



## ARI Factsheet

# Managing Non-Cultivation: A guide to applying cultivation standards for allotment managers

In 2010 the Local Government Association published *A Place to Grow* (see *Resources*), an update to the good practice guide for the management of allotments, *Growing in the Community* (see *Resources*), to help local authorities and allotment associations cope with growing waiting lists for plots across the UK. The specific aim of *A Place to Grow* is to identify ways to minimise the time that people who wish to rent an allotment have to wait before they can do so.

Active management of cultivation standards can play an important role in making the fullest use of the existing portfolio of allotments, particularly where there is an inheritance of underused or derelict plots. The length of the waiting list is directly related to the standard of cultivation expected of existing tenants, and the measures taken to enforce those standards, and to free up space that is not being properly used for the benefit of new tenants. This factsheet develops the guidance on managing non-cultivation included in *A Place to Grow*, by covering the subject in greater detail, and illustrating good practice with practical examples. This is a fast-changing field, and we welcome feedback from allotment managers on better ways to manage cultivation

standards, to inform subsequent editions.

### Procedures Matter

The way cultivation standards are managed is important. Procedures must be fair, and take into account what can reasonably be expected of tenants (in general and as individuals) in bringing underused plots into full production. It is unreasonable, for example, to expect a plot to be fully cultivated within one month if, for the duration of that month, the soil is frozen solid, or the tenant is recuperating from an acute medical condition. At the same time, the lawful enjoyment of existing tenants undertaking a leisure time activity should not be undermined unnecessarily by inspection regimes that are overly intrusive. The management of non-cultivation should also not make unreasonable claims on the time of paid officers and volunteer devolved managers.

Procedures should be clear, transparent and accessible, for the benefit of plotholders in difficulty, but also so that other plotholders and people on the waiting list can understand why a neglected plot does not necessarily imply negligence on the part of site management. This is a good reason to

set down procedures in a formal document. Communication also needs to be effective, to ensure that plotheolders deemed to be in difficulty are aware that they must take remedial action.

### **Understanding Non-Cultivation**

An appreciation of the reasons for non-cultivation underpins effective action. These may be environmental (eg extreme weather conditions of cold or drought), which affect everyone, or personal (acute or chronic illness, holidays, family problems), which will only come to light if individuals are given the opportunity to explain why they are in difficulty. And they can be embedded in the management system itself: for example, very low rents give no incentive to cultivate a plot efficiently.

### **The Limits of Non-Cultivation Management**

The effectiveness of non-cultivation management as a way to find space for newcomers from the waiting list is bound to diminish over time. Once a site is fully cultivated by dedicated gardeners, new openings will only arise sporadically, as personal circumstances force particular individuals to move on. At this point it makes more sense to explore other ways of managing the exiting portfolio more effectively, and of expanding its size through the creation of new sites, topics that are examined further in *A Place to Grow* and other factsheets in this series.

### **Defining cultivation standards**

Tenancy agreements typically include obligations to keep the plot clean, free from weeds, in a good state of fertility and cultivated it in a husbandlike manner, and for paths to be kept well

trimmed. There are subjective elements (how clean is clean enough?), obscure concepts (where else is 'husbandlike' in common usage?), and practical impossibilities for all but the most fastidious ('free from weeds') embedded here, all making the practical definition of non-cultivation fraught with difficulty.

As a minimum, allotment managers should insist that plots are cultivated in a way that does not interfere in a material way with the enjoyment of neighbouring tenants. Key elements include:

- removal of weed seed-heads before the seed has set;
- control of pernicious weeds, such as those that spread through the extension of roots, (eg. couch grass and ground elder) or by generating new plants from growing tips in contact with the soil (eg. brambles);
- removal of long grass or detritus that is likely to harbour slugs and snails (which may forage next door); and
- keeping paths free of hazards to allow free and unimpeded access and to ensure grass paths are trimmed.

In addition, managers may wish to set standards for the proportion of the land which (across the growing season) has been put to use in the production of fruit and vegetables, and set standards for the maintenance of residual areas (eg lawns and composting areas). Beyond this point, however, care should be taken in setting more detailed requirements, given the risk of introducing additional subjectivity and hence scope for divisive (and expensive) disputes, particularly where a variety of

styles of gardening are enjoyed by tenants from diverse backgrounds, including those based on “no-dig” principles or which make extensive use of mulches.

Where clear and practical criteria for defining non-cultivation have not previously been employed (and this would be understandable, given the greater emphasis placed on simply filling sites in many places until comparatively recently), care should be taken during their introduction to include consultation with representative organisations, and to temper enthusiasm for improving cultivation standards with an acknowledgement that where cultivation has not been regularly monitored, the authority must share the blame for the current state of poorly cultivated plots through implied toleration of neglect.

### **Managing expectations**

The ability of tenants to maintain plots to the desired standard depends upon the time they are able and willing to commit to the task, their horticultural skills, the size and initial condition of the plot, and the time frame within which they are expected to achieve the standard set.

Recent media attention has sometimes created unrealistic expectations about the time and effort required to keep a plot in good condition. For this reason, the management of non-cultivation might best be started before a tenancy has even commenced, through effective communication to prospective plotheolders of what an allotment tenancy will require from them in practice. One way to achieve this is to invite people who wish to join a waiting

list to visit a site, see the facilities and talk to experienced plotheolders about what allotment gardening actually involves. Such visits would also provide an opportunity to explain the local authority’s policies on waiting lists and non-cultivation. This will be particularly important where there are plots that still await restoration into cultivable condition, or are uncultivated while new tenancies are being arranged, the sight of which can make it difficult for newcomers to understand why waiting lists are not shorter.

Horticultural skills can be acquired through courses attended in advance of a tenancy commencing, and such courses are likely to be welcomed by many newcomers. It should be born in mind, however, that the opportunity for experiential learning and the sharing of knowledge within the community of allotment gardeners are two of the benefits associated with allotment gardening, so it is important to encourage better skills, but not to use their initial presence or absence as a criterion for allocating tenancies: the right to garden implies a right to fail. Good practice, however, includes the means to detect and manage failure as quickly as possible.

### **The new tenancy**

Some new tenants will be able to manage a conventional 250 square metre “10 pole” or “10 rod” plot straight away, but for people who have many other commitments in life, or who expect their allotment to provide only a portion of their regular intake of fruit and vegetables, or who do not have a family to feed, a smaller plot would make more sense, and would be more likely to be kept in full cultivation. Many

local authorities now offer “half plots”, and some have achieved good results with small “starter plots” that allow people to discover for themselves what allotment gardening entails.

**Learning how to ‘Grow Your Own’**

A pioneering course to teach adults how to grow their own vegetables has been run by the Adult Education Service on an allotment site in Stockton-on-Tees for several years and has proved very successful. The 10-week spring course covers most aspects of growing and protecting crops and in the autumn the 5-week course covers autumn sowing and preparation for winter, including how to choose a spade and use it! Alongside this a Saturday Morning Club runs from March to November for people who cannot attend the course, and to allow would be allotment tenants a chance to grow and harvest their own crops whilst waiting for a plot of their own.

Where the initial condition of the plot is unsuitable for immediate cultivation, the local authority (or devolved management association) may wish to invest in initial clearance and preparation work, either as standard practice or as an option available to the new tenant, with or without a fee as appropriate. A rent-free period is another common inducement. It is particularly important, however, that an initial record (preferably a photographic image) is made of plots that are in sub-standard condition when let, so that the fairness of any subsequent actions in

respect of non-cultivation can be demonstrated.

The time-frame for cultivation is conventionally set at 25% of the plot to be cultivated within three months of the start of the tenancy, 75% by the end of the first year, and 100% thereafter. The last figure is unrealistic in practice, given the subjectivities within the definition of cultivation and the transient alternative claims on their time that even the most accomplished plotters experience, so authorities should be prepared to employ a lower figure (perhaps 75%) when taking decisions that will affect the future of a tenancy. The 25% at three months provides an early warning of likely failure and should be monitored carefully. When a plot has been taken on in a condition that is unsuitable for immediate cultivation, however, a realistic assessment should be made of the area that the new tenant might reasonably be expected to have reclaimed by each milestone, and that assessment should be communicated clearly to the tenant and incorporated into the tenancy agreement. Some councils and associations also favour probationary periods, during which prospective plotters are expected to demonstrate a sufficient level of commitment to justify the issuing of a tenancy agreement. The monitoring of commitment, however, through indices such as the frequency of visits to the site, raises new subjectivities, while denying the right of new tenants to demonstrate what they can achieve during the protected first three months of a tenancy. For this reason the 25% rule might be preferred, coupled with timely measures to deal with tenancies that fail this test.

## **Starter Plots**

A number of local authorities, including Sheffield and Brighton, have experimented with “starter”, “learner” or “taster” plots, usually of around 50 square meters, or a fifth of a full size “ten pole” plot. These plots allow people with little or no experience to start in a small way, to see if they enjoy allotment gardening in practice.

The idea in Sheffield is for people at the top of the waiting list to rent a taster plot maintained by the local allotments association, to find out whether they really have the time and commitment necessary for allotment gardening. Participants still remain on the waiting list, so that when they are ready to move onto a larger (or similar sized) plot elsewhere they can do so and the association can rent out the taster plot to the next novice on the waiting list.

In Brighton, the Roedale Allotments and Gardens Society has pioneered learner plots. People nearing the top of the waiting list are invited to visit the site and discuss their requirements and abilities with the site representative. If they do have experience, and the site representative is confident they can manage a full size plot, then they are offered the next one available. Novices, however, are given a learner plot for one year, and are given ongoing help, advice and support from an experienced plotholder acting as a “gardening mentor”. This arrangement may be extended if necessary, until the person is ready to move to either a full size or a half size plot, depending on what they can manage.

Early experience with these schemes demonstrates the importance of timing. To avoid frustration on the part of those starting out in allotment gardening, and a logjam in the supply of starter plots, it is important that a range of plots in different sizes are available for people to move on to when they are ready to do so. These might include very small plots, for those who have found that a starter plot actually meets their longer-term need to garden in a small way.

## **Monitoring cultivation**

The monitoring of cultivation standards can be undertaken either by allotment officers or devolved down to associations, with clear instructions being given in the latter case as to the criteria upon which the council insists. It should be recognised, however, that non-cultivation surveys can cause tensions to arise on site, particularly when tenants have grievances about the outcomes of previous surveys. Appropriate steps should be taken to

assure both the competence and the safety of those undertaking the survey: training should cover not only horticultural matters, but also effective customer relations, and confrontation should be avoided wherever possible. Steps should be taken to communicate to plotholders what is going on and the fairness of the process and criteria being used. Where the risk of frictions arising is low, simply requiring that surveys be undertaken by two suitably trained persons (if not undertaken in person by

the officer) may be an adequate safeguard. In more fractious cases, it may be appropriate for the local authority to assume full control of the monitoring process.

### **Enforcement**

Allotment law provides clear guidelines on procedures to be followed once a plot holder has been found to be in breach of the undertakings on cultivation included in the tenancy agreement – an overview of allotments law can be found in *The Law of Allotments* (see *Resources*). Like any other branch of the local authority, however, the administration of allotments should conform to common public service standards that ensure fairness in dealings with the public and compliance with superior legislation. Local authorities (along with devolved managers acting as the local authority's agents) are obliged to use their powers reasonably, and to reach their decisions and execute them in ways that pass the three tests of procedural propriety, namely procedural legality (acting within legal powers), natural justice (the key tests of which are absence of bias and the right to a fair hearing), and compliance with the Human Rights Act 1998.

Given that the objective is to remove those under-performing tenants who are unlikely to remedy their situation as quickly as possible, it may make sense to adopt approaches to non-cultivation that do not take advantage of the full powers conferred by allotment law from the outset, but are more effective in practice in freeing up land promptly for cultivation by others. Central to this approach is the presentation of reasonable choices. Tenants who fall

below the expected standard should initially be given the opportunity to remedy the situation, should they wish to do so, and be given a clear indication of what is expected of them (by a reasonable deadline) if the tenancy is to be allowed to continue. This can be coupled with an invitation to explain (formally in writing but with the option of an informal consultation first) any special circumstances of a temporary nature that may make it impossible to meet the standard required by the deadline specified.

Where the tenancy is of a full plot, another choice that can be offered is to reduce the holding to a half plot with immediate effect, thus freeing up half of the land quickly for a new tenant. Another choice would be to surrender the plot immediately and go back on the waiting list until such time as the tenant's personal circumstances improve, although where waiting lists are long, this would be an unattractive option unless the tenant were allowed to sit at the top of the waiting list and opt back in once they are ready to do so.

Where it is justified for social reasons (for example where a tenant otherwise in good standing is facing a temporary disability), a formal "buddy system" might be used to bring in support for cultivating the plot from a volunteer who is already on site or on the waiting list, or an offer might be made to cover the plot with a black membrane, or to reallocate it temporarily for use by another plot holder. And for long-term tenants whose health and strength are failing, but whose quality of life has been defined by the companionship of the allotment, the possibility should be

considered of offering a solution that allows continued access to part or all of the site without the obligation to hold a tenancy, through life membership of a communal hut, for example, or a scheme to landscape and maintain untenanted areas.

When tenants in difficulty refuse these reasonable alternatives, however, and yet fail to remedy the situation, then it is appropriate to use the full powers available under the Allotments Acts to terminate the tenancy, but with the provisos that clear evidence of non-cultivation is secured (eg through digital imagery), and that the tenant is informed of the appeal procedure should they choose to contest either the facts or the process through which their removal is being sought. Such an appeal might best be treated as a complaint against the allotment service, so that it is brought within the complaints procedures applicable to all council departments. It is essential to ensure that associations that have responsibility under devolved management schemes also have proper appeals procedures in place, that provide at least as much protection to the tenant as the council's own procedures do. The council should ensure that this is the case, by reserving the right to inspect the records of appeals, providing or signposting appropriate training where necessary and, in extreme cases, where communications between the tenant and the association have broken down completely, by acting as the final arbitrator of disputes.

### **Costs and deposits**

When an allotment tenancy has been terminated, a local authority has the

right to reclaim from the departing tenant the cost of restoring the plot to a tenantable condition. In practice this right is rarely exercised, on account of the costs involved and the absence of a strong incentive to act. Other forms of tenancy outside of allotments often require that the tenant back the commitment to return the property in good condition with a refundable deposit. While deposits are often used in respect of keys to allotment sites, it is not common practice to insist on a deposit for the allotment garden itself. The option is worth considering, however, because it does then create a financial incentive for a tenant who knows that meeting the cultivation standard is going to be impossible to surrender the tenancy while the deposit is still repayable. It is important, however, that any deposit system should not act to exclude from allotment gardening people with very limited ability to pay.

### **Resources**

Richard Wiltshire, *A Place to Grow*, London, Local Government Association, 2010

Richard Wiltshire and Deborah Burn, *Growing in the Community*, London, Local Government Association, 2009

Paul Clayden, *The Law of Allotments*, London, Shaw and Sons, 2008