

Members' Library Service Request Form

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Originator	Iain Mcfarlane, Service Manager - Planning
Originator's Ref (if any)	
Document Title	Implementation of High Hedges (Scotland) Act 2013

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East Lothian Council

Additional information:

Authorised By	Richard Jennings
Designation	Head of Development
Date	05/05/14

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REPORT TO: Members' Library Service

MEETING DATE:

BY: Head of Development

SUBJECT: Implementation of High Hedges (Scotland) Act 2013

1 PURPOSE

- 1.1 To notify Elected Members of the operational arrangements made for complaints and applications under the High Hedges (Scotland) Act 2013.

2 RECOMMENDATIONS

- 2.1 Members are asked to note the report.

3 BACKGROUND

- 3.1 The High Hedges (Scotland) Act 2013 sets out a framework for dealing with cases where there are neighbour problems caused by hedges (referred to in the Act as a "high hedge").

- 3.2 The Act applies in relation to a hedge which:

- a. is formed wholly or mainly by a row of 2 or more trees or shrubs
- b. rises to a height of more than 2 metres above ground level*, and
- c. forms a barrier to light. (A hedge is not to be regarded as forming a barrier to light if it has gaps which significantly reduce its overall effect as a barrier at heights of more than 2 metres above ground level).

* the measurement is taken from within the owner's land

- 3.3 The Act emphasises that all reasonable steps to resolve the issues of the high hedge between the parties themselves must be fully exhausted. The Council must only be contacted as a last resort where disputes have not been able to be resolved.

- 3.4 If a complainant can demonstrate they have been unable to reach agreement over the hedge, at that point you will be able to submit an application to the local authority. A fee of £382 will be payable with the application by the person making the complaint. This is in order to ensure that Councils can cover the costs of investigating the complaint, as

required by the legislation. The fee is based on the fee for a planning application which would involve a similar level of consultation with relevant Council services. This can be reviewed in relation to the demands on the service and assessment of the work incurred in dealing with the applications.

- 3.5 If the Council considers the application is not eligible they will dismiss the application. There are no rights of appeal against dismissal. If the application is dismissed the Council will return the fee minus an administration charge of £50.
- 3.6 If the Council considers that the application is valid then the hedge owner will be notified that a complaint has been made and a Council Officer will visit the property to assess the hedge and its impact on the light levels of the complainant's property.
- 3.7 Once a decision is made the Council will notify both parties of their decision. If either side disagrees with the decision they have the right of appeal to Scottish Government ministers.
- 3.8 If the decision is that the hedge is a high hedge affecting the amenity of the neighbour, the hedge owner will be given a deadline by which to meet the terms of the high hedge notice. If they fail to take the remedial action on the hedge in that time, the local authority will arrange for the work to be carried out. The Council then has the power to recover from the hedge owner the cost of any of the work carried out to rectify the situation.
- 3.8 Due to the requirements for negotiation of the situation between the relevant parties prior to an application being submitted, the first point of contact is with the Safer Communities Team, who can both assist with negotiation and/or mediation and provide evidence of this process to support an application.
- 3.9 Due to the need for consideration and assessment of not only the daylight amenity issues but also of the nature of the hedge/trees, which may be of amenity value to the area and/or protected by either a conservation area designation or a Tree Preservation Order, applications are to be submitted to the Planning service for assessment. Both amenity and landscape considerations can therefore be addressed by relevant officers of the service. Consultation will be made with the Environmental Protection unit if required.
- 3.10 If the application is in respect of Council property then consultation will be made with the Council's Tree Officer.

4 POLICY IMPLICATIONS

- 4.1 There are no policy implications in implementing the legislation as set out above.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none, fees will be reviewed to be self funding
- 6.2 Personnel – none, personnel involved have the relevant skills
- 6.3 Other – none

7 BACKGROUND PAPERS

- 7.1 none

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