



Belfast City Council

Report to:	Parks and Leisure Committee
Subject:	High Hedges Act - Implementation
Date:	15 March 2012
Reporting Officer:	Andrew Hassard, Director of Parks and Leisure
Contact Officer:	Rose Crozier, Assistant Director of Parks and Leisure Alan McHaffie, Woodland Manager

1.	Relevant Background Information
	<p>A High Hedges Bill was introduced in the Northern Ireland Assembly on the 26 April 2010 and the Bill received Royal Assent on the 3 May 2011 becoming the High Hedges Act (Northern Ireland) 2011.</p> <p>In summary the Act will provide a means of redress for people who are suffering loss of amenity 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. The legislation will allow councils to charge a fee for complaints and to transfer this charge to 'hedge owners' when a remedial notice takes effect.</p> <p>Members are reminded that in September 2011 the Parks and Leisure Committee approved submission of the final consultation response to DoENI setting out the Council's preferred fee of £350.00 which covers the cost of investigating and processing a complaint.</p>

2.	Key Issues
	<p><u>High Hedges Act – the process</u> The High Hedges process is defined in four stages in diagrammatic form at Appendix 1.</p> <p><u>Stage 1</u></p> <ul style="list-style-type: none">• On receipt of an informal enquiry from a member of the public concerning a nuisance hedge, the Council in the first instance will offer some factual information by way of a letter and an information pack.• Running in parallel to this a separate letter will be sent to the hedge

owner advising them of their neighbour's enquiry. Both parties will have an opportunity at this early stage to resolve the matter between them to their mutual satisfaction avoiding the need to go down the formal route.

- However if the complainant is committed to pursuing a complaint through the Council they will be required to pay the complaint fee of £350.00 and complete a detailed complaint form showing evidence of how they have tried to resolve the matter with their neighbour since the legislation came into effect.
- The complaint form will only be progressed if everything asked for by the Council has been provided i.e. the correct complaint fee and all required evidence.
- The complainant will receive a letter from the Council confirming receipt of the complaint and the hedge owner will also receive a copy of the complaint form. Both parties will then be allowed a ten working day 'cooling off' period, which will give ample opportunity to resolve the matter between them.
- If the complaint can be successfully resolved between the two parties and the official complaint withdrawn, the complainant will receive a refund from the Council for £262.50 (75%) of the original fee. The 25% will be retained to cover the Council's administration costs to that point.

Stage 2

- However if both parties are still not in agreement, the complaint can continue to stage 2 and a notification of complaint letter will be sent to the hedge owner inviting them to submit any comments and additional information which the Council will need to be aware of. For example:
 - Tree Preservation Orders
 - Conservation area
 - Planning conditions
 - Ecological or Heritage significance
 - Covenants.

Following this, a detailed site visit will be undertaken by the High Hedges officer who will gather together all the evidence required to make a final decision.

Stages 3 and 4

- At stage 3 the High Hedges officer will recommend whether or not a 'remedial' notice is required to rectify the problem which will move the process into its final stage - stage 4.
- At this stage in the process the Council will write to all parties informing them of their decision. The hedge owner will have a right of appeal to the Northern Ireland Valuation Tribunal. At the end of any appeals process or if the hedge owner decides not to appeal the remedial action, it is at this point that the full £350.00 fee is then refunded to the complainant and the fee will then be transferred to the hedge owner.

	<ul style="list-style-type: none"> • Remedial action will be required to be undertaken within a set period of time (unless otherwise stipulated). If the hedge owner fails to comply with the remedial notice in the timeframe set out by the Council, the matter will then be referred to Legal Services for the appropriate enforcement action. <p><u>Delegation of Authority</u> It is proposed that the Committee authorise the Director of Parks and Leisure to enforce the provisions of the High hedges Act (NI) 2011 under the Council's Scheme of Delegation.</p> <p>If in agreement committee is also asked to authorise the Director of Parks and Leisure to carry out a series of functions associated with performing the Council's statutory role under the High Hedges legislation. These are:</p> <ul style="list-style-type: none"> • Enforcing all Regulations or Acts made and remedial notices under the High Hedges Act (NI) 2011 • Issuing and serving remedial notices • Exercising all powers in relation to the High Hedges Act (NI) 2011 • In conjunction with Legal Services, instituting legal proceedings and making legal applications on behalf of Belfast City Council • Authorising individual officers for the purpose of exercising any statutory power under the High Hedges Act (NI) 2011.
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3.	Resource Implications
	The High Hedge fee will cover the costs associated with administering this new legislation.

4.	Equality and good relations implications
	DoENI have undertaken an equality impact screening of the High Hedges Bill and the High Hedges fee regulations concluding that "there is no adverse impact for any of the nine categories listed under Section 75".
	The High Hedges legislation has recently been presented to the Council's equality consultative forum and it was suggested that the High Hedge process is reviewed after a 12 month period.

5.	Recommendations
	Members are asked to note the contents of this report and; <ul style="list-style-type: none"> • Grant delegated authority to the Director of Parks and Leisure to exercise all powers relating to the High Hedges Act (NI) 2011 and to carry out the associated functions listed above. • Agree to review the High Hedges process after a 12 month period

6.	Decision Tracking
	The Assistant Director of Parks and Leisure will be responsible for implementation.

7.	Key to Abbreviations
	None

8	Documents Attached
	Appendix 1 High Hedges Process Map