



## Belfast City Council

<b>Report to:</b>	Health and Environmental Services Committee
<b>Subject:</b>	<b>Consultation Document - Draft High Hedges Bill</b>
<b>Date:</b>	3rd February, 2010
<b>Reporting Officer:</b>	Suzanne Wylie, Head of Environmental Health, Ext. 3281
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### Relevant Background Information

In December 2009, the Minister for the Department of the Environment (DOE) launched a public consultation seeking views on the draft High Hedges Bill.

In England and Wales, the introduction of the Anti-Social Behaviour Act 2003 gave local Councils powers to deal with high hedges, however, there is currently no legislation in Northern Ireland governing the height or maintenance of a hedge.

Disputes between neighbours regarding high hedges are common but there is currently little which can be done under statute to resolve the matter. Problems of this type may have increased in recent years due to greater urban density and also due to the availability of low-cost and often very fast-growing hedges which need to be regularly trimmed to prevent them becoming a nuisance. Currently, the only legal redress a householder can seek regarding a neighbour's high hedge is through civil action, the costs of which can often be prohibitive. It is, therefore, appropriate that the Department of the Environment is seeking to address this anomaly through the introduction of High Hedges legislation.

The Department has indicated that responses to the consultation should be received by them by 1st March, 2010. A draft response is attached.

### Key Issues

- The Department's document seeks views on the draft Bill to enable District Councils to deal with nuisance high hedges.
- The Council welcomes legislation that would assist householders who are adversely affected by high hedges.
- A high hedge is defined in the Bill as a hedge which must:
  - Be formed wholly or predominantly by evergreen or semi-evergreen trees or shrubs;
  - Consist of a line of two or more trees or shrubs;
  - Measure more than 2 metres from ground level (measured on the hedge-owner's side);
  - Act as a barrier to light or access;
  - Be affecting residential property; and
  - Be growing on land owned by someone other than the person making the complaint

- The Council would have the discretion to charge a fee from the complainant to recover administration and investigation costs and to deter malicious or frivolous complaints.
- Councils in England and Wales have set fees for processing a complaint averaging between £350 to £650.
- The complainant must be able to demonstrate that they have attempted to communicate or mediate with the hedge owner in advance of the Council agreeing to take action. In England and Wales complainants have experienced difficulty in obtaining mediation services so care needs to be taken that similar problems don't arise here.
- The Department will need to provide District Councils with clear guidance on the evidence required for demonstrating that initial communication and mediation has taken place.
- The Department would need to resource awareness raising campaigns for the public and guidance on the legislation including advice on planting hedges, maintaining them and ensuring that nesting birds are protected.
- The Department needs to clarify the issue of liability where a high hedge subsequently dies after it is cut back by order of the Council.
- The Council would be concerned about carrying out works in default on land where there is no known owner and therefore little or no prospect of recovering costs. An alternative would be to receive some government funding to carry out such work under this new regulation.

#### **Resource Implications**

The Council will have the discretion to charge a fee for the investigation of a complaint. This will allow the Council to recover its costs in investigating complaints but will also have the effect of deterring frivolous or malicious complaints. Research has shown that similar sized urban Councils in England and Wales would receive on average between 5 and 12 complaints per annum and the fees range between £350 and £650. Some Councils offer reductions for those on benefits. The income from fees would be used to offset any additional staffing or administrative costs incurred.

#### **Recommendations**

It is recommended that the Committee agrees the attached draft response to the Department's consultation document on the draft High Hedges Bill.

#### **Decision Tracking**

The Head of Environmental Health will arrange for the response, and a covering letter, to be forwarded to the Department before 1st March 2010.

#### **Document Attached**

Draft Council response to the Department of the Environment's consultation paper on a draft High Hedges Bill.