



Legal Toolkit

Finding Land to Grow Food: Community Groups' Guide to Legal Issues

*Key issues to consider before you buy, lease,
or otherwise gain access to land*





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Disclaimer: This guide has been prepared by Michelmores LLP, Solicitors for Community Council of Devon (CCD). It is intended for general guidance only and does not include advice on any specific case. As such, no responsibility can be accepted by CCD or Michelmores LLP to any individual or organisation for actions taken or refrained from by reference to this guide. No guide can replace legal advice from suitable experienced specialist legal advisors.

The Community Council of Devon

The Community Council of Devon (CCD) is an independent charitable company, founded in 1961. With over 800 members, including local, voluntary and statutory bodies, CCD “helps communities help themselves”. This is done through direct work with communities on issues including parish plans, rural housing needs, support to playing fields and community building committees and developing social enterprises.

These toolkits provide practical advice, examples & signposting for community growing groups

About Home Grown - Community Owned

Home Grown - Community Owned (HogCO) is a Community Council of Devon programme, funded through the Big Lottery Fund’s Local Food scheme. It is a five year programme working with communities across rural Devon to support local food growing projects. We help groups develop skills and seek opportunities to grow their own food.

About these Toolkits

HogCO has developed three toolkits covering:

- Legal issues – highlighting key issues for community groups to consider when looking to buy, lease, or otherwise gain access to an area of land;
- Planning issues – outlining when a community group needs to consider planning consent, and how to go about it;
- Access issues – addressing how community groups ensure that their project benefits from a diverse range of community involvement.

Working with specialists in their fields, these toolkits provide practical advice, examples and signposting for community food growing groups, landowners, local councils and others in the community who want to help these projects thrive. However, these toolkits do not replace professional advice and we encourage groups to seek professional help before undertaking any major work on their project.

Finally

HogCO would like to thank Shivaji Shiva of Michelmores Solicitors for friendly, expert work writing the toolkit; legal documents kindly supplied by the National Society for Allotments and Leisure Gardeners, the Meanwhile Project, the Landshare Project and the National Trust; photographs from Growing our Future Okehampton, Joanna Brown, Joanna Winterburn and others; the Soil Association for sourcing the case studies, and the projects themselves.

This document is available in large print and alternative formats upon request. Please ring 01392 383443.



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This toolkit provides an introduction to the legal issues that arise when a community group seeks to secure land to grow food

1. Finding Land to Grow Food

Home Grown Community Owned (HogCO) is a five year Community Council of Devon programme working with communities across rural Devon to support local food projects. By working together groups can improve their well being, increase community involvement and help sustain the environment. Getting involved in a community garden can improve your health and happiness; give you new skills; and help you make new friends - and above all it is fun!

HogCO supports food growing groups to develop the resources they need to produce fresh local produce for their families, friends and communities.

About this toolkit

This toolkit provides an introduction to the legal issues which arise when a community group seeks to secure land to grow food. We hope that it will help you identify the key risks associated with acquiring land for use by your group. It is intended to help everyone, including new growers seeking a small plot of land, established community groups taking responsibility for a larger area and landowners seeking to offer an area of land for community growing. Both landowner and tenant will benefit from reaching a clear agreement.

Fair and secure leasing arrangements that balance the interests of the tenant and the land owner can lead to better access to land for food growing. A proper agreement can build in flexibility for the land owner and security for the tenant. Starting from the right foundation can avoid many potential problems that could arise. This toolkit aims to support the preparation of mutually beneficial tenancy agreements by identifying the main features that make such contracts effective for both the owner and the tenant.

This toolkit cannot provide answers to all the complex legal questions that might arise. It can, however, give groups a basic understanding of the main legal issues associated with acquiring land, describes some real life case studies and provides signposts to further advice.

We have aimed to use plain English where possible, but it is impossible to entirely avoid using technical terms. A glossary at the back of this toolkit sets out some of the more important terms and their definitions.



2. Owning Land - The Legal Options

Acquiring the right to use land

Land can be held in a number of different ways. The law governing the way land is held is complex and often ancient. You are likely to need professional advice to finalise all but the simplest of transactions but we hope that this guidance will enable you to understand the process, ask the right questions and make the best use of any land you do obtain.

What are the different options?

Land can be held in a number of different ways. The most relevant ways for a group to hold land are likely to be:

Freehold ownership: this gives the right to use land forever. It may be subject to a wide range of restrictions on the way you use the land and other obligations affecting the way that you may use it;

Lease: a lease (sometimes called a tenancy) is the right to exclusive possession of land belonging to someone else for a defined period. It is essentially a right of temporary ownership subject to obligations and conditions of a contractual nature. The relationship between landlord and tenant is governed by both the agreement made by the parties and a range of rules applied by statute and other law. If land that is farmed for the purposes of a trade or business is leased for agricultural purposes, a Farm Business Tenancy may be created;

Tenancy at Will: this is a right of exclusive possession that can be ended immediately by either side without having to give a period of notice. It may arise by implication where, for example, you start using a piece of land before you finish negotiating a formal lease; or

Licence: this is a contractual right to use the land which falls short of a lease.

More about freehold purchase, lease and licence options

Freehold ownership

Owning land outright can provide your group with a valuable asset, and help to keep it going in difficult times. The main barrier, particularly for new or small groups will be the price of land. Even where it is possible to buy land outright it will not always be appropriate to do so. You should ensure that you have considered the costs associated with buying and maintaining the land and ensure that your group is able to meet those costs.



This section of the toolkit will cover

- *Acquiring the right to use land*
- *What are the different options?*
- *Where do you start?*
- *What should go in the agreement?*

It can be difficult to distinguish between a lease and a licence. When in doubt, it is safest to seek advice from a specialist lawyer

Lease & Licences

It can be difficult to distinguish between a lease and a licence. They may look very similar in practice and the label you attach to the arrangement is not enough to decide the issue. A document boldly labelled 'licence' may in fact grant a lease. When in doubt, it is safest to seek advice from a specialist lawyer or other expert. The issue is important because the legal protection enjoyed by each type of agreement is very different.

Among other things:

- A licence does not enjoy the right to renew which a lease may have under the security of tenure provisions of the Landlord and Tenant Act 1954 or the related right to compensation where the landlord successfully opposes the tenant's attempt to renew a lease;
- The person granting a licence does not have all of the options open to a landlord under a tenancy if a dispute arises;
- It may be possible to sell a lease or sub-let part of the land. A licence can not be transferred in the same way.

Some types of lease attract additional protection under the law, including the right to renew. This would apply to non-residential tenancies particularly certain types of business leases and agricultural tenancies. The relationship between different types of tenancy can be complex and will depend on the manner in which the land concerned is used.

You should therefore ensure that you take advice as to the nature of the tenancy that you will acquire, particularly if you are likely to invest considerably in the property. It is important to agree in clear terms the respective rights and obligations of the owner of the land and the leaseholder, particularly where these have financial implications. If you plan to add buildings for storage or you expect to spend a long time clearing a site and improving the condition of the land, you will want to know that you have the right to use the land for long enough to reap the reward for your efforts. Examples of key issues to consider and clauses you may wish to include in your agreement are discussed later.

Lease

A lease (otherwise known as a tenancy) is likely to be the most appropriate way for community groups to acquire land to grow food in most cases. This is because a lease is a widely used legal document which is capable of being adapted to a range of circumstances, and it enables the parties very clearly to define their respective rights and obligations.

In particular a lease is likely to be appropriate where:

- The parties have agreed that the community group's use of the land will be for a certain period, e.g. 2, 5, 10 years;
- The community group is to pay either a one-off sum for the grant of the lease, or an annual rent; and
- The landowner expects to retain significant control over how the land is used.

It is important to appreciate the following particular points in relation to leases:

- A lease creates legally binding obligations and risks, particularly on the part of the tenant. The written terms of any lease should be considered carefully before signing up;
- As explained above, the relationship between the landlord and tenant under a lease is governed not only by the written lease agreement, but also by a range of rules which may be applied by statute and other law. To understand the terms of the lease fully, you will need to understand the underlying law relating to it, and legal advice may be needed;
- There are formal procedures which need to be followed in order to extend the term of a lease, or to bring it to an end early. These may be set out in the lease itself, or may be implied by the law.

Licence

A licence is a less formal document than a lease. It is simply a contract between the landowner and the community group which permits the use of an area of land.

A licence may be appropriate if:

- The arrangement is of a very short term or temporary nature, e.g. up to 6 months;
- The land is to be shared between the landowner and the community group, so that neither of those parties occupies it exclusively.

It is important to appreciate that a document which calls itself a "licence" may in fact create a lease if certain conditions are met.



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This section covers the things to think about before a lease, licence or contract is prepared

3. Before You Start - Key Issues to Consider

Power to acquire property

Does your organisation have the necessary power to buy or lease property? If your group is not formally constituted, or you are unsure about its legal status, you should take this opportunity to adopt a suitable constitution. There are many templates your group could use for this. You could also consider registering as a charity or incorporate as a legal body (discussed below).

How land is held

Is your organisation able to hold land in its own right? You will have to consider the way in which the land will be held by your organisation. If your organisation is established as a company limited by guarantee or is otherwise incorporated, the organisation will be treated for legal purposes as though it was a person in its own right and will be able to own freehold land or a lease in its own name.

The following are commonly used legal forms which are generally able to hold property in their own right:

- Company Limited by Guarantee;
- Industrial and Provident Society;
- Community Interest Company;
- Charitable Incorporated Organisation.

You should check the constitution of your organisation to ensure that it does not include restrictions on the way in which land may be held.

If the organisation is established as an unincorporated association or a trust, the organisation does not exist as a legal person separate from the people who run it and is unable to hold or rent property in its own name. Any title to a freehold property or lease will usually be held by named individuals on behalf of the organisation. They may be members of the management committee, or 'holding trustees' who are identified to hold the property on behalf of the group. This may place those individuals at risk of personal liability. See below for more on this.

Unincorporated charities may apply to the Charity Commission to incorporate the charity trustees under the Charities Act so that the charity can hold land in the name of the incorporated trustee body (i.e. 'The Incorporated Trustees of [Charity]'). This type of incorporation does not give the charity trustees the protection of limited liability but will avoid the need to transfer legal ownership of the property when trustees join or leave the organisation.

Public liability

Organisations established as trusts or unincorporated associations do not have a separate legal existence in their own right. When such organisations take a lease, the lease is often in the name of one or two members of the organisation. The signatories, and in some cases other members of the organisation, will be personally liable for ensuring that the terms of the lease are fulfilled. If there is any breach of the lease terms, they may be personally responsible for the repair of the premises, removing additions to the land, or other obligations such as avoiding nuisance to neighbours.

In this situation, it is worth considering:

- Whether the organisation can be incorporated;
- Whether the landlord will agree that the liability of the signatories should be limited to the assets of the organisation which are under their control; and
- Taking legal advice before completing the lease.

There are many organisations which can provide free or subsidised help with questions such as these, and legal structures generally (see Section 9).

Multiple owners

Either a freehold or lease may be owned jointly by two or more people. Multiple ownership can be complicated if those involved have different interests in using the property. Joint owners or tenants should seek legal advice and draw up an agreement to record the way ownership is shared, their respective obligations and the way in which the costs of the arrangements and any produce or income will be allocated.



A jointly held lease will generally provide that the parties are jointly and severally liable, which means that you may be responsible for failures on the part of another joint owner. You will have the right to recover from the others a proportionate share of any claim made but that right will not be of much help if they do not have the resources to pay.

Do not be afraid to seek advice at the outset. There is a common temptation to avoid seeking professional advice until you are sure that you are going to proceed, in case the expense involved proves unnecessary. However, early professional advice can pay dividends in avoiding complications. It may be possible to get free or subsidised advice through the organisations listed on page 33. Any payment you do make is likely to help you ensure the agreement is robust and avoid costly disputes or uncertainty at a later stage.

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Grant funding

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If your organisation is seeking grant funding to acquire the land, to improve it or build on it, then the terms of that grant funding need to be looked at very carefully.

The terms of the grant are likely to impact on the way in which the land is acquired. For instance, some grant making bodies insist upon a formal lease for a minimum period, such as 10 years. Funders may insist upon certain terms being incorporated into the lease, such as the land being used for specified purposes.

Even if you have not finalised the terms of any grant funding with a particular funding body, the funding body can often provide you with a set of standard conditions that will give you an indication of the way in which they would expect you to acquire the land.



4. Acquiring the Property

What should go in a lease, licence or contract?

The stages involved in securing the rights to property vary enormously and will depend on whether you are acquiring a freehold, lease, tenancy at will or licence.

You may want to begin by thinking about:

- The length of the agreement and the overall level of security given by the agreement. This will involve understanding the type of agreement being offered and the specific terms proposed;
- The degree of freedom and control given to both your group and the landowner;
- The flexibility and financial implications of this combination of lease length, security, freedom and control.

Agreements that are very informal may have unexpected consequences for both the group and the landowner. They are also likely to lack security so your group may find that it has to abandon land it has worked hard to improve. Agreements which are strongly regulated and protective of the community group may feel unreasonable to the landowner who may feel obliged to charge more as a result. Balancing the interests of the landowner and the tenant can be challenging.

There is more information below on the issues you need to consider. You should also give some thought to the stages involved in acquiring land – it may take longer than you anticipate.

As an example, if your group decides to buy or lease a piece of land, you are likely to need:

- Some form of survey to establish the condition of the property and ensure that it is suitable for your use. This may involve advice from a professional surveyor;
- Confirmation that the land owner has the legal right to sell or lease the land. This will involve instructing a lawyer to:
 - Review the legal title to the property;
 - Perform various legal searches in relation to the property;
 - Make enquiries of the owner's solicitors.

This section covers the key issues to consider before acquiring a property such as the type of agreement to make to balance the interests of the landowner and tenant

Your lawyer will also need to:

- Review the title documents and any draft lease;
- Advise you on the results of the searches, enquiries and any lease review;
- Obtain any necessary consent from third parties such as a bank if there is a mortgage over the land or from other landowners if the person letting to you holds the land under a lease;
- Negotiate with the landlord any necessary changes to the terms of the lease and agree a final form;
- Formally complete the lease;
- Prepare a Stamp Duty Land Tax return, if applicable;
- Register the transaction with the Land Registry, if it involves the transfer of freehold land or a lease for more than seven years.

You may also need advice on the ability of your organisation to hold the property.

This process involves seeking advice from a number of professionals. You may be lucky enough to have appropriately qualified people in your group. Otherwise, you will need to seek support from development organisations such as the Ethical Property Foundation (see Section 9).

At some stage you will reach broad agreement with the owner of the land. This is often a good stage to get professional advice because it can be difficult to vary the terms agreed once professionals get involved and a formal lease or agreement for sale has been produced.

When you are negotiating to buy or lease the property you have identified, you will need to consider a range of issues, including those below. If you are not sure how these issues are addressed in the agreement you are offered (or no mention is made of them) it is important that you seek clarification.

The price/rent

You will, of course, need to consider how much your group can afford to pay for the land. You should generally seek advice from an appropriately qualified property professional. The landowner may wish to charge a commercial rate, charge per 'site' (as for allotments), for 'grass-keep' (the equivalent rate for having livestock on site), or a peppercorn rent. You may have more bargaining power than you realise. If your group has 30 members, and all are willing to pay an annual fee of, for example, £30, you can offer £900. This may be considerably more than the landowner currently receives.

At some stage you will reach broad agreement with the owner of the land. This is a good stage to get professional advice



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If you are renting land it will also be necessary to consider the way in which the rent may change over time. If the lease includes a mechanism for the rent to be reviewed from time to time, it is important to look carefully at the manner in which the new rent will be calculated. The calculation may rely on a complex formula and a series of detailed assumptions about the way in which the land is used. These assumptions can have a dramatic effect on the amount you are required to pay.

Repair/condition

The repair clause of any lease needs to be read carefully. The obligation to keep premises in good repair is often the costliest obligation under the lease and may end up costing you more than any rent payments required. It is important that you understand exactly what you are required to maintain, particularly if the property you are leasing will include buildings or walls or other boundary structures.

Clarify whether you are required to keep the property in the same condition it was in when you took possession of it or in good repair, even if that means improving the condition of the property. The phrase "to keep in good repair" creates an obligation to put the premises into good repair even if they were in poor repair when they were taken over. It may be appropriate to moderate your obligation to repair by excluding liability for fair wear and tear or inherent defects.

Alternatively, you may agree that you will only keep the premises in the condition it was in at the time you took possession. This would involve obtaining a suitable Schedule of Condition, recording the condition it was in, so that you can provide evidence that you have fulfilled this obligation.

The legal ownership and position of boundaries are often hard to determine

Easements

Easements are legal rights which a third party (often a neighbouring land owner) can exercise over land that you acquire. This might, for example, be a right of way, the right to cross the land in question, or a right to take water, gas etc through pipes or cables crossing your land.

Rights of Way

You may need to have the right of way over someone else's land in order to access the area that you will be using. You will need to ensure that an appropriate right is included in any transfer agreement or lease and that the right is enforceable.

Public Rights of Way and Common Rights

You will also have to ensure that you are aware of any public rights of way or rights of common land which may affect your use of the property.

Restrictive covenants

Land is frequently the subject of restrictive covenants which are restrictions that benefit neighbouring land. They may for example, prevent the site being used for non-residential purposes. Restrictive covenants can continue indefinitely but confirming their effect can be complex, particularly when land is sub-divided. You will clearly want to be aware of any restriction which may prevent you from using the land for the purposes of growing food and any associated purpose you have in mind. For example, there may be a restriction on building on the land which would prevent you from erecting a shed to store tools and other equipment.

Ownership of boundaries

The legal ownership and the position of boundaries are often hard to determine. In normal circumstances there is no obligation on anyone to mark the boundary, put up any fence or maintain it. Even where land is registered the position may not be clear.



If the position of a boundary is likely to cause you difficulty you will want to ensure the position is clarified before you take control of the land. The cost of resolving boundary disputes often outweighs the benefits to be secured. You will therefore not wish to be in a position where you are obliged to pursue such a dispute in order to satisfy your landlord.

Sharing and sub-letting

Sometimes an established organisation will informally offer the use of its premises to a new group. For example, an allotment association may offer a community orchard group part of their site without a written agreement. Even arrangements such as these should be put into writing and legal advice taken to ensure that security of tenure is not unintentionally created and to ensure that both parties understand their respective obligations.

Inspection and survey

You should undertake a careful and methodical inspection of the property noting any matters which may need further investigation. These might include for example, evidence of recent building work, which might need planning regulations and approval, paths (over which there may be a right of way), evidence that anyone other than the seller is occupying or using the premises and might have rights to it, the rights over the land, or evidence of previous use of the land which may have left behind contaminants in the ground or other environmentally sensitive uses. Where a property includes a building it will often be appropriate to have a structural survey and potentially an environmental survey.

Charities

As well as general duties to be prudent, to act in the best interests of the charity and (when appropriate) to comply with the duty of care relevant to investments, charities are subject to statutory rules on the steps that must be taken when they:

- take out a mortgage;
- sell or dispose of land including the surrender of a lease;
- sell or dispose of permanent endowment property.

Lawful Use

You will need to ensure both that the lease or any other documentation does not restrict the manner in which you can use the land and that the way in which you can use the land is not restricted by planning rules.

Planning

It is important to consider the impact of planning rules on your use of the land. For more information, refer to the HogCO Planning Matters Toolkit and consult your local planning authority. You will need to ensure that:

For more information on these issues, refer to the HogCO Planning Matters Toolkit and consult your local planning authority

These are just some of the issues to consider. You will need to seek advice on your own particular circumstances

- planning law will not prevent you from using the land for the activities you have in mind;
- any changes you are likely to make to the land, such as building a shed to store tools or using part of a field as a small park for the children of those working on the land, are allowed.

You may also wish to understand the restrictions which apply to neighbouring land. In particular, you may want to know if the land you are using is likely to be surrounded by building work as neighbouring land is developed for housing.

Tax

The tax implications of the acquisition of land are beyond the scope of this toolkit and your group should seek appropriate professional advice. Ensure that you understand the impact of VAT, stamp duty and other taxes on your plans.

Your local Community Accountancy Service may be able to help (see Section 9).

Insurance

It is important to agree who is responsible for insuring the land and any buildings on it and how to cover liability to the public in respect of activities carried on there.

These are just some of the issues to consider when buying or leasing land. You will need to seek advice on your own particular circumstances.



5. Quick Checklist

Type of legal tenure - different options

Freehold ownership: this gives the right to use land forever. The main barrier, particularly for new or small groups will be the price of land.

Lease: a lease (sometimes called a tenancy) is the right to exclusive possession of land belonging to someone else for a defined period. A lease creates legally binding obligations and risks, particularly on the part of the tenant.

Tenancy at Will: this is a right of exclusive possession that can be ended immediately by either side without having to give a period of notice.

Licence: this is a contractual right to use the land, which falls short of a lease. It is simply a contract between the landowner and the community group which permits the use of an area of land.

Points to consider before acquiring land

Power to acquire property: does your organisation have the necessary power to buy or lease property?

How land is held: is your organisation able to hold land in its own right?

Personal liability: organisations established as trusts or unincorporated associations do not have a separate legal existence in their own right.

Multiple owners: either a freehold or lease may be owned jointly by two or more people.

Grant funding: if your organisation is seeking grant funding to acquire the land or to improve it or build something on it, then the terms of that grant funding need to be looked at very carefully.

Points to consider when acquiring property: what should go in a lease, licence or contract?

Confirmation that the land owner has the legal right to sell or lease the land.

The **length of the agreement** and the overall level of security given by the agreement.

The **degree of freedom and control** given to both your group and the landowner.

The **flexibility and financial implications** of this combination of lease length, security, freedom and control.

Some form of **survey** to establish the condition of the property and ensure that it is suitable for your use. This may involve advice from a professional surveyor.

You may also need **advice** on the ability of your organisation to hold the property.

Repair/condition: the repair clause of any lease needs to be read carefully.

Easements: legal rights which a third party (often a neighbouring land owner) can exercise over land that you acquire.

Any **public rights of way or rights of common land** which may affect your use of the property?

Restrictive covenants: land is frequently the subject of restrictive covenants which are restrictions that benefit neighbouring land. They may, for example, prevent the site being used for non-residential purposes.

Ownership of boundaries: the legal ownership and the position of boundaries is often hard to determine.

Sharing and sub-letting: sometimes an established organisation will informally offer the use of its premises to a new group. For example, an allotment association may offer a community orchard group part of their site without a written agreement.

Inspection and survey: undertake a careful inspection of the property noting any matters which may need further investigation.

Planning: it is important to consider the impact of planning rules on your use of the land.

Tax: you should ensure that you understand the impact of VAT, stamp duty and other taxes on your plans.

Insurance: it is important to agree who is responsible for insuring the land and any buildings on it and how to cover liability to the public in respect of activities carried on there.

6. Case Studies

Farnham Local Food

Farnham Local Food aims to provide local food for local people grown by local people. Started in February 2008, it covers 2 acres. It took one month to make the project happen, but a grower on site was already running a 20-box scheme when the project started.

We have one paid worker, 20 volunteers and around 100 members (though not all take a box, some just want to support the scheme). The land is in two parcels owned by 2 private landlords. Both landlords were very keen to support the project from the outset. The credentials of the grower and a proven track record helped give them confidence that the project would succeed.

One landlord was a local landowner who was involved in the founding group while the other was approached after posting on the Landshare website (see Section 9). One of the landlords had initial concerns about lots of people on his land - parking, the impact on his neighbours, planning concerns, potential rubbish disposal and so on, but was very keen to overcome these concerns and make the project work.

The Community Supported Agriculture (CSA) project was initially started on land owned by the grower, so the group only became aware of the issues of land tenure once the 2 sites were identified. The grower took informal advice from a lawyer friend who helped draw up one of the agreements; otherwise the group did not receive expert advice.

We have rolling five year agreements with the landlords and pay a peppercorn rent. They asked for 5 years as this was the minimum required for certain funding applications. One agreement is a "garden licence". This was adapted from a generic licence. The other agreement is combination of this garden licence and agreements that the landlords have with other tenants.

One thing that was not predicted was how long the process of coming to an agreement with the landowner can take. There can be many other factors involved (for instance fitting the small parcel needed for growing into the larger farm, or providing water and access) and landowners do not always understand the impact that delay has on horticultural planning or soil preparation. However in this instance, the discussions and negotiations that occurred at the start of the process have led to a greater mutual understanding from both sides that will hopefully ensure that the long term relationship is successful.

Advice to new projects

Start early. It will all take longer than you think. Ideally give yourself a year to sort out issues on the land before you need to start growing. Communication with the landowner at this stage in the proceedings will help it all to run more smoothly in the long run. There is often so much enthusiasm at the start of the project that the group can get carried away and rush into an agreement without having thought through all the implications – taking time at the start is crucial"

"Start early. It will all take longer than you think. Taking time at the start is crucial"



“Go for it. Take it step by step. Work with the farmer and also with the wider community”

Exeter Community Agriculture Project

Exeter Community Supported Agriculture was set up as an Industrial and Provident Society (IPS) bona fide co-op. It was started in September 2008 and is based on an organic farm in Shillingford, near Exeter. It took nine months from concept to reality.

Our aims for the project include:

- Growing food for members
- Offering learning opportunities
- Reconnecting people with the land

We currently have 42 members and 10 on the management committee.

The planned tenancy agreement is for a farm business tenancy with a 10 year lease which was essential in order to get funding from the Local Food Fund. We've agreed on a built in break clause on either side, and a clause ensuring the group retains the last crops. We used an agreement from the NFU website which we've adapted for our situation. There is great willingness on both sides to find solutions to the problems and create an agreement to suit both parties, but many of the practicalities have been a problem.

The Community Supported Agriculture Scheme is on 4 acres of land owned by a local organic farmer. He's very keen to establish a community project on his land and so made the offer of land to the CSA at the pre-launch working group. Up until now we've had an informal arrangement and so were able to plant our first crop of potatoes in 2009.

The 4 acres chosen for the group is part of a larger 24 acre field, and has better drainage, is less overlooked by neighbouring houses and with more of a wind break. In order to develop the tenancy agreement, we asked for some advice from a friend who is a retired solicitor, but we would have found it useful to have guidance from someone with current expertise in this specific field.

Issues that still need to be resolved before the lease can be signed include the transport of harvested produce off the land – this is likely to be a key problem that we want to address in the final agreement. The lease has not yet been finalized but it is nearing completion. Finding time to meet with the farmer during the whole process has not been easy.

Permission is being given to park 2 cars at the start of the track, not on CSA land. This was originally part of the tenancy agreement and is now a just an informal arrangement. The farmer has agreed that he will maintain the organic certification on the land.

*“Make sure you
take time to go
through the legalese
in detail”*

Once the lease is signed, we'll be seeking planning permission for a storage shed/pack house and loo but in the meantime we're using a small impermanent polytunnel donated to the CSA for food storage and distribution as an interim measure.

To avoid upsetting the neighbours by creating excessive traffic in the village, we're looking into using drop off points for the produce rather than asking everyone to come to the farm.

Advice for other groups starting a similar project?

Go for it. Take it step by step. Work with the farmer and also with the wider community. Wherever you're setting up, engage with the local community and keep them informed right from the beginning. Make sure you take time to go through the legalese in detail.

Contact:

www.exetercommunityagriculture.co.uk
info@exetercommunityagriculture.co.uk



“Don’t go for the first land you are offered look at several different sites – assess the relationship with the landowner and the land itself”

Chagford Community Agriculture Project

Chagford Community Agriculture was established in June 2009 with the aim of:

- 1. Supplying 50 local households with ecologically grown and affordable vegetables and fruit within 3 years**
- 2. Providing 2 part time growers with a liveable wage of £9 per hour**
- 3. Farming ecologically in a way that improves the fertility of the soil**

The project is located near Chagford in Devon on 2.5 acres of grade 2 agricultural land within Dartmoor National Park. It took 18 months from the original concept to making it a reality. We have 2 part time growers but host a work day every month which always attracts lots of volunteers. Now that we have received planning permission for our polytunnels and sheds, we can start growing and already have 25 members signed up.

It took about six months to find the land that we now use for the community agriculture project. In order to find suitable sites we checked maps of the local area and identified land with southerly aspect, good drainage, within walking distance of the village etc.

The first land we were offered fell through as the farmer had an ESA agreement (environmentally sensitive area) on the land for 5 years which means that it is managed for biodiversity. We found this to be a common problem for us as many landowners within the National Park have an ESA agreement. Three further sites we were offered also fell through. By March 2009 we were still landless and so wrote letters to 20 local landowners giving them a background to the project and outlining our plans. We received 2 responses, one of which was ideal and which we now have a tenancy agreement. It is lower lying at 600 ft, sheltered, south facing and not far from the village. As there is no water source on the site, the National Park has invited us to apply for funding to build an artesian well which should be ready by June 2010. In the meantime we have access to 5000 gallons of rainwater runoff from the barn located on the site which is stored in vast containers.

We now have a farm business tenancy agreement for 5 years (or less if we choose), renewable every 5 years. In order to write the tenancy we looked at templates from the National Farmers Union (NFU) and got some different examples from solicitors but the farmer felt none of them were specific enough and so he drew up his own agreement which covers 60 points including the need to have public liability insurance, maintaining the boundaries etc.

We have an excellent relationship with the farmer and he wants to ensure there is real flexibility so that he can support what we are trying to achieve and so is open to discuss anything in the tenancy which may become a problem in the future.

The annual rental for the 3 acre site is £500 but for our first year, we are laying the boundary hedge in lieu of rent.

“Make sure you have a flexible working relationship with your landlord”

Advice to other food projects

Make sure you have a flexible working relationship with your landlord.

Don't go for the first land you are offered - look at several different sites – assess the relationship with the landowner and the land (is it what you're looking for, is the aspect right, is it accessible, are we likely to get planning permission, will the landowner be flexible and supportive). If any of these are too problematic then keep looking.

Also think about planning permission when looking for land.



“Have a very clearly defined idea of your project. Make friends with the council from the beginning”

Horton Community Farm

Horton Community Farm is based on 2 acres of land in the City of Bradford and aims to provide local food for local people, a resource to help people grow their own food and create a resilient food supply.

We are planning to have 3 part time paid workers and lots of volunteers working on the project. The CSA has received £3,000 from UnLtd which we'll be using to get the land cleared once the lease has been agreed. In addition, we are through to the second round of the Local Food Fund and hope to get a £70,000 grant to pay for infrastructure, getting the CSA established and also paying for staff wages in the first two years.

The project

The land we're hoping to lease is in the City Ward of Bradford and is part of a five acre site of allotments. It is owned by Bradford Metropolitan District Council. The tenancy agreement is for 39 plots of land which are currently overgrown and have been in a derelict condition for over ten years. It is situated in an area of huge deprivation where the majority of the population is multicultural and live in terraced houses, few of which have gardens. It is also situated near the university so there is a high student population too.

We've created a design for the land based on permaculture principles but until the lease is signed and the clearance complete, we won't be able to plant anything. We'll be getting a shipping container for secure tool storage, and erecting a straw bale building for storage of produce and packing, and will also be able to use it for teaching and renting out to community groups. We'll be creating a nature area and an agroforestry garden on the section already planted with trees. The remaining land, consisting of about 20 allotment sites will be set up as permanent beds for vegetables.

Applying for tenancy

In October 2008 we approached the council allotments officer who was very supportive of our idea to create a community farm. But because we asked for a 15 year lease rather than the year usually allocated to allotments, it has led to a huge delay.



The council decided in Autumn 2009 to offer a farm tenancy but there is still a question of whether they have to apply to the Secretary of State for change of use, as they are statutory allotments.

The factors we've asked to be included in the tenancy:

- Permission to sublet micro plots for growers who are not part of the CSA;
- Permission to put up structures like polytunnels, strawbale building, compost toilets, and shipping container – these will also be subject to planning permission which we'll apply for once the tenancy agreement is sorted;
- Permission to farm the land and grow produce crops for sale.

*“Get involved in
the local community
so that you're not
an outsider coming in
to change things”*

The lease will be for 15 years with break clauses every 5 years.

The lease stipulates that the CSA will be responsible for everything except the water pipes which the council will continue to maintain. We're currently negotiating to have a water meter put in as the council want to charge us for water on a per plot basis which will cost £1,000 each year. We want to show how little water we'll use due to using permaculture principles such as rain water capture. In addition the council want to charge us water for 39 allotments when we'll only be growing on 20 so in spite of giving us a Farm Tenancy they're not thinking of it in terms of a farm, but still as individual plots. In order to set up the tenancy, the Allotment Department will pass the tenancy agreement to their legal department who charge £1,000 (which we're currently negotiating).

Most of the communication has been with the allotment officer, her manager and the estate management team through email with the occasional meeting and a site visit at the start. They welcomed our application as the land was derelict, as are 3 other inner city allotments. We would like to work with them in partnership to create a showcase site that could be rolled out across the city.

As a result of this project, group members are involved in the Council's allotment working committee and so are in a position to spread the word about CSA and engage with the wider allotment work they are doing.

Advice to new projects

Firstly have a very clearly defined idea of your project. Make friends with the council from the beginning and be sympathetic to their workload, but be persistent and push to get things done. Make your application in terms that the council can understand – look at the council's district plans, their local agenda and tell them how your project will help them reach their targets. Get involved in the local community so that you're not an outsider coming in to change things. Engage your local councillors so that they can support your application and help to push it through.

Contact:

Rory Argyle - rory@hcf.org.uk

7. Glossary

Break Clause

Built into a lease agreement, this gives the tenant or landlord the right to terminate the agreement, under specific circumstances, before the date it is officially due to end.

Exclusive Possession

Being entitled to use the land or property with the ability to exclude everyone else from it.

Freehold

The most complete form of ownership of land and all buildings that stand on the land.

Guarantee

A promise by which one person agrees to assume responsibility for paying another's debts or fulfilling another's responsibilities.

Lease

An arrangement under which land or property is rented by the owner to a tenant for a stated time, usually for a stated rent.

Leasehold

Land or property held on a lease.

Meanwhile Agreement

An agreement that is specifically designed to allow short term or temporary access to land while it is not being used for any other purpose.

Security of Tenure

The right for a tenant to continue to occupy land under a lease after the end of the contractual term of the lease.



Title documents

The documents which evidence a person's ownership of land.

8. Template Agreements and Commentary

The next section of this toolkit highlights some of the common tenancy agreements which community food growing projects have used. There is no single 'best' agreement and each group will need to find its own solution. These are draft legal agreements and parties using them must satisfy for themselves that they fit their needs, amending them as necessary to meet their individual requirements. Neither the organisations providing these documents nor HogCO can accept any liability or claims that may arise from the use of this form of agreement or individual clauses contained in them.

Two example documents are annexed to this Toolkit.

This section of the toolkit highlights some of the common tenancy agreements. Two example documents are also included for reference

Allotment agreement

This is a form of lease provided by the National Society for Allotments and Leisure Gardeners. It is a short document which is unlikely to be appropriate other than for allotment purposes. It does however have a number of relevant clauses relating to land use that other groups can include in their agreements.

Meanwhile lease for growing projects

This is lease prepared by the 'Meanwhile Project' in partnership with the Development Trust Association. It is based on the belief that under-used land can be used to build economic and social value. Interim uses led by local communities can bring benefit to the landowner, as well as the wider community. Before entering into a document of this nature it is important that, as the tenant, you appreciate the obligations imposed, and the means by which the agreement may be brought to an end by either party.

Landsharing Agreement

This is a form of licence rather than a lease, developed by the Channel 4 Team behind the Landshare Project. This is available on the Landshare website: www.landshare.net/about

Farm Business Tenancy

This Agreement is based on The Agricultural Tenancies Act 1995 and is commonly used in the farming sector. At least part of the tenanted land must be "farmed for the purposes of a trade or business" throughout the life of the tenancy. The National Trust has used versions of this tenancy with community food growing projects (such as the Broadclyst Community Farm in Devon). This is available as a link on HogCO's website, or on request to HogCO.

Sample Allotment Agreement

This is a form of lease provided by the National Society for Allotments and Leisure Gardeners (NSALG). It is a short document which is unlikely to be appropriate other than for allotment purposes. It does however have a number of relevant clauses relating to land use that you may wish to include in your agreement. Some provisions, such as those requiring that there should be no glass or barbed wire on site, may help give landowners confidence that the land will be used responsibly.

Tenancy Agreement (b)

An agreement made this 1st day of May in the year 2010

Between: (1) [] (hereinafter, "the Landlords") of the one part ; and

(2) Ms Brill Grower of Dig-a-lot Allotments (hereinafter, "The Society") of the other part

WHEREAS the Landlords (Town Council) agrees to lease, and the Society agrees to take on a Seven year tenancy from the 1st day of May in the year 2010 that land known as Field Number Part of 36/253/0030 hatched in [specify colour] Red on the map */diagram* annexed to this Agreement provided by the Landowner and comprised of 2.25 Acres or thereabouts (and subject to any exceptions and reservations contained in any Lease under which the Landowner might hold said land *) at the yearly rental of five hundred pound payable year and at a proportionate rent for any part of a year over which the Tenancy may extend.

This Agreement is subject to the Allotments Acts 1908 -1950 ; to any Regulations indorsed to or on this Agreement ; and to the following Conditions :

The Society shall be run in accordance with NSALG Constitution & Rules (as part of and attached to this agreement).

1. The Rent shall be paid on the 1st day of May in any year.
2. The Society shall cause the land to be used for "Temporary" Allotment Gardens that is to say wholly or mainly (no less than 75%) for the production of vegetable or fruit crops for consumption by the (Tenants of the Allotment Society and their family) and for no other purpose; any and all Tenants to keep plots clean and free from weeds and in a good state of cultivation and fertility.

The Society will ensure that all tenants understand and abide by the terms and conditions as set out in their annual tenancy agreement. (Copy as attached to this agreement). The Society will carry out regular inspections during the growing season.

3. The Allotments Society shall ensure that Tenants shall not cause any nuisance or annoyance to the occupier of any other Allotment Garden, or obstruct any path set out by the Landowner for the use of occupiers of the Allotment Gardens.
4. It shall be a condition of an Allotment letting agreement that Tenants shall not underlet, assign, or part with possession of the Allotment Society or of any part thereof without express written consent of the Landowner who, for the purpose of this Agreement is, and shall remain, the Landlord Paramount.
5. The Allotment Society shall see to it that Tenants shall not, without express written consent of the Landlord Paramount, cut or prune any timber or other trees or take, sell or carry away any mineral, sand, clay or earth.
6. The Allotment Society shall see to it that Tenants shall not keep any livestock on the allotment except that permitted under Statute without the prior express written consent of the Landlord Paramount.

7. The Allotment Society shall see to it that every hedge which forms part of the boundary of Allotment Gardens is properly cut and trimmed, shall keep all ditches properly cleansed and maintained, and shall keep in repair any other fences and any other gates and sheds and will arrange for payment of any mains water used on the Allotment Gardens, the Society will also agree to reinstate any water supplies to their original state and to cover any cost involved on or before expiry of the Tenancy.
8. The Allotment Society shall see to it that Tenants shall not use any barbed wire for a fence adjoining any path set out by the Landowner for the use of the occupiers of the Allotment Gardens, will also ensure that no glass, galvanised iron sheeting or carpet is used on the Allotment Gardens.
9. The Allotment Society will carry out all necessary Health & Safety risk assessments and will advise all tenants as part of their introduction to the Allotment Garden, and will also arrange Public Liability Insurance for the Society and its members.
10. The Allotment Society shall see to it that Tenants shall not, without express written consent of the Society, erect any building on the Allotment Garden, except buildings erected pursuant to section 12 Allotments Act 1950; all sheds shall be of the landowners approved specification only and the Society shall be responsible for removal of any building on or before expiry of the Tenancy.
11. As regards the Allotment Society : the Society shall see to it that Tenants shall observe and carry out any and all conditions and covenants contained in the Lease under which the Authority holds the land from the Landowner ; and any and all conditions which bind the Landowner and contained in the Head Lease.
12. The Tenancy of the Allotment Garden shall terminate whenever any Tenancy or Right of Occupation of the Landowner shall terminate.

It may also be terminated by the Landlord Paramount by re-entry on to the land after one months notice :

- 12.1 if the Rent is in arrears for not fewer than 40 days ; or
- 12.1,1 where the Society is not duly observing and/or carrying out the terms of the Tenancy ; or
- 12.1.2 where the Allotment Society becomes bankrupt or compounds with its creditors.

The Tenancy may also be terminated by the Landowner, or by the Town Council, by the giving of twelve (12) months previous notice in writing ; such notice to expire not later than March 25th (Lady Day) or not earlier than September 29th (Michaelmas) in any year. By virtue of section 1 (1) (a) Allotment Act 1922 the date of expiry of notice must not fall between Lady Day and Michaelmas.

13. The Society shall pay the Stamp Duty on this Agreement.

(Stamp Duty is not payable unless the Agreement is for longer than seven years.)

SignedDate

Landlord

Witness

Signed Date.....

For and on behalf of the Society

Witness

Model 'Meanwhile' Lease for Growing Projects

This agreement has been prepared by lawyers instructed by the Development Trusts Association as part of the Meanwhile Project to serve as a simple template that you may wish to use as a starting point when seeking to use land for growing projects. It has been specifically designed to allow short term or temporary access to land – this may suit a landowner who, for example, is hoping to acquire development rights to land, but not for a few years. In general, landowners are concerned that once an agreement is entered into with a community, it can be difficult and/or contentious once s/he wants the land back. Communities should be aware that this lease is designed with clear 'exit routes' for landowners, allowing use of land for a finite – but extendable – period.

This template has been prepared for use by a private landowner. Different rules would apply to land used for growing if the template were used by a council or another public authority. If this template is used in the wrong circumstances it could give the Grower a greater degree of control over the Growing Space than was agreed at the start of the agreement.

It is therefore important that, before you proceed, you take independent legal advice on:

- (a) the consequences of entering into any Growing Space agreement;
- (b) whether this template is a suitable starting point for your agreement; and
- (c) whether any changes will be needed to adapt this template to your circumstances.

Issues you should consider with your legal advisers include the following:

Points to consider for the Meanwhile licence (MW) licence for land:

1. Does the landowner have the ability to grant the lease or the licence? The parties would need to double-check the landowner's title to ensure that they have the necessary rights themselves. They will also need to check whether any third party consent is needed from, say, a bank where there is a mortgage or from a landowner with a superior interest.
2. Are new consents needed to use the property? Planning permission may be needed for a change of use.
3. Will the property be used for business purposes? If it will, then any landowner will need to be careful that the occupier under the documents does not inadvertently obtain rights to renew their agreement. If this does happen, it could make getting possession of the land for later development more difficult.
4. A landowner will also need to consider the cost of ending the agreement. In particular, agreement for growing space provide for compensation to be payable and the landowner should take advice on how this would be calculated so that it is aware of the potential liabilities that might come with entering into the agreement.
5. The occupier will need to arrange its own insurance to cover its belongings, public liabilities and any other risks that may be appropriate in light of the use of the property.

IMPORTANT: Please note that you should never seek to use or adapt this template without first obtaining this advice as even straightforward arrangements can have potentially serious unintended legal consequences.

DATE OF DEED

This Deed is between:

(1) [] of [] (the "Landowner"); and

(2) [] of [] (the "Grower")

It is agreed that:

1. DEFINITIONS

In this Deed, unless the context otherwise requires, the following expressions will have the following meanings

“Deed” means this deed together with all schedules and other documents referred to in this Deed;

“Growing Space” means the growing space the general boundaries of which are shown on the Plan at [];

“Gardening Hours” means

“Landowner’s Property” means

“Conditions of Use” means the conditions of use attached to this Deed as Schedule 1;

“Plan” means the plan attached to this Deed as Schedule 2;

“Rent” means £[];

“Rights” means the rights for the benefit of the Grower set out in Schedule 3;

“Reservations” means the rights reserved for the Landowner as set out in Schedule 4;

“Water Tap” means the water tap providing water at the location shown coloured blue on the Plan;

2. INTERPRETATION

2.1 Words referring to one gender will be read as referring to any other gender and words referring to the singular will be read as referring to the plural and vice versa

2.2 A reference to a person includes companies and all other legal entities

2.3 Where the Landowner and the Grower are made up of more than one person, the obligations and liabilities of that party in this Deed will be joint and several obligations and liabilities of those persons

2.4 The clause headings do not form part of this Deed and will not be taken into account in its interpretation

3 AGREEMENT

3.1 The Landowner agrees to lease and the Grower agrees to take all of the Growing Space

3.2 The Growing Space will be held on a yearly tenancy, starting on []

3.3 The Grower will pay the Rent, which will be payable to the Landowner in two instalments each year on [] and [] and on the same dates in each succeeding year. A proportionate amount of the Rent will be paid for any part of the year that this Deed extends to.

3.4 The Landowner grants to the Grower the Rights and reserves to itself the Reservations.

4 GROWER’S OBLIGATIONS

4.1 The Grower will indemnify the Landowner in respect of all liability incurred by the Landowner to any tenant, occupier, adjoining owner, visitor or any other person either directly or indirectly by the use of the Growing Space or its state of repair or condition.

4.2 The Grower will only use the Growing space during the Gardening Hours and will only use the Growing Space as a garden and/or for the production of fruit and vegetables for consumption by the Grower and his family. The Grower shall not use the Growing Space for the purpose of any trade or business and shall not sell or trade any of the produce grown on or in the Growing Space.

4.3 The Grower will comply with the Conditions of Use.

4.4 Where requested by the Landowner, the Grower will repair any damage to the Landowner's Property that is caused by the Grower or any person authorised by the Grower or under their control. If the Grower fails to repair any such damage, the Grower will, on receipt of a written demand, pay all the reasonable costs and expenses incurred by the Landowner in making good any such damage.

4.5 The Grower may not sublet, assign, transfer or part with possession of the Growing Space or any part of it.

4.6 Where the Landowner's title to the Landowner's Property and the Growing Space require compliance with any conditions or restrictions then the Grower will observe and perform those that the Landowner has told the Grower of in writing.

5 LANDOWNER'S OBLIGATIONS

5.1 The Landowner will pay all rates and outgoings relating to the Growing Space and the Landowner's Property;

5.2 The Landowner will allow the Grower to peaceably enjoy the Growing Space without any interruption by the Landowner or any person claiming an interest under the Landowner.

6 TERMINATION

6.1 This Deed may be ended by either party giving to the other no less than 12 months' notice in writing, the notice expiring on either 6 April or 29 September in any year.

6.2 This Deed can be ended by the Landowner at any time after 3 months' notice has been given to the Grower in writing if the Growing Space is required for building, mining or any industrial purpose or for roads or sewers in connections with any of those purposes.

6.3 The Deed can be ended by the Landowner re-entering the Growing Space at any time by giving one month's previous notice in writing to the Grower where:

6.3.1 the Rent or any part of it has not been paid and has remained unpaid for 40 days or more (whether the Landowner has made a demand for payment or not);

6.3.2 the Grower has breached any of the Conditions of Use or the provisions in this Deed; or

6.3.3 the Grower is subject to a bankruptcy order, enters into any voluntary arrangement for the benefit of his creditors, has a receiver appointed, has no reasonable prospect of being able to pay his debts or is subject to any petition or proceedings for the winding up of his company.

7 GENERAL

7.1 Any notice served under on in connection with this Deed will be in writing and will be properly served if sent by recorded post to the address of each party shown at the beginning of this Deed or such other address as a party may notify to the other in writing.

7.2 The Landowner gives no warranty that the Growing Space is fit for purpose or that the use of the Growing Space is permitted by planning law.

7.3 The Landowner shall not be responsible or liable for any injury or damage caused to the Grower or the Grower's assistants and visitors or their property whether arising by accident, fire, theft, damage or by negligence.

7.4 The parties agree that a person who is not a party to this Deed is not intended to have any right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

7.5 [The Growing Space let pursuant to this Deed will, as a result of this Deed, be held by (or in trust for) [], a non-exempt charity, and the restrictions on disposition imposed by section 36 of the Charities Act 1993 will apply to the Growing Space (subject to section 36(9) of that Act).]

This agreement has been executed as a deed by the Parties

Signed as a deed)

by the Landowner)

and delivered in the presence of:)

Signature of witness:

Name of witness:

Address:

Signed as a Deed)

by the Grower)

Acting by its secretary and a director)

or by two directors)

Director/Company Secretary

Director

SCHEDULE 1

CONDITIONS OF USE

Rules on the cultivation of the Growing Space

1 The Grower will not cut or prune any existing trees or plants in or overhanging the Growing Space without the Landowner's prior written consent;

2 The Grower will keep the Growing Space clean, free from weeds and well-manured and in a good state of cultivation and fertility and in good condition;

3 The Grower must keep any hedge forming part of the Growing Space properly cut and trimmed, keep any fences and gates in repair and keep all ditches properly cleaned and free from blockages;

4 Rubbish, refuse and decaying matter must not be deposited on the Growing Space unless it is a reasonable amount of manure or compost required for cultivation and which must be sufficiently covered until it has been dug into the Growing Space;

5 When using any sprays or fertilisers, the Grower must:

a. Take all reasonable care to ensure that any adjoining hedges, trees and plants are not adversely affected and must make good or replant as necessary if any damage does happen;

b. Select and use chemicals that will cause the least harm to members of the public and wildlife (other than vermin and pests); and

- c. Comply with current regulations on the use of such sprays and fertilisers.

Rules on the use of the Growing Space

- 6 No animals may be kept or let loose on the Growing Space;
- 7 The Growing Space will be used in a safe and orderly manner and so as not to cause any nuisance or annoyance to the Landowner or any adjoining owners or occupiers and not to obstruct or damage any other part of the Landowner's Property;
- 8 Excessive noise is not permitted and the Grower will not play music;
- 9 No petrol, oil, lubricants or other inflammable liquids will be deposited in the Growing Space;
- 10 Hoses or sprinklers are not allowed unless the Landowner otherwise consents in writing;
- 11 Bonfires are not allowed;
- 12 The removal of top soil, gravel, clay, sand or minerals is not allowed;
- 13 The erection of buildings, sheds, storage compartments or shelters is not allowed;
- 14 Growers are not permitted to bring barbed or razor wire onto the Growing Space or to erect any fence or barrier using sharp or electrical wire or to erect fences, walls or barriers with sharp objects in them;

General provisions

- 15 The Grower will comply with any reasonable rules and regulations as the Landowner will make from time to time and notify to the Grower in writing;
- 16 The Grower will not do or omit to do any act or thing that might breach any statutory requirement affecting the Growing Space or which might violate in whole or in part any insurance for the Landowner's Property or the Growing Space (in whole or in part);
- 17 Only the Grower or a person authorised by the Landowner first in writing may go onto the Growing Space;
- 18 No advertisements, signs or notices will be put on any part of the Growing Space.

SCHEDULE 3

RIGHTS FOR THE GROWER

The rights for the Grower in common with all others authorised by the Landowner from time to time to:

- 1 use the Growing Space as a garden for the growing of plants including vegetables and fruit for consumption by the Grower and his family only
- 2 access during the Gardening Hours on foot for the Grower and those of the Grower's assistants as the Landowner will have first approved:
 - a. over the Growing Space; and
 - b. between the nearest public highway and the Growing Space; and
 - c. between the Water Tap and the Growing Space

over any footpath or other parts of the Landowner's Property designed for that purpose shown coloured brown on the Plan for all reasonable and proper purposes in connection with the Grower's use of the Growing Space and the Landowner has the right to move any footpaths from time to time provided he first provides a suitable alternative

3 provided there has been no local or national ban or restriction on water usage, use water from the Water Tap for all reasonable and proper purposes in connection with the Grower's use of the Growing Space

4 to support from any adjoining property owned by the Landowner

5 park a motorised vehicle on any part of the Landowner's Property designed for that purpose shown coloured blue on the Plan for all reasonable and proper purposes in connection with the Grower's use of the Growing Space and the Landowner has the right to move any parking areas from time to time provided he first provides a suitable alternative.

SCHEDULE 4

RIGHTS FOR THE LANDOWNER

The rights for the Landowner to:

- 1 have access to the Growing Space on giving the Grower reasonable prior notice and to remain on the Growing Space with or without workmen materials and tools to:
 - a. check whether the Grower is complying with the terms of this Deed;
 - b. do works to any adjoining or nearby land belonging to the Landowner;
 - c. exercise any right given to the Landowner in this Deed;
 - d. remedy any breach of the Grower's obligations in this Deed
- 2 support from the Growing Space for the benefit of the Landowner's adjoining land;
- 3 alter the Landowner's adjoining land as it sees fit in spite of any effect this may have on the access of light and/or air to the Growing Space or the amenity of access and/or parking to the Growing Space

9. Further Information

Charity Commission

08453 000 218

www.charitycommission.gov.uk

The Charity Commission can provide a range of general guidance on the rules governing the acquisition and disposal of property by charities. See in particular guidance note CC33 Acquiring Charity Land

Community Accountancy Network

www.communityaccounting.org

Your local community accounting service can offer help and support with managing the financial aspects of your project and much of their help is free to voluntary and community organisations.

Ethical Property Foundation

02070 650 760

www.ethicalproperty.org.uk

The Ethical Property Foundation advises charities and community groups on property issues. Its Property Advice Service offers independent, ethical advice and training, and has helped almost 600 organisations to rent, buy, let or manage property since 2005.

Planning Aid

08708 509 807 – Planning Advice Line

www.rtpi.org.uk/planningaid

Planning Aid is a national charity that provides free and independent planning advice and support to communities and individuals. Your regional branch is South West Planning Aid. The service offers a planning advice line for specific cases or queries as well as free training workshops. Planning Aid also publishes an excellent 'Planning Pack' giving far more detailed guidance on planning matters than is possible in this toolkit. The Planning Pack is available as a download from the Planning Aid website, or in hard copy upon request.

Cooperatives UK

www.uk.coop

Co-operatives UK is itself an independent and autonomous co-operative organisation, owned and democratically controlled by its members, but the work that we do benefits all co-operative enterprises in the United Kingdom. Co-ops UK also work closely with the independent co-operative networks throughout the UK. Extensive resources about legal structures (how to incorporate) and governance are offered on the website and through free trainings.

Landshare

www.landshare.net

Landshare brings together people who have a passion for home grown food. It is for people who want to grow vegetables but don't have anywhere to do it or have a spare bit of land they are prepared to share. It offers a forum for people who can help in some way – from sharing knowledge and lending tools to helping out on the plot itself. Landshare is a national movement of more than 55,000 people.

Meanwhile Project

www.meanwhile.org.uk

The Meanwhile Project has been providing practical and financial support for a wide range of meanwhile approaches in villages and towns throughout the country, as well as technical advice, manuals and common tools to help anyone who wants to do something positive in the meanwhile.

Michelmores Solicitors

www.michelmores.com/Charities--and--Social-Enterprise-Practice-Area.htm

01392 687 542 / 01392 688 688 (switchboard)

The Charity Team at Michelmores LLP, Solicitors, lead by Shivaji Shiva, specialises in advising community groups and other voluntary sector organisations on all aspects of the law including buying, selling and managing land. The team is able to draw on the broader resources of the firm including a specialist Agriculture and Rural Business unit and a large and well-regarded property department which advises landowners and tenants of all sizes and varied types including individuals, voluntary groups, parish councils, government departments, Church of England dioceses and educational institutions.

The Tenant Farmers Association

www.tfa.org.uk

The Tenant Farmers Association was formed in 1981 and is dedicated to the agricultural tenanted sector. The TFA lobbies at all levels of Government and gives professional advice to its members. Legal advice and guidance is only available to members.

The National Farmers Union

www.nfuonline.com

The NFU champions British farming and provides professional representation and services to its farmer and grower members. Legal advice and guidance is only available to members.



