Amenities Committee – 21st January **ITEM 10**

Highcliffe and Walkford Parish Council

Report Title:
Allotment Tenancy Policy – Review of Family-Based Plot Restrictions

1. Purpose of Report

To revisit the Amenities Committee's decision of 24 April 2025 restricting allotment tenancies to one plot at one site per family, in light of relevant equalities, human rights and allotments legislation, and to make a legally robust recommendation for future policy.

2. Background

At its meeting on **24 April 2025**, the Amenities Committee considered a request for **two members of the same family to hold allotment plots at different allotment sites**.

The minute of that meeting records the following resolution:

"The Acting Clerk updated members on a recent request for two members of the same family to have an allotment at each of the sites. Members discussed this and RESOLVED for the decision of only one allotment plot at one site."

Following that decision, concerns have been raised that a blanket restriction based on family relationship may conflict with relevant legislation and public law principles. This report therefore revisits the matter to ensure the Council's allotment tenancy policy is lawful, proportionate and defensible.

3. Legislative and Legal Framework

3.1 Allotments Acts 1908–1950

The **Allotments Acts** form the primary statutory framework for the provision and management of allotments.

- The legislation consistently refers to allotments being let to individual persons, not households or families.
- The purpose of the Acts is to maximise fair access to allotments for those wishing to cultivate land.

A restriction based on family membership is not explicitly supported by the Allotments Acts and may be inconsistent with their underlying intent.

3.2 Equality Act 2010

The Council is subject to the **Equality Act 2010**, including the **Public Sector Equality Duty (section 149)**, which requires public authorities to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations

Although "family membership" is not a protected characteristic, a policy restricting access based on family relationship could give rise to indirect discrimination if it disproportionately affects individuals with protected characteristics (for example, age or disability) and cannot be objectively justified.

A blanket "one plot per family" rule risks failing the requirement to act proportionately and consider individual circumstances.

3.3 Human Rights Act 1998

Under the **Human Rights Act 1998**, the Council must act compatibly with the European Convention on Human Rights, including:

- **Article 8** – Right to respect for private and family life
- **Article 14** – Prohibition of discrimination

While allotments are not a core human right, public authorities must ensure that their policies do not interfere with family life or treat individuals differently without objective and reasonable justification.

3.4 Local Government Act 1972

The **Local Government Act 1972** requires councils to act within their powers and make decisions that are lawful and reasonable.

A policy that is arbitrary, inflexible or discriminatory may be vulnerable to challenge as being unreasonable or outside the Council's proper powers.

3.5 Public Law Principles

In addition to statute, the Council must comply with established public law principles, including:

- **Proportionality** – measures must be no more restrictive than necessary
- **Reasonableness (Wednesbury principle)** – decisions must not be irrational
- **Fairness and consistency** – similar cases should be treated alike unless there is good reason not to

A blanket family-based restriction may be difficult to justify where demand, plot availability or individual circumstances vary.

3.6 Data Protection Act 2018 (UK GDPR)

A family-based policy requires the Council to collect and assess information about family relationships, potentially involving third-party personal data.

This raises questions of necessity and proportionality under data protection legislation, particularly where the policy objective can be achieved through an individual-based tenancy approach.

4. Assessment of the April 2025 Resolution

The original intention of the Committee appears to have been to ensure fairness and prevent perceived monopolisation of allotment plots.

However, the wording of the resolution introduces a blanket restriction based on family relationship, rather than focusing on the core issue of equitable access.

When assessed against the legislative framework above, the decision presents:

- Increased legal and reputational risk
- Difficulty in objective justification
- Potential inconsistency with the Allotments Acts and equalities duties

5. Options

Option 1 – Retain the April 2025 restriction

- Higher risk of legal challenge
- Inflexible and difficult to justify

Option 2 – Amend the policy to limit plots per individual (Recommended)

- Aligns with Allotments Acts
- Reduces equalities and human rights risk
- Allows discretion based on demand and availability

6. Impact Assessments

Equalities
Amending the policy to remove family-based restrictions better aligns with the Equality Act 2010 and reduces the risk of indirect discrimination.

Environment
No direct environmental impact. Fair allocation supports effective cultivation and site stewardship.

Crime and Disorder
No direct impact. Clear and fair policies reduce disputes and complaints.

Financial
No direct financial implications. Reduced risk of legal challenge may avoid future costs.

Resources
Limited officer time required to amend policy wording and communicate changes.

Risk Management
The recommended approach significantly reduces legal, reputational and procedural risk.

7. Recommendation (Resolutions)

The Amenities Committee is requested to:

1. Note the resolution made on 24 April 2025 regarding allotment tenancies.
2. Consider the implications of the Allotments Acts 1908–1950, Equality Act 2010, Human Rights Act 1998, Local Government Act 1972, public law principles and data protection legislation.
3. Rescind the previous decision restricting allotments to one plot per family.
4. Approve a revised policy approach limiting allotment plots on a per-individual basis, with discretion to manage waiting lists and demand fairly.

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