April 2020) and it's at the authority's discretion if they have concessionary rates.

Costs to the local authority can be reduced by moving towards self-management and by working with community groups and community and town councils to provide new sites. However self-management should be optional and sites should be taken back into local authority management where it's not working. Likewise authorities should provide new sites in areas of demand where there isn't a community group or council with the necessary capacity to do so.

Further reading

The following documents provide an in-depth guide to managing allotments effectively.

- Growing in the Community – second edition – pub. Local Government Association
www.local.gov.uk/growing-community-second-edition
- A Place to Grow – supplementary guidance – LGA
www.local.gov.uk/place-grow-supplementary-document-growing-community



Animals on allotments

The Law

Prior to the 1950 Allotments Act, the keeping of hens and rabbits on allotments was prohibited by law. The Act abolished this restriction:

‘Abolition of contractual restrictions on keeping hens and rabbits.

(1) Notwithstanding any provision to the contrary in any lease or tenancy or in any covenant, contract or undertaking relating to the use to be made of any land, it shall be lawful for the occupier of any land to keep, otherwise than by way of trade or business, hens or rabbits in any place on the land and to erect or place and maintain such buildings or structures on the land as reasonably necessary for that purpose:

Provided that nothing in this subsection shall authorise any hens or rabbits to be kept in such a place or in such a manner as to be prejudicial to health or a nuisance or affect the operation of any enactment.’



This doesn’t mean allotment holders have a right to keep animals, just that it’s not restricted by law. The keeping of any livestock is subject to the landlord’s permission and should be included in the tenancy agreement.

Hens and bees

Hens and bees are beneficial livestock to keep on allotments or community growing sites. Hens are fantastic gardeners, it’s part of their nature to scratch for insects and grubs in the soil. This tendency can be put to good use as they can clear areas of land or be put on beds after a crop has been harvested. They will clear crop residues and fertilise the soil with one of the best manures available. A hive of bees on site will increase biodiversity and ensure that all produce and tree blossom is pollinated.

As with all livestock, both hens and bees require proper husbandry to ensure they stay in good health.

- For hens, it’s important to offer them; protection from predators, a good supply of feed and grit for egg production and a well-designed chicken coop. You should also consider Welsh Government regulations, animal welfare, storing the feed, rodents, site security and the effect your animals will have on other plot holders.
- With bees you need to consider; the number of hives to keep, when to do maintenance, checking for pests, and the position of the hives from a safety point of view. You must check whether any plot holders have a severe allergy. You should become part of your local bee keeping association either directly or through the British Beekeepers Association (BBKA) the national organisation for beekeepers. Your local association will be able to provide advice, give bee keeping demonstrations, and advise on/sell you equipment, bees and insurance.

Welfare

It is important to note that animals must not be kept on allotments unless they can be provided with appropriate levels of care and a suitable environment. Under the Animal Welfare Act 2006, it is an offence to cause unnecessary suffering to any animal and details the duty of care towards animals. This means that anyone responsible for an animal, whether on a permanent or temporary basis, must take reasonable steps to make sure the animal's needs are met. This includes providing:

- a suitable diet
- a suitable environment
- the chance to exhibit normal behaviour patterns
- a place to be housed with or apart from other animals
- protection from pain, suffering, injury and disease.

It is recommended that plot holders who keep animals should make a plan to prevent/deal with:

- fire
- flood
- outbreak of disease
- end of tenancy

Contact details should also be displayed permanently in a prominent position in case of emergency.

Welsh Government:

www.gov.wales/animal-welfare

Further reading

- NSALG leaflet – Keeping hens and rabbits on allotments
www.nsalg.org.uk/wp-content/uploads/2012/09/A5_Hens_rabbits_220213_HiRes.pdf
- The Welsh Beekeepers Association and the National Bee Unit provide a wide range of beekeeping information
www.wbka.com/ and www.nationalbeeunit.com/
- British Hen Welfare Trust
www.bhwt.org.uk/
- Animal Welfare Act 2006
www.legislation.gov.uk/ukpga/2006/45/contents
- Laying Hen Welfare (code of practice)
www.gov.wales/sites/default/files/publications/2018-01/laying-hen-welfare-code-of-practice.pdf



Public and private landowners – advice for working with community growing groups

The *Well-being of Future Generations (Wales) Act 2015* introduced new obligations on different public bodies to make sure that they are acting in a sustainable manner, not just considering the here and now, but also future generations. Food growing in an environmentally friendly way, meets this agenda and even more so when done by the community. This means that for both the public and private sector, the benefits delivered through community growing are being recognised and developed.

There are many different forms of community gardens, including allotments/allotment-type plots, community growing areas, therapeutic gardens, school gardens and orchards.

New projects are evolving all the time. These different types of growing can take place on any land, not just council land. A growing range of landowners have successfully offered their land for community gardening including; farmers, developers, the NHS, estate owners, housing associations, universities, retailers and public bodies such as Network Rail.

There are understandable apprehensions from some landowners about turning over land for community food growing and other community led uses. There may be concerns about how this can be made to happen in an efficient and cost effective way. If done properly and openly, it can be beneficial to all parties.



Suitable land

You may not think that the surplus land you have available would be suitable. However, there are many innovative ways of growing on a small scale, utilising volunteer labour. Each case will present its own challenges due to different land ownership and tenure, the different characteristics of the site and surroundings, as well as the proposed use of the land. However, most issues can be overcome through detailed discussion and having the correct legal agreement in place.

The amount of land required will differ depending on what the proposed growing use is. Community growing can take place on anything from a tiny 2m x 2m plot, through to 10 acres for a community supported agriculture (CSA) project, growing vegetables for a box scheme feeding 40 families.

If you have long term plans for your land, that doesn't mean that the land can't be used for growing in the meantime. Some really great projects have happened on development land, on a short term basis, moving on when planning permission is granted and development is about to start. So long as everyone involved knows from the start that it is a "meanwhile" use and everyone is kept well informed of the progress of the development. The advantage is that land that would otherwise lay empty and unused, can be put to good use by community groups in a way that brings benefits and opportunities for local people and the landowner. There are many examples of good practice across the United Kingdom.

Rent

This depends on what you want to achieve. Some landowners:

- let their land for free (for example disused or neglected land in urban areas)
- let their land for a nominal/at cost sum (such as the National Trust)
- rent the land out at a market rate (for example normal farm-land rental charge).

Finding growers and other community projects

- contact your local Transition group who may be a good source of people who are looking for land
- contact nearby growing projects who might want extra land
- use social media
- try advertising or putting an article in the local press
- contact your community or town council
- put up posters locally and if you get sufficient interest, you could hold an informal public meeting on the site or nearby
- form a local growing network bringing together landowners and community groups.



When you allow a third party to use your land it's essential to check that the group/individuals using your land have public liability insurance: you should insist on this in any formal rental agreement. You should also check your own insurance is adequate to cover potential liabilities such as access, or damages to services if the land is rented to a third party.

Negotiating and dealing with a community group may take longer than with an individual, whether it is negotiating a lease or selling or transferring land to the group. It is important to factor this in to the timescales. Try to get one person as the nominated representative and has the authority to deal with you. Make sure you understand how often they meet and how quickly they can make decisions. In the longer term because it is a community group it is likely that more people will benefit than if you are dealing with a sole individual.

Information you wish to request from a group may include:

- group constitution
- aims and objectives of the community growing project
- funding information or business plan if appropriate.

For more information about renting out your land the Community Land Advisory Service (CLAS), part of the Social Farms and Gardens website has lots of documents to help you; work out what legal agreement is appropriate, enter into a tenancy, deal with the legal aspects of letting your land and insurance. There are also CLAS Cymru officers in Wales that can support you with your land and planning queries.

www.farmgarden.org.uk

Benefits of community food growing

1. Land which appears to be underused or abandoned may be more prone to anti-social behaviour and vandalism. Having a community growing project on a piece of land can lead to **more respect for a space**. Not only will you have more people on site, keeping an eye on things, which is a deterrent for anti-social behaviour, studies have shown that cared for spaces attract less vandalism (for more information see “the broken window theory”).
2. Enabling community growing on your land may **enable investment** which would otherwise not be achievable, for example restoring a historic walled garden. A community group may be able to provide the resources and access the funding for investment that would otherwise be difficult to achieve. Major investment usually comes with the requirement that the asset is available for a longer time frame such as 10 or more years.



Proactively mapping land which is suitable would allow community groups to consider what is available before making an approach to a specific person.



Additional information and resources

Information for local authorities

Welsh Government Community Grown Food Action Plan

www.gov.wales/sites/default/files/publications/2018-05/community-grown-food-action-plan.pdf

Growing in the Community

www.local.gov.uk/growing-community-second-edition

Smallholdings and Allotments Act 1908

Allotments Act 1922 Allotments Act 1925

Smallholdings and Allotments Act 1926
Allotments Act 1950

Local Government Wales Act 1994 Government of Wales Act 1998

National Assembly for Wales Transfer of Functions Order 1999 Landlord and Tenant Act 1927

The Action Plan for Pollinators in Wales

www.gov.wales/sites/default/files/publications/2019-04/action-plan-for-pollinators.pdf

Invasive Non Native Species strategy

www.gov.wales/weeds-invasive-non-native-species

Wellbeing of Future Generations (Wales) Act 2015

www.futuregenerations.wales/about-us/future-generations-act/

Environment (Wales) Act 2016

www.legislation.gov.uk/anaw/2016/3/contents
[www.wcva.org.uk/what-we-do/the-environment-\(wales\)-act](http://www.wcva.org.uk/what-we-do/the-environment-(wales)-act)

Biodiversity resources

The Wildlife Trusts

www.wildlifetrusts.org

Wales Biodiversity Partnership

www.biodiversitywales.org.uk

Royal Society Protection of Birds

www.rspb.org.uk/whatwedo/wales

Amphibian and Reptile Conservation Trust

www.arc-trust.org

Welsh Beekeepers Association

www.wbka.com

Buglife

www.buglife.org.uk

Plantlife

www.plantlife.org.uk/wales

Woodland Trust

www.woodlandtrust.org.uk