

Leicester  
City Council

WARDS AFFECTED: ALL WARDS

CABINET

13 June 2005

---

## FEEES FOR INVESTIGATION OF HIGH HEDGES COMPLAINTS

---

### Report of the Service Director, Community Protection & Well-being

#### 1 Purpose of Report

Members are asked to agree the level of fess to be charged for dealing with high hedge complaints.

#### 2 Summary

2.1 The High Hedges provisions of Part 8 of the Anti-social Behaviour Act 2003 came into force on 1<sup>st</sup> June 2005. Since this date the City Council has a duty to investigate all High Hedge complaints that are accompanied by such fee (if any) as the City Council has determined.

2.2 The City Council has discretion to decide whether to require a fee; how much this fee should be; whether to set different rates for different groups of people; and whether any refund should be allowed.

#### 3 Recommendations

a) That members consider the options presented in section 3 of the report and decide on the fees to be charged for investigating high hedge complaints.

b) That officers monitor workloads and resources involved with dealing with this legislation and report back to members in approximately 12 months time.

#### 4 Financial & Legal Implications

##### Financial Implications

4.1 There is no revenue budget identified for this new area of work. Introduction of charging as proposed at Option 1 or 2 is expected to be self-financing. Other options would require savings to be identified from other services.

Alan Tomlins  
Head of Finance  
Extension 7390  
[Alan.tomlins@leicester.gov.uk](mailto:Alan.tomlins@leicester.gov.uk)  
9<sup>th</sup> May 2005

## Legal Implications

- 4.2 Section 68 (1) (b) of the Anti-social Behaviour Act 2003 allows a local authority to determine the fee (if any) that must accompany each high hedges complaint.
- 4.3 Local authorities may set different rates for different groups for example, for those on low income or benefits, and may also decide whether, and in what circumstances, to allow any refund.
- 4.4 Section 68 (7) of the Anti-social Behaviour Act 2003 allows for regulations to be made by the Secretary of State to prescribe a maximum fee. To date no regulations have been made and ODPM have confirmed that no ceiling will be set on what a local authority in England can charge for dealing with high hedges complaints.

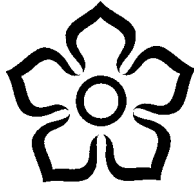
Pam Snowdon  
Solicitor  
Legal Services  
Extension 6360  
pam.snowdon@leicester.gov.uk  
29 April 2005

## 5 Report Author

Steve Joyce  
Head of Environmental Health and Licensing  
Extension 6387  
[Steve.joyce@leicester.gov.uk](mailto:Steve.joyce@leicester.gov.uk)

## DECISION STATUS

<b>Key Decision</b>	No
<b>Reason</b>	
<b>Appeared in Forward Plan</b>	No
<b>Executive or Council Decision</b>	Executive (Cabinet)



---

**FEES FOR INVESTIGATION OF HIGH HEDGES COMPLAINTS**

---

**Report of the Service Director, Community Protection & Well-being**

**SUPPORTING INFORMATION**

**1. Background to the high hedges complaint procedure**

- 1.1 The high hedges provisions of Part 8 of the Anti-social Behaviour Act 2003 came into force on 1<sup>st</sup> June 2005. Since this date the City Council has a duty to investigate all High Hedge complaints that are accompanied by such fee (if any) as the City Council has determined.
- 1.2 A high hedge is defined as a barrier to light or access formed wholly or predominantly by a line or two or more evergreen or semi evergreen trees or shrubs that is higher than 2 metres. This legislation also applies to hedges owned by local authorities
- 1.3 An owner or occupier of domestic premises can complain to the local authority if they allege that their reasonable enjoyment of their property is being adversely affected by the height of a high hedge. The effect of the roots of a high hedge are specifically excluded from this legislation, so complaints cannot be about subsidence or damage to paths but can be about shading of rooms inside a dwelling or shading of a garden.
- 1.4 The local authority may determine not to proceed with a complaint if they consider that the complainant has not taken all reasonable steps to resolve the matter with the owner of the hedge or if the complaint is frivolous or vexatious. If the local authority decides to proceed with a complaint then they have to decide if the height of the hedge is adversely affecting the complainant's enjoyment of their property, and if so, what action (if any) should be taken.
- 1.5 If the decision is to take action then a notice is served specifying works to be carried out within a set timescale. The notice cannot specify reducing the hedge height below 2 metres or removal of the hedge. If the works are not carried out then the local authority may appoint a contractor to carry out the works, and then recover the costs incurred. If the decision is not to take action or that the complaint is unfounded then the reasons for this decision have to be given to the complainant. Both the person making the complaint and the person who receives the enforcement notice can appeal to the Secretary of State.

## **2. Charging of fees for high hedges complaints**

- 2.1 As from 1<sup>st</sup> June 2005 the City Council will have a legal duty to investigate high hedge complaints that are accompanied by such fee (if any) as they determine. Whilst it is difficult to estimate the likely level of complaints, approximately 20 per annum is the best estimate at the present time, though it is likely that the initial workload will be particularly high, because of the existing number of problem hedges. However, the number of complaints received may also be influenced by the amount of fee charged for investigation. In Leicester, it has been decided that high hedge complaints will be dealt with by Environmental Health staff because of the similarity of this work with other neighbour nuisance issues.
- 2.2 The Government's regulatory impact assessment indicates that the average cost of dealing with these complaints is likely to be between £339 and £405. It is obviously too early to assess whether these estimates are realistic, but they provide the only real basis for considering the cost of this new area of work at the present time. On this basis, and assuming approx 20 complaints per annum, the annual cost of this service would be £7,000 - £8,000. However, this cost could be significantly higher if no fee was charged for this work, because of the anticipated increase in complaint numbers. A fee of £350 to £400 would theoretically make this work self-financing.
- 2.3 In relation to the level of fees charged by other local authorities in the area, it appears that most local authorities in the county will be charging between £300 and £375, with two reducing the fee to £50/£150 for those in receipt of benefits.
- 2.4 It is also worth noting that the amount of work involved in investigating and remediating a complaint could vary dramatically; in this respect some complainants will effectively get a lot of work for their money, whereas others will not. Whilst this might appear iniquitous, with fees having to be paid in advance it is hard to envisage a means of overcoming this.
- 2.5 This legislation could impact on the elderly or those in receipt of benefits where hedge maintenance may not have been a priority, as they will be required to comply with any remedial notice to reduce the height of the hedge.
- 2.6 This legislation could impact on the elderly or those in receipt of benefits who make a high hedges complaint as a fee may be charged. There will be a detailed application form with guidance notes, which should reduce the number of high hedge complaints that are submitted with a fee and then subsequently rejected as unfounded.

### 3. Options and Recommendations

- 3.1 A decision on the charging mechanism is required, both with regard to the level of fees charged and the issue of refunding of fees, and possible options include:

#### Option 1

**A fee of £350 in all cases, without exception.** This has the potential to make the service self-financing.

#### Option 2

**A fee of £400, with a reduced fee of £200 for those in receipt of benefits.** Assuming 25% of complainants are in receipt of benefits, this could also make the service self-financing.

#### Option 3

**No fee.** If complaints are maintained at the same level as that anticipated with a £300- £400 fee the net cost of this service could be £7,000 per annum. However, with no fee the level of complaints would probably be significantly higher, increasing the costs to the Council costs in excess of £10,000. In these circumstances a nominal fee of £50 may help to reduce the number of vexatious complaints. As no budget provision has been made for this work the department will need to reduce the number of food safety inspections by about 70 each year to cover the costs of providing a free, or nominal service.

#### Option 4

**A fee of £100, with a reduced fee of £50 for those in receipt of benefits.** Assuming 25% of complainants are in receipt of benefits, this would not make the service self-financing. The fee set may be enough to reduce the number of vexatious complaints. The net cost of this service would likely be £5,250. As no budget provision has been made for this work the department will need to reduce the number of food safety inspections by about 50 each year to cover the costs of providing a low cost service.

- 3.2 No budgetary provision has been made for high hedges work in 2005/06. The Division is working to achieve additional income targets agreed within the budget for 2005/06. Option 1 or 2 would appear to be the most prudent options at the present time.
- 3.3 Option 3, or 4 would not make this new area of work self-financing and require additional resources to be identified. To meet this new commitment, resources will have to be directed away from other environmental health work (for instance we would need to reduce the number of high-risk food safety inspections by 50 - 70).
- 3.4 Whilst there are a number of possible options relating to circumstances in which fees could be refunded, this is perhaps left for future consideration, once experience has been gained of operating this new service. In the interim, it is proposed that refunds would only be made in exceptional circumstances (e.g. a justified complaint about a council-owned hedge), at the discretion of the Service Director.

#### 4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

##### ***Financial Implications***

- 4.1 There is no revenue budget identified for this new area of work. Introduction of charging as proposed at Option 1 or 2 is expected to be self-financing. Options 2 & 3 options require savings to be identified from other services in the division.

Alan Tomlins      Head of Finance      Extension 7390

[Alan.tomlins@leicester.gov.uk](mailto:Alan.tomlins@leicester.gov.uk)

9<sup>th</sup> May 2005

##### ***Legal Implications***

- 4.2 Section 68 (1) (b) of the Anti-social Behaviour Act 2003 allows a local authority to determine the fee (if any) that must accompany each high hedges complaint.
- 4.3 Local authorities may set different rates for different groups for example, for those on low income or benefits, and may also decide whether, and in what circumstances, to allow any refund.
- 4.4 Section 68 (7) of the Anti-social Behaviour Act 2003 allows for regulations to be made by the Secretary of State to prescribe a maximum fee. To date no regulations have been made and ODPM have confirmed that no ceiling will be set on what a local authority in England can charge for dealing with high hedges complaints.

Pam Snowdon      Solicitor      Legal Services      Extension 6360

[pam.snowdon@leicester.gov.uk](mailto:pam.snowdon@leicester.gov.uk)

9 April 2005

#### 5. Other Implications

OTHER IMPLICATIONS	YES/NO	PARAGRAPH REFERENCES WITHIN SUPPORTING PAPERS
Equal Opportunities	No	.
Policy	Yes	This is a policy decision.
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Older People on Low Income	Yes	2.5 and 2.6. Option 2 incorporates reduced fees for those in receipt of benefits.

#### 7. Background Papers – Local Government Act 1972

High Hedges guidance, ODPM, 2005.