



Belfast City Council

Report to:	Parks and Leisure Committee
Subject:	High Hedges Fee Legislation
Date:	15 September 2011
Reporting Officer:	Andrew Hassard, Director of Parks and Leisure
Contact Officer:	Alan McHaffie, Woodland and Recreation Manager

1	Relevant Background Information
1.1	In December 2009, the Department of the Environment (DoENI) launched a consultation on the draft High Hedges Bill. A council response, to which the Parks and Leisure Department contributed, was prepared by Health and Environmental Services, and approved by the Health and Environmental Services Committee at its February 2010 meeting.
1.2	A High Hedges Bill was introduced in the NI Assembly on 26 April 2010 and the Bill received Royal Assent on 3 May 2011 becoming the <i>High Hedges Act (Northern Ireland) 2011</i> – to be made operational once subordinate legislation is in place.
1.3	The Act will provide a means of redress for people who are suffering because of a high hedge on a neighbour's land acting as a barrier to light, and will provide district councils with certain powers to deal with complaints about high hedges.
1.4	DoENI proposes the following subordinate legislation in order to make the High Hedges Act operational: <ul style="list-style-type: none">• The <i>(Draft) High Hedges (Fee) Regulations (Northern Ireland) 2011</i>, and• The <i>(Draft) High Hedges (Fee Transfer) Regulations (Northern Ireland) 2011</i>.
1.5	The regulations will, in summary: <ul style="list-style-type: none">(i) allow councils discretion to charge a fee for investigating high hedge complaints, and(ii) facilitate the transfer of the charge to 'hedge owners', meaning that hedge owners will bear the costs of investigation in cases where hedges are found to be a problem and a remedial notice takes effect.

2	Key Issues
2.1	<p>DoE NI is currently undertaking a public consultation on the proposed subordinate legislation, outlined above. The consultation documents are provided at Appendix 1.</p>
2.2	<p>With regard to the <i>(Draft) High Hedges (Fee) Regulations (Northern Ireland) 2011</i>, the consultation seeks views on the ‘maximum’ complaint fee that councils can charge for dealing with a high hedge complaint. With regard to the <i>(Draft) High Hedges (Fee Transfer) Regulations (Northern Ireland) 2011</i>, it seeks views on the mechanism of the ‘fee-transfer’ from the complainant to the ‘hedge owner’. The consultation also seeks views on impact assessments carried out by DoENI with respect to its proposals, in particular a partial Regulatory Impact Assessment.</p> <p>In summary, the consultation asks for responses to four questions:</p> <ol style="list-style-type: none"> 1. What should the maximum level of fee be? 2. Do you agree that the fee should transfer to the ‘hedge owner’ when remedial notice takes effect? 3. What circumstances should the Department prescribe for a refund of the ‘transferred fee’? 4. Are there any other comments which you would like to make on the proposals?
2.3	<p>Our consultation response will primarily be based on the response given by the Northern Ireland Chief Environmental Health Officers Group and from consultation with colleagues across the Council for approval by Members. This is provided at Appendix 2.</p>

3	Resource Implications
3.1	<p><u>Financial</u></p> <p>DoENI’s proposals mean that councils would charge complainants a fee (in order to cover the costs of dealing with the complaint, and to deter frivolous or malicious complaints). DoENI indicates that the amount would be likely to be close to the average currently charged in England and Wales, i.e. £320-£360 however 2 out of 8 Local Authorities we recently consulted with, in England and Wales offered a reduction in fees for people on certain types of means tested benefits, ranging from a 50% reduction to a £60 reduction in fee.</p> <p>A complainant would have any fee refunded if a remedial notice issued by a council took effect. At this point, the council may charge a fee to the ‘hedge owner’ to recover the refunded fee.</p> <p>DoENI indicates that councils will face a cost of administering the fee transfer mechanism, estimated at around £50 per case however DoENI expects that this will be covered by the fee charged to complainants (above).</p>

	<p>On average the Parks and Leisure Department receives 3 to 4 complaints concerning nuisance hedges every week from members of the public however based on information received from local authorities in England and Wales, they would process on average only 5 'formal' complaints per year. That said, a DoENI scoping consultation has estimated that there could be a backlog of 800 high hedge problem cases which will be required to be determined by district councils in the first 2 to 3 years that the legislation is in operation.</p> <p>3.5 In the interim, officers will undertake work to confirm the resource implications of the new regulations.</p> <p>3.6 <u>Human Resources</u> It is likely that, in order to discharge its new responsibilities, the Department will require additional resources. It is expected that activities directly associated with the regulations (such as travel, inspection, report writing and administration) will result in an increase in workload. Prior to the regulations becoming operational, time will be needed to establish the extent of any increase, and how it will be addressed.</p> <p>It is expected that there will be a need to train all officers involved in carrying out duties under the regulations. In its indicative timetable for delivery of the legislation, DoENI plans to finalise a range of guidance for councils and the public, and undertake training of council officials by mid-March 2012.</p> <p><u>Asset and Other Implications</u> None at this stage.</p>
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4	Equality and Good Relations Implications
4.1	<p>In the consultation documents, DoENI states that it has undertaken an equality impact screening of the regulations, and has concluded that "there is no adverse impact for any of the nine categories listed under Section 75". This has also been confirmed internally through consultation.</p> <p>DoENI also considers that its proposals are compatible with the Human Rights Act 1998.</p>

5	Recommendations
5.1	<p>Members are asked to:</p> <ul style="list-style-type: none"> (i) note the contents of this report; and (ii) approve submission of a final consultation response to DoENI, subject to any comments provided, by the deadline of 20 September. This would be with the proviso that the response is subject to full Council approval.

6	Decision Tracking
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Report to Committee in January 2012 providing an update on progress towards the draft regulations coming into operation.

7	Key to Abbreviations
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DoENI: Department of the Environment Northern Ireland

8	Documents Attached
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Appendix 1: Consultation Documents
Appendix 2: Draft Consultation Response