



**Environment and Sustainable  
Communities Overview and Scrutiny  
Committee**

**Review of Durham County Council's  
proposed allotment policy**

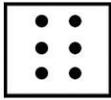
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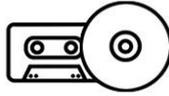
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## Chair's Foreword



Allotment provision in the county is the responsibility of Durham County Council (DCC) and various Town and Parish Councils. DCC is currently responsible for 167 allotment sites in the county with a number of these sites inherited from District Councils following Local Government re-organisation in 2009.

DCC during the last five years has taken steps to improve the management of its allotment sites. These steps have included increased engagement with tenants and associations, improved enforcement and significant investment taking place on sites, the introduction of handover inspections and a records management system, improved customer services arrangements, the introduction of social media to promote the benefits of allotments and plot availability within the county.

However, we realise that there is still more work to be done to ensure that a consistent management approach is introduced across all our allotment portfolio. We propose to introduce a new countywide lettings policy. This policy will reflect the need for sites to be used for genuine allotment use, ensure compliance with planning and animal welfare regulations and continue to provide opportunities for communities to access the wider benefits that come from allotment use.

In 2017, the Environment and Sustainable Communities Overview and Scrutiny Committee was invited by the Cabinet Portfolio Holder to consider DCC's proposed new countywide allotment policy which was developed by the Council working with the Northern Region Allotment Association. Within this context a review group was established to consider the proposed new policy and tenancy agreement. The group engaged with Town and Parish Councils to get their views on DCC's proposed future management arrangements and visited a number of allotment sites in the county to see first hand some of the current challenges and improvements made.

From the outset, the group focused on ensuring that the proposed new policy was fit for purpose, would be subject to extensive consultation with relevant stakeholders and has a programme of transition arrangements for its implementation.

I would like to take this opportunity to thank the Cabinet Portfolio Holder for his initial invitation, the Members of the review group, DCC officers and in particular Mark Farren (Allotment Manager), Town and Parish Council representatives, the Northern Region Allotment Association, residents and allotment holders who participated in and supported the review process.

**Councillor Eddy Adam**

**Chair Environment and Sustainable Communities Overview and Scrutiny Committee**

## Executive Summary

- 1 In 2009 following Local Government reorganisation, DCC became responsible for directly managing 167 allotment sites in the county. Whilst DCC has improved the management of its allotment sites during the last five years there are still inconsistencies in site management. It is recognised that the introduction of a countywide lettings policy and tenancy agreement would improve consistency in site management across DCC's allotment portfolio significantly. The review group looked in detail at the proposed new countywide policy and transition arrangements, the current overall management of the service and the proposed approach to individual tenancies and make recommendations in all three areas.
- 2 When considering the proposed new policy and transition arrangements the review group were supportive of the proposals but were concerned about the length of the proposed transition period for large animals no longer permitted on allotment sites. However, further review work highlighted that steps are already being taken with new tenants and that this approach will gradually over a period of time return plots to proper allotment use. Whilst, the review group supports this approach in order to have a consistent management approach across the allotment portfolio the group recommends that the proposed transition arrangements subject to further close working with tenants include a five year transition period for the removal of large animals from DCC allotment sites.
- 3 Members also found that some animals currently housed on allotment sites require specific welfare documentation such as horses and ponies which require licenses, passports and microchipping. In addition, animals categorised as farm animals require specific documentation under the Department for Environment, Food and Rural Affairs (DEFRA) regulations. It is recommended that the appropriate processes are put in place to ensure that animals housed on DCC allotment sites have the required welfare documentation.
- 4 Concerning the overall management of the service, the review group carried out visits to five allotment sites in the county to see first-hand the management challenges faced by the Allotment Team and allotment associations. During the visits, Members found that currently two DCC service teams directly manage DCC's allotment portfolio, the Allotment Team and the Asset Services Team. This split in management between the two service teams has further added to inconsistencies in management approach with allotment sites being managed differently in relation to engagement, enforcement, investment in sites, frequency of inspection and rents charged. In order to ensure a consistent

management approach the review group recommends that DCC's allotment portfolio becomes the management responsibility of one service team.

- 5 Turning to the management of DCC's allotment sites, evidence provided during the review of the allotment portfolio in 2018 placed the 167 directly managed allotment sites into the following:
  - Allotment sites used for purpose are sites where the majority of plots are currently used for the proper purposes – 107 DCC sites.
  - Allotment sites mainly used for purpose are sites where the majority of plots are not currently used for the proper purposes of an allotment but could be converted back to allotment use relatively easily – 23 DCC sites.
  - Allotment sites not used for purpose are sites where the majority of plots are not currently used for the proper purposes of an allotment and conversion back to allotment use would be difficult, costly or not sustainable in the long run – 37 DCC sites.

During visits to allotment sites not used for purpose Members found that these sites were being used as garages, work yards and storage areas, gardens and to provide grazing for large animals. The review group recommends that DCC undertakes a complete review of allotment sites not used for purpose on a site by site basis to consider options for the future use of these sites and as part of the review process consultation is undertaken with local councillors, tenants, waiting list applicants and residents.

- 6 In relation to where overall management responsibility lies, there are many examples of successful management by local associations and Town and Parish Councils. It is recognised that management by a local association can work well as it gives more local community control. The Real Service Grouping had considered several options for the future management of DCC allotment sites retained for allotment use. The options include direct let by DCC, self-management by associations, lease to associations, transfer to a trust and transfer to Town and Parish Councils. The review group found that some allotment sites in the county have a small number of plots and therefore do not have sufficient allotment tenants to form a self-managed association. The review group recommends that in those areas of the county where the number of members on an allotment site is too few to establish an allotment association, then allotment sites in close proximity to each other be given the opportunity to form an area allotment association.
- 7 Turning to the Town and Parish Council role in the management of allotment sites, it was confirmed that those Councils established post 1999 are the primary authority to manage allotment sites in their area.

It is recommended by the review group that DCC enters into discussion with the various Town and Parish Councils in the county to ascertain as to whether they are in a position to take over the management of allotment sites. Should any Town and Parish Council wish to take over the management of allotment sites then DCC will provide appropriate advice and support for an agreed period.

- 8 The final area considered in the review was individual tenancy arrangements. A public consultation on the proposed new policy, tenancy agreement and transition arrangements was undertaken from the 4 February 2019 to 31 March 2019 to seek the views of allotment holders, interested parties and the general public. A question was asked in the consultation as to whether allotment tenants should be able to pass their plot onto a family member or friend (co-worker). The response to this question was particularly high with over 80% responding yes. DCC's current and future policy requires that co-workers are registered but it was confirmed by the Allotment Team that most co-workers are not registered. For a co-worker to inherit the plot, DCC's proposed policy states that they must have been registered for three years and that no applicant on the waiting list has been on the waiting list longer than the co-worker has been registered. This process gives priority to those applicants at the top of the waiting list. The review group recommends that a co-worker's previous contribution to the cultivation of a plot should be recognised in the proposed policy, subject to legal advice, by acknowledging their previous years of commitment. In addition, DCC needs to consider how it can actively encourage co-workers to register their interest in a particular allotment plot.
- 9 Responses received from the consultation process also suggest that DCC should consider the feasibility of providing smaller sized plots on some allotment sites. Smaller sized plots would be more manageable for tenants who find large plots difficult to cultivate and do not need or want to grow as much fruit and vegetables. The review group recommends that the service look at the feasibility of providing smaller sized plots if there is demand on DCC allotment sites.
- 10 DCC currently charges £45-£55 rent per allotment plot per year with rents increased on an annual basis by £1 per allotment plot. This results in DCC providing a high level of subsidy each year for those allotment plots directly let by DCC. In addition, when comparing rents regionally with seven local authorities, DCC charges the second lowest annual rent per allotment plot. Whilst recognising the health and wellbeing benefits associated with the cultivation of allotment plots, the review group recommends that DCC considers undertaking a rental review. Should it be determined following the rental review that rents

will be increased and the increase in the annual rent per allotment plot is significant, then this increase should be introduced via annual incremental increases.

## **Recommendations**

### **Recommendation 1**

That in relation to the requirements of the proposed policy and tenancy agreement concerning the housing of large animals no longer permitted on allotment plots, the five year period identified in the proposed transition arrangements should apply. In addition, that DCC ensures animals currently housed on DCC allotment plots have the required welfare documentation.

### **Recommendation 2**

That the Corporate Director of Regeneration and Local Services ensures that all DCC directly managed allotment sites in the county are managed by one DCC service team.

### **Recommendation 3**

That the Corporate Director of Regeneration and Local Services establishes a review group to undertake a complete review of allotment sites not used for purpose and that the review group:

- Considers each site on an individual basis;
- Undertakes site based consultation meetings;
- Considers whether tenancy agreements on retained sites are transferred to match the purpose for which the plot is used e.g. garage use;
- Ensures that the sale of sites is handled under the Land Disposal Policy subject to Ministry of Housing, Communities and Local Government approval where the site is a statutory allotment.

### **Recommendation 4**

That the Corporate Director of Regeneration and Local Services establishes area allotment associations where appropriate to take over day to day management and control.

### **Recommendation 5**

That the Corporate Director of Regeneration and Local Services undertakes discussions with Town and Parish Councils that have expressed an interest in taking over the management of allotment sites. Should any Town and Parish Council wish to take over the management of any current DCC allotment site then advice and support should be provided by DCC for an agreed period.

### **Recommendation 6**

That DCC, subject to legal advice, reconsiders the process for the allocation of plots to co-workers within the proposed policy by acknowledging their previous contributions whilst not registered. In addition, DCC needs to actively publicise the need for co-workers to register.

### **Recommendation 7**

That DCC, should there be demand, considers the feasibility of providing smaller sized allotment plots where appropriate.

### **Recommendation 8**

That DCC considers undertaking a rental review of DCC's allotment portfolio, however, as part of this review recognition is given to the health and wellbeing benefits associated with the cultivation of allotment plots. Should the rental review determine an increase in rent per allotment plot and that increase is significant, then DCC should introduce this increase via annual incremental increases.

### **Recommendation 9**

That a review of the progress made against the recommendations contained in this report will be undertaken six months after the report is considered by Cabinet.

## Background

- 11 At its meeting on 14 July 2017, the Environment and Sustainable Communities Overview and Scrutiny Committee when determining its work programme for the ensuing year agreed to the inclusion of a focused review on DCC's future allotment policy.
- 12 The terms of reference for the project was agreed by the committee at its meeting on 6 October 2017 and Members confirmed that the scope of the review was to examine DCC's future allotment policy and to consider and comment on the proposed consultation arrangements.
- 13 The Allotment Act 1922 defines the term 'allotment garden' as 'an area which is wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by the plot holder or their family including the keeping of small livestock as agreed by the allotment authority'. This description remains important because it defines the permitted use of an allotment plot.
- 14 It is recognised that allotment gardening is a pursuit that provides wide ranging benefits to local communities and can make a positive change to the quality of people's lives by producing good quality, low cost food and provides healthy exercise.
- 15 Statutory allotment sites are those that a local authority has acquired for allotment gardening while temporary sites were acquired for other purposes and are being used as allotment sites in the interim. Statutory allotment sites are protected in law and require consent from the Secretary of State for disposal or other uses, while temporary sites are not protected no matter how long they have been allotments.
- 16 Historically, the provision of allotments within County Durham has been the responsibility of DCC, District Councils and Town and Parish Councils. Prior to Local Government Reorganisation (LGR) in 2009 a number of District Councils did not transfer their allotments to the control of Town and Parish Councils which resulted in the management of these allotment sites transferring to DCC.
- 17 In addition, DCC has a duty to provide allotments in areas of the county that are not parished. This resulted in DCC at LGR being responsible for managing 175 allotment sites containing 3630 individual allotment plots spread across the county.

## **Current Allotment Management**

### **DCC's Allotment Portfolio**

- 18 Since LGR some Town and Parish Councils have taken over responsibility for managing what were previously DCC allotment sites resulting in DCC now being responsible for 167 allotment sites. The Allotment Team is currently responsible for directly managing 102 sites, 55 sites are self- managed by an allotment association supported by the Allotment Team and a further 10 sites at LGR were transferred to DCC's Asset Services Team and remain under their management.
- 19 Pre-LGR each council within County Durham was responsible for determining its own approach to managing allotment sites resulting in a mix of management approaches throughout the county. However, the approach can be generalised as follows:
- Mixed approach to enforcement, resulting in some parts of the county, tenants undertaking actions over many years that aren't in keeping with the legal definition of an allotment site.
  - Differing levels of investment in repairs and maintenance. Whilst some councils had invested adequately in the repair and maintenance of sites others had not resulting in collapsed fencing derelict buildings left on plots, paths/tracks in poor condition and vacant plots not maintained.
  - No handover surveys undertaken resulting in a lack of accountability for the condition of the plot on termination of tenancy.
  - Varied position with association managed sites, with some sites well managed however others were not set up in a legally correct manner and/or weren't supported or monitored.
  - Mixed picture with record keeping across the county with some councils having the required documentation whereas other councils had missing agreements and incomplete details.

### **Current allotment policy**

- 20 Following the transfer of the allotment sites from the District Councils, DCC in 2010 introduced a harmonised tenancy agreement, however it was not backed up by a policy and it has never been fully enforced. In 2012 following extensive consultation DCC approved a harmonised countywide allotment lettings policy for DCC managed sites. The lettings policy provided regulation in relation to residency and eligibility for an allotment plot, co-workers/plot partners, levels of rent, use of land and cultivation of plots, erection of structures on allotment sites and the keeping of animals.

21 In developing the 2012 policy DCC's intention was to:

- Ensure plots were used as genuine allotments.
- Ensure plot use supports wider Council priorities including mental and physical wellbeing and justified the financial subsidy that tenants receive.
- Protect the Council from future costs such as the demolition of buildings and repair of land damaged by animals.
- Ensure compliance with planning requirements in relation to building size and construction.
- Avoid negative publicity about animal welfare.

22 However, when it came to the implementation of the policy a number of challenges were identified. The policy was considered over-prescriptive on some issues such as the number of chickens and shed maintenance requirements, it jeopardised the significant investment that some tenants had made in non-allotment activities on their sites and did not include transition arrangements to ease the impact of the proposed changes.

23 As a result of the above challenges the 2012 countywide allotment lettings policy was not implemented however the DCC Allotment Team over the last five years has developed and implemented a programme of work to improve the management of DCC allotment sites which includes:

- Improved engagement with tenants and associations by being on sites more often.
- Increased enforcement so more tenants are being required to use their plots in the proper manner.
- More investment has taken place in the sites to tackle major issues and bring derelict and vacant sites back into use.
- Introduced handover/takeover inspections ensuring that new tenants are required to return plots in the same or a better condition.
- Reviewed customer services arrangements.
- Introduced a records management system.
- Use social media to promote the benefits of allotments and plot availability.
- Provide support to various allotment associations in the county who manage DCC allotment sites.

# Future DCC Allotment Policy

## Key Findings

**Subject to further close working with tenants a five year transition period should be introduced for the rehoming of large animals housed on DCC allotment sites and no longer permitted by the proposed policy.**

**Need for animals housed on DCC allotment sites to have the required welfare documentation.**

## New allotment lettings policy

24 DCC will continue to directly manage allotment sites in the future and needs to develop an allotment lettings policy that both provides a transparent mechanism for managing our allotments and facilitates ways to address current challenges that exist on our allotment sites.

25 DCC's proposed countywide allotment lettings policy has been developed by the Allotments Team working with the Northern Region Allotment Association and looking at examples of current regional allotment policies. The proposed policy provides guidance on:

### Plot use

- Ensuring that plots are used as genuine allotments in order to comply with legislation.
- Ensure that communities in County Durham can access the wider benefits that come from genuine allotments such as improved physical and mental health, community development and environmental protection.
- Provide justification for the council subsidy that allotment tenants receive if the allotment is used for genuine allotment purposes.

### Future costs

- Preventing activities that can lead to significant future costs for the council such as demolition costs for permanent buildings once tenancy ended and repair of land damaged by animals.

### Planning

- Ensuring compliance with planning requirements for allotment buildings including the size and construction of buildings.

## Animal welfare

- Ensuring that animals unsuited to allotments are not kept on our sites.

26 As part of the review process the group received detail of DCC's current allotment lettings policy and DCC's proposed countywide allotment lettings policy. The information provided to the group identified any new areas in the proposed policy and changes to areas in the current policy that will still be included in the proposed policy going forward.

27 The proposed policy identifies five new areas relating to tenancy limits, plot boundaries and fencing, vermin, water supply and rainwater capture, re-use and the storing of waste on plots.

28 In addition, the proposed policy is more specific in a number of areas relating to:

- Eligibility and plot allocation.
- Keeping and housing of animals and livestock.
- Treatment of weeds.
- Requirements for the keeping of bees.
- Restrictions on cropping and the percentage of the site that can be used for fruit trees.
- Change in percentage of plot used for housing permitted animals.
- Increase in the permitted height of hedges and fences.
- Ensuring compliance with current regulations for buildings and structures.
- Restrictions to prevent vehicles being kept on sites.
- Expands the range of issues that could be dealt with under the criminal activities clause in the policy.
- Management of bonfires or burning on sites.
- Termination of a tenancy and the need to improve the condition of allotments when they are handed back to DCC.
- A change in the rent year.

29 Included in the proposed policy is the eviction process which will be subject to the normal three months enforcement period involving two warnings (informal warning and the formal warning) followed by the Notice to Quit and then eviction.

## **Transition arrangements**

30 A key element which had resulted in DCC's 2012 allotment lettings policy not being implemented was the lack of transition arrangements. The proposed policy will have transition arrangements detailing timeframes for the implementation of the various requirements in the policy. The majority of the requirements in the proposed policy would

need to be complied with immediately. However, in relation to some requirements contained in the proposed policy there are a series of planned transition periods for compliance as follows:

- 1 year transition period for:
  - Tenants who have moved outside of the county boundary
  - Dogs being kept on plots
  - Hedges that need to be reduced in height to 1.5m
  - Vehicles being kept on plots
  
- 5 year transition period for:
  - Large animals no longer permitted by the policy
  - Tenants who keep bees currently but are without the British Bee Keepers Association qualification
  
- Once the current tenant gives up the plot in relation to:
  - Tenants who are under 18 years of age
  - Tenants with more than two plots
  - Permitted animals not authorised by/registered with DCC
  - Small animals no longer permitted by the policy
  - More than 25% of the plot used for fruit trees/bushes
  - Fences higher than 1.5m or made with inappropriate materials
  - Large trees already on plots
  - Existing water supplies to individual plots
  - All building issues except for poor maintenance or non-cultivation in greenhouses and poly-tunnels

31 The review group agreed the transition periods detailed for the proposed policy with the exception of the five year transition period for large animals no longer permitted by the proposed countywide allotment lettings policy. The group commented that the transition period was too long and thought that a three year period was more appropriate in relation to this particular requirement. Following a detailed discussion, it was suggested by the review group that feedback from the extensive consultation to be undertaken with stakeholders should be used to inform the transition periods in the proposed policy for the removal of animals no longer permitted on allotment sites.

32 An extensive public consultation was undertaken by the Service Grouping which ran from 4 February to 31 March 2019. The consultation covered and required feedback on:

- the proposed policy and tenancy agreement;
- proposed transition arrangements;
- handing plots on to family and friends;

- site transfers to Town and Parish Councils;
- management of sites by associations;
- rent levels

(for further detail on the public consultation see page 22).

- 33 The proposed policy and tenancy agreement are more prescriptive in relation to the keeping and housing of animals and livestock. In addition, the proposed transition arrangements identify varying timescales for the removal of animals no longer permitted in the policy from allotment sites. The consultation included a specific question in relation to the transition arrangements asking whether respondents agreed or disagreed with the proposals to have differing times to comply with the tenancy agreement. Half of those that responded were in favour of the transition arrangements however a significant number, 32% were against.
- 34 In relation to consultation responses on the proposed policy, tenancy agreement and transition arrangements, the highest number of comments received related to the keeping of various animals on allotment plots including horses, ponies, hens, rabbits, pigeons, cockerels, pigs, goats, dogs, ducks, geese and ferrets.
- 35 A number of the responses received from the consultation related to the housing of horses and ponies and the use of allotment land for grazing purposes. Comments suggested that tenants using allotment plots for grazing were unable to afford the cost of land designated as grazing land.
- 36 The review group was informed that current tenants using allotment plots for the stabling of horses did not want change and had therefore responded to the consultation expressing their views.
- 37 It was highlighted by the Allotment Team that work is already ongoing with tenants and associations in the county changing how allotment sites are managed. Currently tenants who have taken over plots since 2015 are required to comply fully with the new tenancy agreement which includes restrictions on the housing of animals on allotment plots. This approach will gradually over a period of time return allotment plots to proper allotment use.
- 38 The review group recognises that the above approach allows the management of allotment sites to be changed gradually over a period of time, however, this could be a lengthy time period. Following a detailed discussion by the group the consensus was that there is a need for a defined transition period for the removal of large animals currently housed on allotment sites. It was agreed by the review group that a five year transition period is sufficient time for allotment tenants to make

alternative arrangements for the rehoming of large animals no longer permitted on DCC allotment sites. In addition, a specified transition period would provide consistency in enforcement of the proposed policy and tenancy agreement. It was recommended by the review group that the five year transition period identified in the proposed transition arrangements should apply for the removal of large animals from DCC allotment sites.

39 The review group commented on the importance of ensuring that all animals currently housed on DCC allotment sites have the required welfare documentation including passports/licensing and microchipping and in relation to those animals categorised as farm animals the required documentation by Department for Environment, Food and Rural Affairs (DEFRA). It was recommended by the review group that the service should ensure that this documentation is available and can be presented for all animals currently on DCC allotment plots.

### **Recommendation 1**

That in relation to the requirements of the proposed policy and tenancy agreement concerning the housing of large animals no longer permitted on allotment plots, the five year period identified in the proposed transition arrangements should apply. In addition, that DCC ensures animals currently housed on DCC allotment plots have the required documentation.

## **Management of allotment sites**

### **Key Findings**

**Management of DCC's allotment sites needs to be the responsibility of one service team within the Real Service Grouping.**

**Decisions on the future of allotment sites not used for purpose should be undertaken by an officer working group.**

**Need to provide an opportunity to establish area allotment associations.**

**Legal position clarifies that Town and Parish Councils formed prior to 1999 cannot be compelled to take over the management of allotment sites. Town and Parish Councils established post 1999 are the primary authority to manage allotment sites in their area.**

**Discussions to be undertaken with Town and Parish Councils regarding the possible transfer of allotment sites.**

**Transfer of allotment sites to Town and Parish Councils should only take place with the agreement of the local council with DCC providing advice and support for an agreed period.**

## **Allotment review 2015**

40 In 2015 the service carried out a full review of DCC's total allotment portfolio consisting of 167 allotment sites spread across the county. The results of the 2015 were updated in 2018, in preparation for DCC reviewing its allotment management arrangements. The review placed DCC allotment sites into the following:

- Allotment sites used for purposes are sites where the majority of plots are currently used for the proper purposes of an allotment – 107 DCC sites.
- Allotment sites mainly used for purpose are sites where the majority of plots are not currently used for the proper purposes of an allotment but could be converted back to allotment use with relative ease – 23 DCC sites.
- Allotment sites not used for purpose are sites where the majority of plots are not currently used for the proper purposes of an allotment and conversion back to allotment use would be very difficult and costly or where site is not sustainable in the long run – 37 sites.

41 In October 2017, as part of the scrutiny review process the group visited a number of DCC allotment sites in the county to see examples of all three site categories and sites under different forms of management including sites directly managed by DCC and allotment associations. The visit provided Members with the opportunity to see 'first hand' a number of challenges experienced on our allotment sites including:

- Non-allotment use of plot (e.g. garages, parking areas, work yards, animal compounds, private gardens etc.).
- Sub-letting/co-workers/family plots – plots have previously been illegally passed on or sold and there is an expectation by current tenants that this practice can continue in the future.
- Livestock/animals on plots that aren't suited to allotments.
- High fencing that makes the inspection of plots difficult.
- Accumulations of waste on plots.
- Oversized buildings that contravene planning regulations.

42 Whilst visiting Sherburn allotment complex at Sherburn Village, a site currently used for non-allotment purposes including work yards, Members were informed that management of the site is split between DCC's Allotment Team and Asset Services Team. This split in management arrangements exists on other DCC directly managed sites

and is a result of the asset transfer process during LGR. It was confirmed that Asset Services are responsible for nine allotment sites of which seven are leased.

- 43 The split in management arrangements between the two service teams has resulted in DCC allotment sites being managed differently in relation to engagement, enforcement, investment and inspection. In addition, there is no correlation in relation to rents charged for what are designated allotment sites. The review group commented that any future DCC allotment management arrangements need to have consistency in approach and in order to achieve this the review group recommends that all DCC allotment sites in the future are the responsibility of one DCC service team.

## **Recommendation 2**

That the Corporate Director of Regeneration and Local Services ensures that all DCC directly managed allotment sites in the county are managed by one DCC service team.

### **Allotment sites not used for purpose**

- 44 DCC's current allotment portfolio contains 37 allotment sites not used for purpose with the majority of these sites used for stabling, grazing land, work yards, garages, parking spaces and house gardens (not used for the proper purposes of an allotment) and where conversion back to allotment use would be very difficult and costly. During the visits undertaken by the review group Members saw clear examples that some DCC allotment sites are being used for purposes other than allotment use.
- 45 In relation to DCC's future management arrangements for allotment sites not used for purpose, it is proposed that the approach will consist of establishing a review group of officers from the Allotments, Assets and Legal Services to undertake a site-by-site review. The review would look at options including: conversion back to allotments; retain but lease out as garages/stables/gardens etc.; sell as individual plots with priority to sitting tenants or as a whole site for development with the Real Management Team ultimately determining as to whether the site is to be retained. Those sites which are agreed for disposal will follow the normal DCC disposal process.

- 46 All future management options have potential impacts including:

- Conversion back to allotments - tenants may be unhappy at having to use their plots for allotment purposes only and there will be a significant cost to DCC for converting plots back to allotment use.
- Leasing plots for alternative use – revised tenancy agreement with clauses that suit the use of the plot, revised rents (garage-£60 including VAT plus on-off licence fee of £180 including VAT, stabling/grazing – rent based on size and demand and private garden – rent based on size) and future management responsibility and associated resources.
- Selling plots/sites – resource to prepare and process sales, requirements to achieve fair market value and inclusion of restrictions on use /or clawback for change of use.

47 In addition, any allotment site not used for purpose which is designated a statutory allotment site which is to be leased for alternative use or sold, would require an application by the authority to the Ministry of Housing, Communities and Local Government (MHCLG), for the site to be no longer designated as a statutory site. As part of this process DCC has to identify alternative land provision for use as a statutory allotment if there is an under supply of allotments in that particular area. This process can be challenging in relation to local land availability and cost.

48 It was confirmed to the review group at its meeting on the 10 June 2019 that a Project Officer would be appointed to oversee and progress the work in relation to allotment sites not used for purpose. Once the future of allotment sites not used for purpose have been determined the remaining allotment sites will be DCC's future allotment portfolio to which the proposed policy, tenancy agreement and transition arrangements will apply.

49 The review group supports the proposed approach and recommends that DCC undertakes a complete review of allotment sites not used for purpose consisting of a site by site review including consultation with local councillors, tenants, applicants on the waiting list and residents.

### **Recommendation 3**

That the Corporate Director of Regeneration and Local Services establishes a review group to undertake a complete review of allotment sites not used for purpose and that the review group:

- Considers each site on an individual basis;
- Undertakes site based consultation meetings;

- Considers whether tenancy agreements on retained sites are transferred to match the purpose for which the plot is used e.g. garage use;
- Ensures that the sale of sites is handled under the Land Disposal Policy subject to Ministry of Housing, Communities and Local Government approval where the site is a statutory allotment.

## **Future management options**

50 The options proposed by the ReaL Service Grouping for the future management of DCC allotment sites retained for allotment use (i.e. allotment sites used for purpose and allotment sites mainly used for purpose plus any allotment sites not used for purpose retained for allotment use following the review) are:

- **Direct Let by DCC** – DCC owns the site and leases individual plots directly to tenants. DCC is responsible for all repairs and maintenance and takes full responsibility for enforcement action. This is a high cost, high control option with greater staff involvement and there is low tenant engagement.
- **Self-Management by Associations** – DCC would retain ownership of the sites and would continue to directly lease plots to tenants but responsibility for the day-to-day management of the sites would be transferred to an Allotment Association. This would include waiting list management, plot allocation, all repairs and maintenance and early enforcement procedures. However, DCC would retain the authority to undertake formal enforcement and evict tenants from the plots. The costs associated with this option is reduced from the first option. This option would have a moderate level of control from DCC but would have a high reliance on competent volunteers.
- **Lease to Associations** – Again, DCC would retain ownership of the site, but would lease in full to an association who would sub-let plots to individual tenants on their own tenancy agreements. The association would take all responsibility for managing the site and the individual plot holders. This would have a low level of DCC control and would be a lower cost option to the authority. It would have a very high reliance on competent volunteers and would create higher tenant engagement in relation to site issues.
- **Transfer to a Trust** – This option is similar to leasing to associations but all or a large number of sites would be leased to a trust, which could then lease the entire sites to a sub group as well as plots to individual tenants. Transfer of ownership to the trust is also an option rather than lease only. This option would have little or no

DCC control and there would be no cost to the authority. There would be high reliance on volunteers.

- Transfer to Town and Parish Councils – Ownership of sites is transferred to the relevant local council with all responsibilities and benefits associated with managing allotments being transferred with them. This option would result in no DCC control and there would be no cost to the authority. However, local councils come in various sizes and there could be capacity issues for some to take control of all allotment sites.

51 During visits undertaken by the review group it was highlighted by the Allotment Team that there are a number of allotment sites in the county where the number of allotment plots on those sites are too few for tenants on those sites to form self-managed allotment associations.

52 It is recommended by the review group that in those areas of the county where the number of allotment members on an allotment site is too few to establish a self-managed association then DCC actively promotes the option of area allotment associations with DCC preparing the appropriate self-management agreements. These area associations would consist of allotment tenant representatives from a number of allotment sites in close proximity to each other.

#### **Recommendation 4**

That the Corporate Director of Regeneration and Local Services establishes area allotment associations where appropriate to take over day to day management and control.

#### **The Role of Town and Parish Councils in the Management of Allotment Sites**

53 Under the Small Holdings and Allotments Act 1908, councils are under a duty to provide a sufficient number of allotments if they are of the opinion that there is a demand for them. Subsequent Acts of Parliament have built on this to give further guidance in relation to the management of allotments.

54 The Local Government (Parishes and Parish Councils) Regulations 1999, regulation 10 states that: *“Land held for the purpose of the Allotments Act 1908 to 1950 where immediately before the order in an area constituted as a parish by an order it shall on the order date transfer to and be vested in the parish or if there is no such council, the parish meeting for that parish.”*

- 55 At the beginning of this review, the authority had interpreted the Local Government (Parishes and Parish Councils) Regulations 1999, regulation section 10 to mean that all allotment sites in areas where there are local councils should be transferred to them.
- 56 As part of the review process Members of the review group, at their meeting on the 16 February 2018 met with representatives of local councils some of which had responsibility for allotment sites and some that did not. During the meeting the review group received evidence on how they currently managed allotments and their views and opinions in relation to DCC transferring ownership of allotments to them.
- 57 Those Town and Parish Councils that had taken over responsibility for the management of allotment sites stressed that parish clerks were employed for a limited number of hours per week/month and that the management of allotment sites were currently taking a large proportion of their time and that they struggled to fit in other duties. Not only was allotment management time-consuming it was also costly and many local council representatives reiterated the issue of costs incurred in relation to repairs and maintenance. Those representatives that did not have control of allotment sites were concerned at the amount of involvement needed to manage allotments including the cost when they have limited resources and access to legal advice.
- 58 The number of allotment sites currently under DCC management proposed for transfer to each local council was different. The largest number suggested to be transferred was 31 sites to a Town Council with approximately 1446 allotment plots that were in varying degrees of condition. Even those local councils receiving only a few sites may find that they were in poor condition.
- 59 Following engagement with local council representatives DCC was challenged on its interpretation of The Local Government (Parishes and Parish Councils) Regulations 1999, regulation 10 and changed its stance with DCC's legal services advising that DCC could not compel transfer of the management of allotment sites to local councils established prior to 1999. Transfer of allotment sites to local councils would only take place if the local council was prepared to undertake the future management of these sites. It was confirmed that Town and Parish Councils established post 1999 are the primary authority to manage allotment sites in their area.
- 60 As part of the consultation process on the proposed policy, tenancy agreement and transition arrangements respondents were asked whether they agreed or disagreed with DCC's approach to encourage local Town and Parish Councils (where they exist) to take over

allotment sites in their area. It was confirmed that 50% of respondents were in favour of the approach with 17% against.

- 61 The review group recommends that the Regeneration and Local Services service grouping have discussions with Town and Parish Councils in relation to taking over the management of allotment sites and that during these discussions detail should be provided of the financial risk analysis. Where Town and Parish Councils are willing to undertake the management of sites, arrangements are made to transfer these sites to the respective Town and Parish Council with DCC providing advice and support for an agreed period.

### **Recommendation 5**

That the Corporate Director of Regeneration and Local Services undertakes discussions with Town and Parish Councils that have expressed an interest in taking over the management of allotment sites. Should any Town and Parish Council wish to take over the management of any current DCC allotment site then advice and support should be provided by DCC for an agreed period.

## **Consultation**

### **Key Findings**

**Over 80% of respondents to the consultation disagreed with the proposal that tenants could not pass their plots on to family or friends (co-workers).**

**DCC needs to reconsider the process for the allocation of allotment plots to co-workers and how it publicises the need for co-workers to register.**

**That the service looks at the feasibility of providing smaller sized plots.**

- 62 A public consultation was held from 4 February 2019 until 31 March 2019 that sought the views of allotment holders, interested parties and the general public on the proposed allotment policy, tenancy agreement and transition arrangements. A press release and social media posts highlighted that the consultation was taking place with consultation packs available at customer access points, libraries and were available online. Individual letters had been sent to all tenants, co-workers, waiting list applicants, Associations and Town and Parish Councils.

63 The service received 322 responses to the consultation questionnaire. The majority of responses to the consultation were received from allotment tenants, with 10% of all tenants on the allotment list responding. Of the responses received, most tenants indicated that they used over half their plot for growing fruit and vegetables and agreed with the general direction of the proposed policy and tenancy agreements.

64 In relation to co-workers (family or friends who help work the plot), many respondents disagreed with the proposal that tenants could not pass their plots on to family or co-workers. Over 80% of responses received felt that tenants should be allowed to pass on their plots to co-workers (see question from consultation below). However, the review group was informed that DCC's current policy requires co-workers to be registered although most co-workers are not. It was confirmed by the service that the system in place for registration is straight forward and the need to register is publicised.

<b>Do you feel that allotment tenants should be able to pass their plot onto a family member or a friend?</b>	
11%	No, plots should be offered to the next person on the waiting list
12%	Yes, but only if they have been registered as helping with the plot longer than anyone on the waiting list.
34%	Yes, but only if they have been registered as assisting with the plot for several years
35%	Yes, regardless of whether other people are waiting for a plot on that site.

65 For co-workers to inherit a plot they must have been registered for three years and no applicant on the waiting list has been on the list longer than the co-worker has been registered. Therefore, DCC's current allotment policy gives residents on the waiting list priority over co-workers in the allocation of plots.

66 Due to the high number of responses to the above question the review group felt that there is a need for further consideration to be given to the process for the allocation of plots to co-workers. The group commented that co-worker's previous contribution to the continued cultivation of a plot should be recognised. The review group recommends that, subject to legal advice, the proposed policy should reflect this by acknowledging their previous years of commitment to working the plot. In addition, DCC needs to actively encourage co-workers to register their interest in a particular allotment plot.

67 Responses received from the consultation process in relation to the policy and tenancy agreement suggests smaller sized plots would be more manageable for tenants who found large plots difficult to cultivate

and did not need or want to grow as much fruit and vegetables. It was recommended by the review group that the service consider the feasibility of providing smaller sized plots if there is a demand.

68 Following feedback from the consultation the review group suggests that the service has a structured approach to the implementation of the proposed changes in policy and tenancy agreement to ensure a smooth transition. The service responded that it is intended to have a programme of implementation and they would work with Legal Services to introduce a sensible structured formal phasing of the proposed policy, tenancy agreement and transition arrangements.

### **Recommendation 6**

That DCC, subject to legal advice, reconsiders the process for the allocation of plots to co-workers within the proposed policy by acknowledging their previous contributions whilst not registered. In addition, DCC needs to actively publicise the need for co-workers to register.

### **Recommendation 7**

That DCC, should there be demand, considers the feasibility of providing smaller sized allotment plots where appropriate.

## **Allotment Rent**

### **Key Findings**

**DCC has increased allotment rent by £1 per allotment plot per year with the cost of a DCC directly let plot £45-£55 per year.**

**DCC currently subsidises each directly let plot by £110.37 per year.**

**County Durham on a regional basis charges the second lowest rent per allotment plot.**

**If a significant increase in rent per allotment plot is introduced, then this increase should be via annual incremental increases.**

69 DCC currently charges £45 to £55 rent per plot per year however the total cost to DCC per plot per year is £160.37 which is based on direct costs and overheads split equally over the number of DCC direct let plots. This results in DCC subsidising each directly let plot per year by £110.37. It was confirmed that DCC has increased the rent per allotment plot by £1 per year in line with the Retail Price Index. It was

highlighted that the provision of plots at a subsidy can be justified by the wider social and health benefits of allotments.

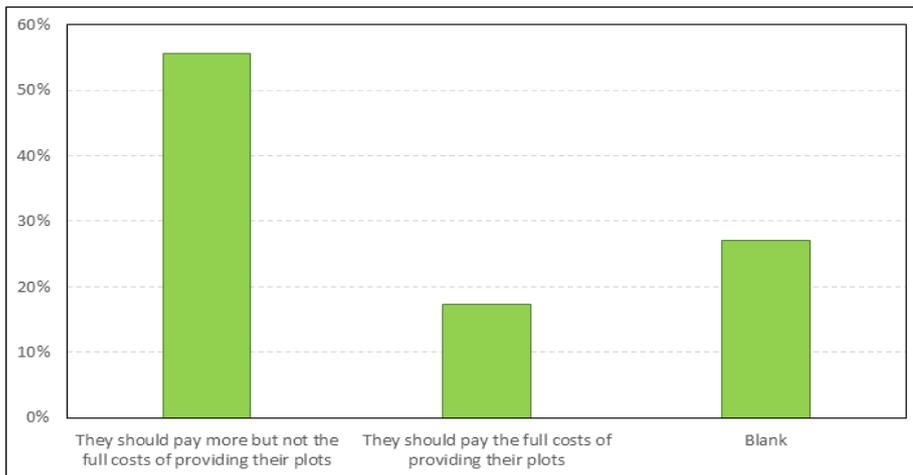
70 In relation to DCC sites managed by associations (self-managed), DCC receives no rental income in relation to the self-managed sites however the total cost to DCC per plot per year of £21.73 is also the total amount of subsidy per plot per year.

71 When comparing the annual rent charged for an allotment plot on a regional basis County Durham has the second lowest rent amongst similar authorities. The table below shows the current rent charged per allotment plot by various North East local authorities.

<b>Council</b>	<b>Annual Rent for 200m<sup>2</sup> - 250m<sup>2</sup> Plot</b>
Darlington	£145.00
South Tyneside	£98.70 - £105.60
North Tyneside	£85.50 - £103.50
Middlesbrough	£69.00
Hartlepool	£57.00 - £65.00
Gateshead	£52.00
<b>Durham</b>	<b>£49.00</b>
Stockton	£35.00

72 The review group recognise there is a growing awareness of the role gardening plays in both preventing and alleviating mental ill health. The physical benefits of regular spells of gardening help keep plot holders fit, maintain a good gait and balance in older gardeners and help with cognitive decline.

73 The extensive public consultation on the proposed policy and transition arrangements (for further detail of consultation see page 22), had included a question asking whether respondents agreed or disagreed that the council should charge its tenants and associations more for an allotment plot. The number of respondents that agreed to an increase in rents was higher than expected with 30% of respondents agreeing to an increase whilst 43% of respondents were against. An additional analysis, as shown in the chart below suggests that 18% of respondents felt that allotment holders should pay the full costs of providing their plots. However, over 50% thought that tenants should pay more rent than they are currently paying but there should still be a subsidy from the local authority.



Source: Presentation to Review Group 10 June 2019

74 It was recommended by the review group that a rental review is undertaken by DCC’s Allotment Team as part of the ongoing review of DCC’s future allotment management arrangements. The review group recognise the health and wellbeing benefits associated with allotment gardening and felt that this should be taken into consideration when undertaking the review. It was felt by the review group that a rental review would be timely with the possible introduction of the proposed policy, tenancy agreement and transition arrangements and would also provide an opportunity for DCC to consider the level of subsidy currently provided. In addition, the review group also recommends that should DCC determine to undertake a rental review and this review results in an increase in rental charges, should this increase in annual rent per allotment plot be significant, then this increase should be introduced via annual incremental increases.

**Recommendation 8**

That DCC considers undertaking a rental review of DCC’s allotment portfolio, however, as part of this review recognition is given to the health and wellbeing benefits associated with the cultivation of allotment plots. Should the rental review determine an increase in rent per allotment plot and that increase is significant, then DCC should introduce this increase via annual incremental increases.