

**HIGH HEDGES CONSULTATION - IMPLEMENTING PART 8 OF THE ANTI-SOCIAL BEHAVIOUR ACT**

Q1. Should the maximum fee be set at a level that allows local authorities to recover fully the costs they incur in dealing with complaints about high hedges? This would mean that such costs could be met by complainants.

**Yes**

Q2. If the maximum fee should be set to allow full cost recovery, would the estimated average cost per case of £280 to £320 included in the draft Regulatory Impact Assessment (at Annex B) cover it? If not, what do you consider would be a reasonable figure? What is the basis for the figure you have suggested?

**Probably, although it is difficult to judge. This figure should be reviewed in the light of experience**

Q3. If the maximum fee should NOT be set to allow full cost recovery, what do you consider would be a reasonable figure? What is the basis for the figure you have suggested?

**N/A**

Q4. Are the proposed grounds of appeal against the issue of a remedial notice sufficiently comprehensive? If not, what additional grounds are needed?

**Yes**

Q5. Are the proposed grounds of appeal against a local authority's decision NOT to issue a remedial notice sufficiently comprehensive? If not, what additional grounds are needed?

**Yes**

Q6. Are the proposed grounds of appeal against a local authority decision to withdraw a remedial notice or to waive or relax its requirements sufficiently comprehensive? If not, what additional grounds are needed?

**Yes**

Q7. Do you think it is right that the main parties – that is the local authority, the complainant and the owner and occupier of the land where the hedge is situated – should play an equal part in the appeals process? If not, how would you ensure that the interests of the non-appellant are taken into account?

**Yes**

Q8. Does everyone who took part in or commented on the original decision need to be involved in appeals relating to high hedges? If not, should the process be confined to the main parties?

**No, Yes**

Q9. Do you consider the procedures proposed in the draft Regulations to be fair and reasonable? If not, what changes are needed?

Yes

Q10. Are all of the proposed actions needed? If not, should any stages be dropped?

Yes

Q11. Are the proposed timetables set for submission of representations and other documents reasonable? If not, what changes are needed?

**Given that a complaint cannot be submitted until efforts to reach agreement have failed, and that both parties have a right of appeal, it is likely that virtually all applications will be appealed. Depending on the quantity of applications submitted, neither local planning authorities nor the Planning Inspectorate are likely to have resources available to cope. There should therefore be flexibility in the submission dates relating to appeals.**

Q12. Is the guidance presented in a format that is easy to follow and allows you to find the guidance that you want? If not, how should the structure of the document be improved?

**The guidance (including that given in "Hedge Height & Light Loss") is immensely complicated and ambiguous. For example, definition of semi-evergreen; loss of water to plants from roots not a material consideration, but loss of water from overhanging branches can be. This will increase the demand for the appeal process**

Q13. Generally, is the guidance provided sufficiently clear and comprehensive? If not, how should it be improved?

**The guidance tries to be too comprehensive and is therefore overly prescriptive. More should be left to the discretion of local authorities to judge impact on amenity, as is the case with planning applications**

Q14. *Annex A* to the guidance has a list of proposed model letters, notices etc. Would all these be useful? What other model documents would you like to see provided?

Yes

Q15. Although the Act does not specify a procedure to be followed in considering high hedge complaints, *Chapter 6: Gathering the Evidence* proposes an exchange of representations between the parties and a visit to the site. Do you have any views on the suggested process? Could it be streamlined or made simpler?

**There should be a limitation on information exchanges, as with the appeals process, to ensure that applications are not bogged down by interminable correspondence between the parties**

Q16. Should the process be confined to the main parties – that is the local authority, the complainant and the owner and occupier of the land where the hedge is situated?

Yes

Q17. Alternatively, should high hedge complaints be advertised more widely?

No

Q18. *Chapter 6: Weighing the Evidence* offers advice on how to assess the various factors that might be raised in connection with complaints about high hedges. This is intended to help local authorities to deal with these complaints in an impartial, and broadly consistent, manner. Is this sufficiently clear and comprehensive? If not, what changes are needed?

**The section on damage to plants is unworkable. The sunlight and daylight calculations are very complex. The reference to blocking of views is not comparable to the planning system where this is not a material consideration. It should be deleted as a ground for complaint.**

Q19. Are there other sources of information that the guidance could usefully refer to? If so, what do you suggest and why?

None known

Q20. *Chapter 6: Making the Decision* advises local authorities how they might seek to achieve a balance between the various issues raised during the course of the complaint and so reach a decision. Do you have any views on the proposed approach?

No

Q21. *Chapter 7: Remedial Works* suggests how local authorities might determine the extent of any works to be specified in the remedial notice. Do you have any views on the proposed approach?

No

Q22. Are there any potential problems with implementation of the complaints system or its enforcement – or unintended consequences – that we have not considered?

**Given that emotions run high between parties involved in these issues, and there are recorded cases of assault and even deaths, there are substantial health & safety issues for Council staff in having to carry out site visits. Access may be denied which may require police assistance**

Q23. Would a workshop or other training event be useful to you?

Yes

Q24. What, in particular, would you wish such an event to cover?

**Predominantly assessment of complaints**

Q25. Have local authorities been keeping any records about approaches made to them relating to high hedge problems? If so, how many formal complaints under the legislation are you expecting?

No

Q26. Questions about the estimated costs to local authorities are posed in the section on 'Fees' above. This includes the extent to which such costs should be met from the public purse. But do you have any other comments on the estimated costings in the draft Regulatory Impact Assessment, for both private individuals and public sector bodies?

No

Q27. Are there any benefits to the 'do nothing' option of not implementing Part 8 of the Anti-social Behaviour Act 2003?

**Clearly there is public demand for this legislation, and the issue needs to be addressed. However, given that most applications will end up at appeal and be finally determined by the Planning Inspectorate, there is an argument that a central body should be set up to determine these applications rather than adding to the burden of local authorities**