

TO: **EXECUTIVE – 13TH JUNE 2005**

SUBJECT: **HIGH HEDGES LEGISLATION**

FROM: **HEAD OF PLANNING AND ENGINEERING**

1. RECOMMENDATION

- 1.1 That members recommend to Full Council that delegated authority be given to the Head of Planning and Engineering, Group Leader Development Control or Principal Planning Officers within Development Control to respond to enquiries and complaints relating to high hedges.
- 1.2 That a fee of £350 be set for handling high hedges complaints.
- 1.3 That a review of the impact of the legislation be undertaken after six months of operation and the results of this review be reported back to the Executive in 2006.

2. REASONS FOR RECOMMENDATION

- 2.1 Part 8 of The Anti Social Behaviour Act 2003 gives Local Authorities power to deal with complaints about high hedges and takes effect from 1st June 2005.
- 2.2 The Government have not exercised their powers under the Act to prescribe the maximum fee that authorities can charge for dealing with high hedge complaints. As a result of this decision, Local Authorities are able to decide whether, and at what level, it is appropriate to charge for this service.

3. ALTERNATIVE OPTIONS CONSIDERED

- 3.1 Handling of high hedges queries and complaints is a statutory requirement for all Local Authorities following the coming into effect of Part 8 of The Anti Social Behaviour Act 2003.
- 3.2 It is considered that since “amenity” judgements are involved, the Planning and Engineering Business Unit is the appropriate unit for handling the submitted complaints.

4. POLICY AND BUDGET FRAMEWORK

- 4.1 The consideration and determination of these matters is likely to take up a significant amount of officers time, not only by the officer(s) deciding the response to the complaint, but also for associated administration and responding to enquiries.

- 4.2 The original high hedges consultation paper issued by the ODPM estimated that the average cost per application would be between £280 and £320. More recent guidance has increased these figures. Feedback from other nearby Local Authorities suggests that £350 is a common charge. Monitoring of time spent on high hedges matters will be undertaken in order to ascertain costs incurred in relation to fees received.

John Edwards
Group Leader: Development Control

BACKGROUND PAPERS

Anti Social Behaviour Act 2003 - Part 8 – the law governing complaints about high hedges.

Office of the Deputy Prime Minister (ODPM) High Hedges Complaints, Prevention and Cure 2005.

Areas in District Affected:	Whole District
Executive Portfolio Area and Holder:	Environment: Margaret Begg
Scrutiny Committee(s):	Environment and Economic Policy Committee
Key Decision:	Yes
Included in Forward Plan:	Yes
If Yes, method of consultation:	

For further information about this report please contact:

Contact Officer: John Edwards
Tel: (01926) 456541 (Direct Line)

E-Mail: john.edwards@warwickdc.gov.uk

5. **BACKGROUND**

- 5.1 The new legislation enables owner/occupiers of residential properties to complain to their Local Authority about a hedge and its effect on the enjoyment of their property so long as:-
- It comprises evergreen or semi evergreen trees or shrubs
 - the hedge is over 2 metres in height
 - the hedge is unreasonably obstructing light in their homes or garden.
- 5.2 In each case, the Council will decide whether to require the hedge owner to take action to remedy the situation and where action is considered necessary, a “Remedial Notice” can be issued to the owner of the hedge, setting out what they must do and when. This could include reduction and maintenance of the hedge at a lower height.
- 5.3 The Council will be able to reject any complaint if they consider that the complainant has not taken all reasonable steps to resolve the matter, or that the complaint is frivolous. The Local Authority “complaint” route is thus a last resort option. Complaints will be handled within the Appeals and Enforcement Section within Development Control.
- 5.4 Both the hedge owner and complainants will have rights of appeal against the Council’s decision. Appeals are to be handled by the Planning Inspectorate.
- 5.5 Failure to comply with a Remedial Notice is an offence liable on conviction in a Magistrates Court of a fine up to £1,000. Where enforcement action is required, the matter will be referred to the Planning Committee for authorization.
- 5.6 The legislation sets no timetable for the Local Authority to reach a decision on these complaints. Flexibility is required so that other means of resolving the dispute can be pursued even after a complaint has been lodged with the Authority.