



Office of the  
Deputy Prime Minister  

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Creating sustainable communities

*Regulatory Impact Assessment:  
High Hedges – Implementing Part 8  
of the Anti-social Behaviour Act 2003*

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March 2005

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# High Hedges: Implementing Part 8 of the Anti-social Behaviour Act 2003

## Purpose and intended effect

### Objective

1. It is estimated that thousands of people could be adversely affected by overgrown garden hedges. If neighbours are unwilling to co-operate, there is little the person affected by the hedge can currently do to obtain relief.
2. The aim is to minimise hedge disputes by establishing a clear and transparent process for resolving these matters, including a formal role for local authorities.
3. This Regulatory Impact Assessment relates to England only.

### Background

4. The 1999 consultation paper ‘High hedges: possible solutions’<sup>1</sup> estimated there might be around 17,000 unresolved neighbour disputes over problems caused by overgrown hedges. The most common concerns related to light obstruction and loss of visual amenity. Existing procedures were, however, found to be ineffective in settling these disputes. Common law rights entitled people only to cut overhanging branches; they did not allow them to reduce the height of a neighbouring hedge. Existing regulatory controls, such as those relating to statutory nuisance, were unlikely to be appropriate. And people were reluctant to pursue action through the civil courts, not only because of the time and cost but also because the outcome was uncertain.
5. The 1999 consultation paper considered several possible solutions for dealing with these hedge problems and sought views on four options – ranging from doing nothing, through voluntary action to legislation. The majority of respondents to the consultation favoured legislation to allow local authorities, as a last resort, to determine hedge complaints.
6. Provisions were accordingly included in Part 8 of the Anti-social Behaviour Act 2003 to allow local authorities in England and Wales to deal with complaints about problem high hedges where neighbours were unable to agree a solution. The local authority’s role would be to act as an impartial third party. If – having taken all views into account – they found that a hedge was adversely affecting the complainant’s property, they would be able to order the hedge owner to take action to remedy the problem and/or to prevent it recurring. Failure to comply with such an order could result in a fine. The Act also included rights of appeal against a local authority’s decision. The complainant as well as the hedge owner would be able to exercise these.
7. The 2003 Act established the scope and the main framework of the complaints system. Regulations and guidance cover the finer points of detail of how local authorities should assess complaints, and the appeals procedure.

<sup>1</sup> ‘High hedges: possible solutions’, a consultation paper, DETR November 1999.

8. The Welsh Assembly Government is responsible for implementing Part 8 of the Anti-social Behaviour Act 2003 in Wales. The Act does not extend to Scotland or Northern Ireland.

## Risks

9. Without local authority involvement, there is a high risk that the number of high hedge disputes would increase with more people suffering loss of amenity. Although difficult to predict how many more disputes would arise, it is probable that the numbers would increase steadily over time. In some cases, the existence of the dispute as well as the harm caused could result in a reduction in the value of the affected property.
10. There is some evidence that, if there is no resolution in sight, these disputes could escalate. People could be tempted to cut back the offending hedge beyond the boundary line, leading to civil court actions for damages by the hedge owner. A few cases of this nature arose after the first Private Members Bill failed. There have also been a few instances of violence. However, the numbers of disputes reaching such a pitch are likely to remain low, making this a low risk.
11. More and more resource, especially among public sector organisations (local authorities, police, courts) and advice agencies, would nevertheless be tied up in dealing with the consequences of these disputes – without leading to their resolution.
12. Further quantification of these risks is contained in the Costs analysis.

## Options

13. There are only two main options:

**Option 1:** do not implement Part 8 of the Anti-social Behaviour Act 2003 and so rely on existing procedures to settle hedge disputes; or

**Option 2:** implement Part 8 of the Anti-social Behaviour Act 2003 to give local authorities the role of determining high hedge complaints that cannot otherwise be resolved.

14. There are variations within Option 2 depending on the information gathering and decision-making procedures adopted by local authorities, and by the Planning Inspectorate on appeal. The legislation requires them to undertake a balancing exercise, taking into account not only the views of the complainant and the hedge owner but also the wider public interest. There are, however, different ways that they can fulfil this role:

**Option 2A:** follows closely the well-established procedures in other regulatory regimes, such as planning which deals with similar neighbourhood issues. This would involve publicity of complaints, wide consultation and possibly protracted exchanges of representations and comments between all interested parties;

**Option 2B:** involves simpler and more streamlined procedures whereby only the complainant and hedge owner would be invited to submit written statements, with limited exchange of comments and wider consultation only if necessary.

## Benefits – Economic, Social and Environmental

15. Consultees could not identify any benefits – **economic, social or environmental** – to **Option 1**, beyond the fact that local authorities would not face another new burden. Existing procedures have failed to resolve hedge problems and are unlikely to prove any more effective in the future.
16. **Option 2** would provide a clear and transparent mechanism for resolving existing hedge problem cases and any that might arise in the future. In addition, the legislation could alter people's behaviour, encouraging them to maintain their hedges at a reasonable height, which preserves their amenity and that of neighbours. The number of households adversely affected by high hedges would thus be reduced, and the number of costly and time consuming disputes over high hedges would decline.
17. There are considerable uncertainties about the number of existing hedge disputes making it difficult to quantify the effects of implementing this legislation. The 1999 survey suggested there could be 17,000 households waiting for the legislation to come into force to help solve their hedge problems. Although the 2004 consultation<sup>2</sup> asked local authorities for help to update this figure, responses showed they have not generally been keeping systematic records of hedge disputes. Estimates of potential caseload ranged from around 30 to 300 per authority, suggesting that the total number of unresolved hedge disputes could be anywhere between 10,000 and 100,000. The higher estimates tended, however, to relate to number of enquiries rather than to formal complaints. In any event, we could expect the vast majority of these outstanding cases to be resolved through the formal complaints procedure and significantly fewer new disputes to be referred to the local authority.
18. The Costs analysis suggests this would yield **economic** benefits in the longer term, as numbers of disputes decline. Dealing with such disputes through the formal complaints procedure in the legislation could be less costly than maintaining current arrangements. There would be **environmental and social** benefits in terms of improved amenity for complainants and possibly better neighbour relations. A clear and transparent procedure and an impartial adjudicator, in the form of the local authority, would offer householders (both complainants and hedge owners) assurance and certainty that a fair resolution could be achieved. This might help to make disputes less confrontational. It is impossible to quantify such benefits.

<sup>2</sup> 'High Hedges Consultation: Implementing Part 8 of the Anti-social Behaviour Act', ODPM March 2004.

## Sectors Affected

19. Groups affected by proposals to deal with hedge disputes are:

- Householders – that is owner/occupiers and tenants on both sides of the hedge. As noted above, numbers of affected households remain unclear as no systematic records exist. Although latest estimates from local authorities suggest there might be between 10,000 and 100,000 households with some tree or hedge related problem, these might involve individual trees or deciduous hedges which fall outside the scope of the legislation. The figures might also include cases that may be capable of resolution by negotiation between neighbours. They are not necessarily, therefore, a reliable guide to the number of unresolved hedge disputes.
- Landlords – including local authorities, housing associations, co-operatives and private letting agencies. There are about 4.5 million households living in properties, managed by an estimated 13,000 to 15,000 private and social landlords, which have access to a garden or yard and so could either have a high hedge or be affected by one.
- Mediation services – can help to solve some hedge disputes. Mediation UK represents nearly 300 mediation services with volunteers working among local communities. There are also a number of commercial companies who provide alternative dispute resolution services.
- The Courts – may currently be asked to settle some hedge disputes and would deal with prosecutions under the Anti-social Behaviour Act 2003 for failure to carry out works to remedy hedge problems.
- Local authorities – people tend to look first to their council for help in solving their hedge disputes. Responsibility for administering complaints about high hedges under the Anti-social Behaviour Act 2003 rests with the 354 unitary and district councils in England.
- The Planning Inspectorate – would deal with appeals against local authority decisions on hedge complaints.
- Tree surgeons and arboricultural advisers – complainants and hedge owners might engage experts to advise them on a complaint or need to employ professional help to reduce the size of a large hedge. There are currently 34 arboricultural advisers on the Arboricultural Association's list of registered consultants and around 130 tree surgeons on the list of approved contractors operating in England.
- Growers, retailers and landscapers – might need to be prepared to offer alternative plants and advice on suitable hedges if demand for, and sales of, conifer hedging declined.

## Costs – Economic, Social and Environmental

20. As there is no reliable data on the number of outstanding hedge disputes that might fall to be considered by local authorities, this Regulatory Impact Assessment looks at the costs associated with a range of potential caseloads. Taking account of information from consultation responses, Hedgeline membership and numbers of neighbour disputes resolved through mediation, these are considered to represent the most likely scenarios.
21. These outstanding cases should be resolved over the first three years that the legislation is in operation. The total costs have, therefore, been divided by three to derive an annual estimated cost. Once the backlog has been resolved, however, fewer new hedge complaints should arise. The annual cost is, therefore, expected to be lower in future years.
22. It must be stressed that the costs outlined below are uncertain, given that they are based on assumptions about both the volume of outstanding hedge complaints and future events.

### Option 1

#### Complainants

23. If things are left unchanged, people affected could be tempted to cut down the offending hedge and might then be sued in the civil courts for damages. They could face paying compensation and the hedge owner's legal costs in taking the matter to court, as well as their own. The final bill could range from £5,000 to over £100,000 (based on the case of *Stanton v Jones* which first drew attention to these problems).
24. There has been no record of this happening since the commitment to legislate to deal with hedge disputes was made in 2000. Prior to that date, however, Hedgeline had reports of 12 cases where members were taken to court and most of them fined heavily for cutting beyond the boundary. Assuming only 10 people were driven to such action in future, this would give a total **economic** cost of between £50,000 and £1 million. The annual cost would be between about £16,500 and £330,000.
25. There is some anecdotal evidence that the presence of a neighbouring high hedge could detract from a property's value, reflecting the impact on amenity. The existence of a hedge dispute would have to be declared to potential purchasers and could also affect the market value of the property. The effect of a decrease in property value ranging from £1,000 to £10,000 is shown in Table 1 below. These represent **environmental and social** costs.

*Table 1: reduced property value*

No. of affected properties (ie outstanding cases)	Total loss assuming £1,000 reduction in property value	Total loss assuming £10,000 reduction in property value
<b>Low</b> (8,000)	£8 million	£80 million
<b>Medium</b> (10,000)	£10 million	£100 million
<b>High</b> (14,000)	£14 million	£140 million

26. These are notional rather than actual costs. In reality, not everyone will want to sell. In addition, not all affected homes will be privately owned. For these reasons, the figures have not been included in Table 20 which summarises costs and benefits.

## Hedge owners

27. Owners are currently responsible for any hedges on their property and for looking after them. The problems tend to arise because they do not maintain their hedges. This is likely to remain the position if things are left as they are so there are no direct **economic** costs for owners associated with managing their hedges.
28. However, we could find that neighbours take steps to manage their side of the hedge so that it has less impact on their property and then reclaim their costs from the owner, through the small claims court if necessary. This could include employing professional help or hiring special equipment. Hedgeline have published on their website a procedure that people could use. If a few people used this successfully, it might encourage others to follow. The costs would vary depending on the size and condition of the hedge. Assuming a range of £100 to £600 for the cost of cutting back and disposal of overhanging branches and £30 to £80 in court fees, and that 1,000 people pursue this route, the total costs for hedge owners would range from £130,000 to £680,000. And this might not be a one-off cost; it could recur every few years. Assuming it was necessary to repeat this action every three years, the annual cost would be around £43,000 to £226,500.

## Local authorities

29. Option 1 is not without **economic** cost for local authorities. People would still approach their authority for help and advice, even though they have no formal role in these matters. Assuming, on average, administrative officers spend 15 minutes talking to each of the estimated 8,000 to 14,000 affected people, this would give a total cost across all local authorities of about £34,000 to £66,500. If this fell to case officers, costs would rise to between £46,000 and £103,250<sup>3</sup>. These could be annual recurring costs.

## The courts

30. As suggested above, if nothing is done to help resolve hedge disputes, the people affected might face a claim for damages if they cut down a hedge. In addition, hedge owners might be taken to the county court to repay the costs of managing the spread of the hedge. Both would have workload implications for the courts.

<sup>3</sup> Footnotes to Table 6 explain how these costs have been derived. These figures are based on median maximum salary plus net overheads.

31. However, the cost of action in the civil courts is met by the parties – in particular the losing party – and has been apportioned accordingly in the costings above.

## Summary of annual costs: Option 1

*Table 2*

	Low Annual Cost	High Annual Cost
Illegal hedge cutting	£16,500	£330,000
Hedge management	£43,000	£226,500
Local authority advice	£34,000	£103,250
<b>TOTAL COST<sup>4</sup></b>	<b>£93,500</b>	<b>£659,750</b>

32. These costs might continue beyond the initial three year period as outstanding cases would remain unresolved under this Option. The above estimates could, therefore, represent an annual recurring cost.

## Option 2

33. The possible variations in Option 2 identified above relate to administrative procedures and so affect local authorities and the Planning Inspectorate only. The costs for others will be the same under Options 2A and B.
34. As noted earlier, the annual costs described below relate to the early years of operating the legislation when outstanding hedge disputes would be resolved. Once this backlog has been cleared, the number of cases dealt with is expected to decline dramatically and so costs in future years would be significantly lower. The possible effect is illustrated in Table 19.

## Complainants

35. If part 8 of the Anti-social Behaviour Act 2003 were implemented, owners or occupiers of the property affected by a high hedge would pay a fee to the local authority to deal with their complaint. It would be for each local authority to determine the level of the fee and such issues as whether to waive it entirely; whether to set different rates for different groups of people; and whether any refund should be allowed.
36. The majority of local authority respondents to the consultation favoured a fee at a level that would allow them to recover their costs in implementing the high hedges legislation. Most thought a fee in the range of £300 to £600 would achieve this. A few authorities thought that £1,000 to £2,000 might better reflect the full cost of administering the legislation. Some of these alternative costings were, however, based on the mistaken belief that the legislation required them to mediate between the parties to the dispute, involving lengthy discussion and negotiation.

<sup>4</sup> This may be an underestimate because of the possible effect on house prices.

37. Depending on the charging policies of the local authority, therefore, the cost of making a complaint could range from nil to £600. Total and annual estimated costs for complainants are shown in Table 3 below. They represent an **economic** cost.

*Table 3: cost of making a complaint*

No of outstanding cases	£300 fee		£600 fee	
	Total costs	Annual costs <sup>5</sup>	Total costs	Annual costs
<b>Low</b> (8,000)	£2.4m	£0.8m	£4.8m	£1.6m
<b>Medium</b> (10,000)	£3m	£1m	£6m	£2m
<b>High</b> (14,000)	£4.2m	£1.4m	£8.4m	£2.8m

38. There is no requirement for complainants to submit detailed, technical information in support of their complaint. It will be for individuals, therefore, to decide whether to employ professional help to present their case.

## Hedge owners

39. Hedge owners will be responsible for meeting the costs of any remedial action that might be required under the legislation. The costs involved will vary considerably, depending on the extent of the works and the size and condition of the hedge. Assuming that the hedge has not been actively managed, they could run from £100 up to £600 should specialist equipment and professional help be needed to get a long, tall hedge back into shape. The estimated costs for hedge owners, assuming remedial action was ordered in all outstanding hedge dispute cases, are shown in Table 4.
40. Whatever the true number of outstanding hedge dispute cases, the actual costs of remedial action are likely to be lower than those given in Table 4. This is because it is unlikely that all complaints will result in remedial action. In some cases it may be found that the hedge has no unreasonable adverse effect and it may be left unchanged.

*Table 4: cost of remedial works – all hedge owners*

No. outstanding cases	Remedial works – £100		Remedial works – £600	
	Total costs	Annual costs <sup>6</sup>	Total costs	Annual costs
<b>Low</b> (8,000)	£0.8m	£0.27m	£1.4m	£0.47m
<b>Medium</b> (10,000)	£1m	£0.33m	£6m	£2m
<b>High</b> (14,000)	£4.8m	£1.6m	£8.4m	£2.8m

41. Depending on the final size of the hedge, it might be necessary to employ specialist help and equipment to maintain the hedge in accordance with the requirements of a remedial notice. The annual costs shown above could, therefore, represent a recurring **economic** cost.

<sup>5</sup> Assumes outstanding cases are resolved over a period of 3 years.

<sup>6</sup> Assumes remedial notices would be issued over a period of 3 years.

42. Such costs will fall mainly on householders – that is owner/occupiers and tenants. Depending on the nature of the individual tenancy agreement or contract, however, landlords in the private rented sector and charities such as housing associations and co-operatives could be liable. Costs of remedial works are most likely to fall on landlords where properties are in multiple occupation.
43. It is estimated that about 5% of households are in flats or maisonettes that have gardens or yards and are managed by the private rented sector or by social landlords<sup>7</sup>. The latter includes local authorities as well as housing associations or co-operatives. Assuming they account for a similar portion of hedge complaints, the estimated costs for private and social landlords of carrying out remedial works would be as shown in Table 5. These costs are not additional to the costs in Table 4, but a subset of them. The purpose of the following table is to illustrate the likely impact on the private rented sector and social landlords.

*Table 5: cost of remedial works – private and social landlords*

No. outstanding cases	Remedial works – £100		Remedial works – £600	
	Total costs	Annual costs <sup>8</sup>	Total costs	Annual costs
<b>Low</b> (400)	£40,000	£13,000	£240,000	£80,000
<b>Medium</b> (500)	£50,000	£17,000	£300,000	£100,000
<b>High</b> (700)	£70,000	£23,000	£420,000	£140,000

44. Local authorities should take account of the amenity of both the complainant and hedge owner in reaching a balanced decision. The hedge owner should suffer no unreasonable loss of amenity as a result of taking remedial action and so there would be no direct **environmental** impact arising from the local authority's decision on a complaint. While disposal of the additional green waste generated by reducing the size of the hedge would represent an environmental cost, it is impossible to quantify. The volume of such material is unknown and costs would vary depending on the method used – whether it was recycled, sent to landfill or illegally dumped.

## Mediation services

45. Mediation can offer a quick and informal means of resolving hedge disputes. And community mediation, using volunteers, is particularly effective in tackling this type of neighbourhood problem. But it works best where people willingly participate and want to reach a settlement.
46. For this reason, people are not required to go through mediation before taking their complaint about a neighbour's high hedge to their local authority. Nevertheless, they must demonstrate that they have taken all reasonable steps to resolve the dispute and that referral to the local authority is a last resort. Implementing the legislation might also exert pressure on hedge owners to negotiate rather than have the local authority involved. As a result, there could be an increased demand for community mediation services.

<sup>7</sup> ODPM Survey of English Housing 2001-02.

<sup>8</sup> Assumes remedial notices would be issued over a period of 3 years.

47. Bearing in mind that many of the outstanding hedge disputes are long-running ones where communication between the parties may have completely broken down, it is difficult to predict how many more cases might go to mediation. Assuming mediation was pursued in 10% of outstanding cases, this would result in an extra 800 to 1400 cases for community mediation services. At an average cost of £400 per mediation, the total **economic** costs would be from £320,000 to £560,000, and the annual costs from £107,000 to £187,000.

## Local authorities

48. If Part 8 of the Anti-social Behaviour Act 2003 were implemented, local authorities would incur **economic** costs when determining complaints, defending their decisions on appeal and enforcing remedial action. These would vary depending on whether well established administrative procedures were followed, under Option 2A, or whether more focussed and streamlined processes were adopted in accordance with Option 2B.

### Complaints: Option 2A

49. Based on information provided by local authority respondents to the consultation, the estimated time and costs involved in investigating a complaint about a high hedge and deciding whether to require the owner to carry out remedial works are shown in Table 6. Total and annual estimated costs are in Table 7.

*Table 6: cost of dealing with a typical complaint*

	Hours per case <sup>9</sup>	Costs: Gross OH <sup>10</sup>		Costs: Net OH <sup>11</sup>	
		Median min <sup>12</sup>	Median max	Median min	Median max
Administrative Officer <sup>13</sup>	4.5	£56.25	£63	£76.5	£85.5
Case Officer <sup>14</sup>	10	£170	£220	£230	£295
Senior Officer <sup>15</sup>	0.5	£12	£14	£16	£12
Legal Adviser <sup>16</sup>	0.5	£12.5	£14	£17	£12.5
<b>TOTAL</b>	<b>15.5</b>	<b>£250.75</b>	<b>£311</b>	<b>£339.5</b>	<b>£405</b>

<sup>9</sup> Based on estimates provided in Isle of Wight Council's consultation response. Adjusted in particular to reduce time spent on negotiation, which is not the primary role of the local authority in these cases.

<sup>10</sup> Uplifted by 155% to cover all labour costs. Based on the findings in 'The Planning Service: Costs and Fees', ODPM 2003.

<sup>11</sup> Uplifted by 210% to include unproductive time (holiday, sickness, training days etc) as an overhead. Based on the findings in 'The Planning Service: Costs and Fees', ODPM 2003.

<sup>12</sup> Based on salaries in the *Market Pay Survey: Employers Organisation – Local Government Digest* August 2004. Assumes 36 hour working week.

<sup>13</sup> Group 4: Admin Officer in the *Market Pay Survey* (salary range £14,800 to £16,500).

<sup>14</sup> Group 43: Planning Officer in the *Market Pay Survey* (salary range £21,300 to £26,600).

<sup>15</sup> No equivalent in the *Market Pay Survey*. Salary range £29,100 to £34,500 drawn from job adverts and cross-checked with 'Table 4.2: Planning service staff by salary band, percentages' in 'The Planning Service: Costs and Fees', ODPM 2003.

<sup>16</sup> Group 53: Solicitor in the *Market Pay Survey* (salary range £29,800 to £34,100).

*Table 7a: total costs of dealing with complaints*

No. of outstanding cases	Total Costs Gross OH		Total Costs Net OH	
	Median min	Median max	Median min	Median max
<b>Low</b> (8,000)	£2.01m	£2.49m	£2.72m	£3.24m
<b>Medium</b> (10,000)	£2.51m	£3.11m	£3.34m	£4.05m
<b>High</b> (14,000)	£3.51m	£4.35m	£4.75m	£5.67m

*Table 7b: annual costs of dealing with complaints*

No. of outstanding cases	Annual Costs Gross OH		Annual Costs Net OH	
	Median min	Median max	Median min	Median max
<b>Low</b> (8,000)	£0.69m	£0.83m	£0.91m	£1.08m
<b>Medium</b> (10,000)	£0.84m	£1.04m	£1.11m	£1.35m
<b>High</b> (14,000)	£1.17m	£1.45m	£1.58m	£1.89m

*Complaints: Option 2B*

50. The majority of consultation respondents favoured simplifying the procedures for dealing with complaints by inviting only the parties directly affected – the complainant and hedge owner – to submit written statements and by limiting the exchange of comments. This would save local authorities some expense in publicising complaints, notifying people about decisions and copying their comments and representations to the main parties. The effect of such streamlining on officer time and costs in dealing with a typical complaint is shown in Table 8. Total and annual estimated costs under these simplified complaints procedures are shown in Table 9.

*Table 8: cost of dealing with a typical complaint under simplified procedures*

	Hours per case	Costs: Gross OH		Costs: Net OH	
		Median min	Median max	Median min	Median max
Administrative Officer	3.5	£44	£51	£59.5	£66.5
Case Officer	8	£136	£176	£184	£236
Senior Officer	0.5	£12	£14	£16	£19
Legal Adviser	0.5	£12.5	£14	£17	£19
<b>TOTAL</b>	<b>12.5</b>	<b>£204.5</b>	<b>£255</b>	<b>£276.5</b>	<b>£340.5</b>

*Table 9a: total costs of dealing with complaints under simplified procedures*

No. of outstanding cases	Total Costs Gross OH		Total Costs Net OH	
	Median min	Median max	Median min	Median max
<b>Low</b> (8,000)	£1.64m	£2.04m	£2.21m	£2.72m
<b>Medium</b> (10,000)	£2.05m	£2.55m	£2.77m	£3.41m
<b>High</b> (14,000)	£2.86m	£3.57m	£3.87m	£4.77m

*Table 9b: annual costs of dealing with complaints under simplified procedures*

No. of outstanding cases	Annual Costs Gross OH		Annual Costs Net OH	
	Median min	Median max	Median min	Median max
<b>Low</b> (8,000)	£0.55m	£0.68m	£0.74m	£0.91m
<b>Medium</b> (10,000)	£0.68m	£0.85m	£0.92m	£1.14m
<b>High</b> (14,000)	£0.95m	£1.19m	£1.29m	£1.59m

*Appeals: Option 2A*

51. Local authorities will also wish to defend their decisions on appeal. The estimated time and costs involved in submitting statements, commenting on representations from the parties and attending a site visit are shown in Table 10. Total and annual estimated costs are in Table 11. In the light of concerns that the caseload of 2,000 appeals in the draft Regulatory Impact Assessment was low, Table 11 looks at the effects of higher appeals numbers. The appeal rates range from 25% to 60%. These compare with a 10% rate of appeal on statutory nuisance cases and 23% on planning decisions.

*Table 10: cost of dealing with a typical appeal*

	Hours per case	Costs: Gross OH		Costs: Net OH	
		Median min	Median max	Median min	Median max
Administrative Officer	1	£12.5	£14	£17	£19
Case Officer	4	£68	£88	£92	£118
Senior Officer	0.5	£12	£14	£16	£19
<b>TOTAL</b>	<b>5.5</b>	<b>£92.5</b>	<b>£116</b>	<b>£125</b>	<b>£156</b>

*Table 11a: total costs of dealing with appeals*

Caseload	Total Costs Gross OH		Total Costs Net OH	
	Median min	Median max	Median min	Median max
<b>Low</b> (2,000)	£0.19m	£0.23m	£0.25m	£0.31m
<b>Medium</b> (5,000)	£0.46m	£0.58m	£0.63m	£0.78m
<b>High</b> (8,000)	£0.74m	£0.93m	£1.0m	£1.25m

*Table 11b: annual costs of dealing with appeals*

Caseload	Annual Costs Gross OH		Annual Costs Net OH	
	Median min	Median max	Median min	Median max
Low (2,000)	£0.06m	£0.08m	£0.08m	£0.10m
Medium (5,000)	£0.15m	£0.19m	£0.21m	£0.26m
High (8,000)	£0.25m	£0.31m	£0.33m	£0.42m

*Appeals: Option 2B*

52. As with complaints, local authority respondents to the consultation saw scope to simplify the appeal procedures. In particular, local authority officers who were sounded out on the proposals favoured a streamlined process where their input was confined to handing over the case file. The effect of such streamlining on officer time and costs in dealing with a typical appeal is shown in Table 12. Total and annual estimated costs under these simplified appeals procedures are shown in Table 13.

*Table 12: cost of dealing with a typical appeal under simplified procedures*

	Hours per case	Costs: Gross OH		Costs: Net OH	
		Median min	Median max	Median min	Median max
Administrative Officer	1	£12.5	£14.5	£17	£19
Case Officer	1	£17	£22	£23	£29.5
<b>TOTAL</b>	<b>2</b>	<b>£29.5</b>	<b>£36.5</b>	<b>£40</b>	<b>£48.5</b>

*Table 13a: total costs of dealing with appeals under simplified procedures*

Caseload	Total Costs Gross OH		Total Costs Net OH	
	Median min	Median max	Median min	Median max
Low (2,000)	£0.06m	£0.07m	£0.08m	£0.10m
Medium (5,000)	£0.15m	£0.18m	£0.20m	£0.24m
High (8,000)	£0.24m	£0.29m	£0.32m	£0.39m

*Table 13b: annual costs of dealing with appeals under simplified procedures*

Caseload	Annual Costs Gross OH		Annual Costs Net OH	
	Median min	Median max	Median min	Median max
Low (2,000)	£0.02m	£0.02m	£0.03m	£0.03m
Medium (5,000)	£0.05m	£0.06m	£0.07m	£0.08m
High (8,000)	£0.08m	£0.10m	£0.11m	£0.13m

## Enforcement

53. If a hedge owner does not comply with a local authority's orders, the authority will be able to enforce remedial action by prosecuting the hedge owner and/or by carrying out the work themselves.
54. We expect that complainants will inform local authorities if a hedge owner has failed to comply with the requirements of a remedial notice so that the legislation will be enforced largely through self-policing. Local authorities are advised to employ a light touch when enforcing the legislation, using informal discussions and warning letters to secure compliance before resorting to the courts.
55. The estimated time and costs involved in dealing with an enforcement case are shown in Table 14. Total and annual estimated costs of local authorities' enforcement action, across a range of caseloads, are shown in Table 15.

*Table 14: cost of dealing with a typical enforcement case*

	Hours per case	Costs: Gross OH		Costs: Net OH	
		Median min	Median max	Median min	Median max
Administrative Officer	1	£12.5	£14.5	£17	£19
Case Officer	3	£41	£66	£69	£88.5
Legal Adviser	0.5	£12.5	£14	£17	£19
<b>TOTAL</b>	<b>4.5</b>	<b>£76</b>	<b>£94.5</b>	<b>£103</b>	<b>£126.5</b>

*Table 15a: total costs of dealing with enforcement cases*

Caseload	Total Costs Gross OH		Total Costs Net OH	
	Median min	Median max	Median min	Median max
<b>Low</b> (2,000)	£0.15m	£0.19m	£0.21m	£0.25m
<b>Medium</b> (3,000)	£0.23m	£0.28m	£0.31m	£0.38m
<b>High</b> (5,000)	£0.38m	£0.47m	£0.52m	£0.63m

*Table 15b: annual costs of dealing with enforcement cases*

Caseload	Annual Costs Gross OH		Annual Costs Net OH	
	Median min	Median max	Median min	Median max
<b>Low</b> (2,000)	£0.05m	£0.06m	£0.07m	£0.08m
<b>Medium</b> (3,000)	£0.07m	£0.09m	£0.10m	£0.13m
<b>High</b> (5,000)	£0.13m	£0.16m	£0.17m	£0.21m

56. Where local authorities decide to prosecute, or if they carry out the necessary works themselves, they can recover their costs. Any unpaid expenses arising from the local authority using its default powers to carry out the work specified in the remedial notice would (until recovered) be registered as a local land charge.

#### *Other implementation costs*

57. As well as the cases that result in formal complaints, local authorities will have to deal with general enquiries about the high hedges legislation. Anecdotal evidence suggests that people may have unrealistic expectations of how the legislation will work, anticipating that it can be used to get all problem trees and hedges reduced to 2 metres in height. The volume of enquiries is, therefore, likely to be higher initially until the limits of the complaints system are more widely understood. As noted earlier, local authorities' estimates of potential enquiries ranged widely from a total of around 10,000 to 100,000.
58. A variety of methods would be used to answer these queries, including local authority websites, telephone contact centres, printed leaflets, email. In addition, some local authorities might produce their own publicity material while others might rely on external sources, such as the Office of the Deputy Prime Minister website and publications.
59. As a result, it is difficult to estimate the cost of enquiry handling. However, assuming an administrative officer (on the median maximum salary plus net overheads) deals with 20 queries an hour, on average, the total cost would be from £95,000 to £950,000, giving an annual cost of about £31,700 to £317,000.
60. The costings in the tables above that are based on salary plus net overheads include unproductive time, such as staff training. Time spent by staff learning about the new requirements in respect of high hedges and familiarising themselves with the guidance published by the Office of the Deputy Prime Minister has not, therefore, been costed separately.

#### *Fees*

61. These costs may be covered by the fees charged for making a complaint. It would be for each local authority to decide what to charge for dealing with high hedge complaints, and thus how to distribute the costs of providing this service between complainants, who must pay the relevant fee, and council taxpayers.
62. Table 2 indicates that these fees are expected to raise between £0.8m and £2.8m. Therefore it is necessary to calculate the net costs to local authorities after accounting for costs recovered from fees, in order to avoid double counting.

## The Planning Inspectorate

63. The Deputy Prime Minister as First Secretary of State intends to delegate all his appeals functions to the Planning Inspectorate (PINS).

### Option 2A

64. It is estimated to cost about £1,035 on average to deal with an appeal under current written representations procedure. This would give total and annual costs for PINS as shown in Table 16.

*Table 16: cost to PINS of dealing with appeals*

Caseload	Total Costs	Annual Costs
<b>Low</b> (2,000)	£2.07m	£0.69m
<b>Medium</b> (5,000)	£5.18m	£1.73m
<b>High</b> (8,000)	£8.28m	£2.76m

### Option 2B

65. If simplified appeals procedures were adopted, it might be possible to do an additional 2 site visits in a week. This would reduce the average cost for dealing with an appeal to around £700. The estimated effect on PINS costs is shown in Table 17.

*Table 17: cost to PINS of dealing with appeals under simplified procedures*

Caseload	Total Costs	Annual Costs
<b>Low</b> (2,000)	£1.4m	£0.47m
<b>Medium</b> (5,000)	£3.5m	£1.17m
<b>High</b> (8,000)	£5.6m	£1.87m

66. Implementation costs, including recruiting additional Inspectors and staff training, are estimated at £120,000. If spread over three years, this would give an annual cost of £40,000.
67. There is no provision in the Anti-social Behaviour Act 2003 for a charge to be made for appeals. These costs will, therefore, fall to central Government, to be met from within existing Departmental running cost limits.

## The courts

68. Failure to comply with a remedial notice would be an offence under the legislation liable, on conviction in the magistrates' court, to a level 3 fine (up to £1,000). The court might then – in addition to, or in place of, a fine – issue an order for the offender to carry out the required work within a set period of time. There would be a further offence of failure to comply with the court order, liable to a level 3 fine. At this point, the court would also be able to set a daily fine of up to one twentieth of a level 3 fine for every day that the work remains outstanding thereafter.

69. If the courts were to use the full range of penalties at their disposal, this should act as a powerful deterrent to others. Only the most intractable cases are likely, therefore, to result in prosecution.
70. If 1% of the 8-14,000 outstanding problem cases were to go to court, this would result in a total of 80 to 140 prosecutions – or, on average, about 30 to 40 cases a year. This estimate assumes, of course, that remedial notices would be issued in 100% of cases, which is most unlikely.
71. At a cost of £328 per case, this would give a total cost of £26,240 to £45,920 or an annual cost of £8,746 to £15,306.
72. The Courts would also be involved in dealing with applications for judicial review of decisions made under the high hedges legislation. In 2003/04, less than 0.5% of the Planning Inspectorate's decisions on planning appeals (in England) were contested in the High Court. If we assume a similar rate of challenge in respect of high hedges appeals, we could expect a total of 10 to 12 decisions to be subject to judicial review. However, as the cost of action in the civil courts is met by court fees, the cost of any action would be met by the parties and, in particular, the losing party.

## Summary of annual costs: Option 2

Table 18

	Option 2A		Option 2B	
	Low Annual Cost	High Annual Cost	Low Annual Cost	High Annual Cost
Complainant fees	-£0.8m	-£2.8m	-£0.8m	-£2.8m
Remedial action	£0.27m	£2.8m	£0.27m	£2.8m
Mediation services	£0.11m	£0.19m	£0.11m	£0.19m
Local authority decisions	£0.69m	£1.89m	£0.55m	£1.59m
Local authority appeals	£0.06m	£0.42m	£0.02m	£0.13m
Local authority enforcement	£0.05m	£0.21m	£0.05m	£0.21m
Local authority enquiries	£0.03m	£0.32m	£0.03m	£0.32m
Appeals to PINS	£0.73m	£2.80m	£0.51m	£1.91m
<b>TOTAL COST</b>	<b>£1.14m</b>	<b>£5.83m</b>	<b>£0.74m</b>	<b>£4.35m</b>

## Recurring Annual Costs after Three Year Backlog Has Been Cleared

73. Once the backlog of cases has been dealt with the costs of this regulation should fall significantly. In future years only the newly arising disputes will have to be settled. The total number of new disputes per year can be expected to be significantly lower than the 8,000 to 14,000 outstanding cases.
74. If we assume that the number of new cases per year is between 100 and 500, we can apply per case costs derived from the previous calculations in order to estimate an annual cost after the backlog has been cleared. Table 19 summarises these potential costs.

*Table 19: recurring annual costs post backlog*

	Option 2A	Option 2B
100 new cases a year	£0.04m-£0.12m	£0.02m-£0.09m
500 new cases a year	£0.2m-£0.6m	£0.12m-£0.44m

## Equity and Fairness

75. Implementing Part 8 of the Anti-social Behaviour Act 2003 is intended to correct a current inequality whereby a high hedge may have an adverse impact on neighbouring properties whilst the amenity of the hedge owner is unaffected. The role of local authorities in determining complaints about high hedges would be to secure a balance between the competing interests of the complainant and hedge owner and of the community as a whole, taking account of the particular circumstances of the case. Issues of equity and fairness would, therefore, be central to the decision-making process.
76. As complaints may be brought only where residential properties are affected and as around 80% of the population live in urban areas, the impact of the legislation is likely to be felt more in urban than in **rural** areas. Otherwise, it has no disproportionate effect on any particular group of people. In particular, it would apply to any owner or occupier of an affected property or of the land where the hedge is situated, regardless of **race**, gender or age.
77. It is possible that people on low incomes may not be able to afford the fee that has to be paid when a complaint is submitted to a local authority, thereby preventing them from using this service and so putting them at a disadvantage. Local authorities have discretion, however, to waive or reduce the fee in such circumstances.
78. Insofar as some people have suggested that the stress of the dispute over the hedge could be causing health problems, providing a clear and impartial mechanism for resolving these matters might indirectly offer some **health** benefits.

## Impact on Small Business

79. The impact of high hedges legislation on housing providers in the private and voluntary sectors and on community mediation services is discussed above. The total cost to these organisations is estimated to be around £360,000 to £980,000, and the annual cost from £120,000 to £327,000.
80. Other businesses, charities and voluntary organisations will be affected by the implementation of Part 8 of the Anti-social Behaviour Act 2003 only if they own property that adjoins a residential area and that has a high hedge. The correspondence that we receive suggests such cases are rare. The overall impact of the legislation on these sectors is likely, therefore, to be minimal. The Small Business Service have been consulted and have agreed this analysis.

## Competition Assessment

81. Implementing the legislation would have no direct impact on competition. There is evidence that sales of conifers and, specifically, conifer hedging have declined in the wake of the adverse publicity these hedge disputes have attracted. Nurseries and garden centres have, for some time, been adjusting supplies in response to these changing demands.

## Enforcement and Sanctions

82. Implementing Part 8 of the Anti-social Behaviour Act 2003 would send out a strong message that people should not grow hedges that unreasonably impact on neighbours, and so might help to alter assumptions about acceptable neighbourly behaviour. People might also be more inclined to negotiate a solution to these problems rather than face the prospect of the local authority deciding the matter. Just bringing the legislation into force should, therefore, help to minimise the number of unresolved hedge disputes.
83. Where negotiation does not work and people refer their complaint to the local authority, the authority would be able – if they considered the circumstances justified it – to order the owner to cut back the hedge by issuing a remedial notice. Given their close interest in the matter, the complainant is likely to monitor compliance closely and to inform the local authority of any breach. The high media interest in neighbourhood disputes also means that any failure to comply with a remedial notice could lead to the hedge owner being named and shamed in the local press. These would be strong inducements to secure compliance.
84. These self-policing measures would be supported by criminal offences and fines. As noted earlier, conviction in the magistrates' court of failure to comply with a remedial notice would carry a level 3 fine (up to £1,000). This is in line with fines for similar offences, such as failure to remedy a statutory nuisance (under the Environment Protection Act 1990) or failure to deal with land which is adversely affecting the amenity of an area (under the Town and Country Planning Act 1990).
85. Those who continued to defy the local authority's order could face the prospect of a court order and daily fines. Such strong penalties were considered essential to ensure that the necessary works to the hedge were carried out and so provide relief to the complainant.
86. For this reason, local authorities also have discretionary powers to go in and do the work themselves, recovering their costs from the hedge owner. They would be able to use these powers whether or not the criminal offence was pursued. The costs of the work would be recovered from the owner or occupier of the land. Any unpaid expenses would (until recovered) be registered as a local land charge.

## Monitoring and Review

87. It is proposed to review how the legislation is working after it has been in operation for 5 years. This timescale has been selected so that it is possible to assess whether the predicted decline in new high hedge complaints, after the outstanding cases have been resolved, has happened. Such a review will include a survey of local authorities. In notifying authorities of the operational date for the legislation, we will advise them of the need to maintain records of complaints and their outcome in order to inform the review process.

## Consultation

### Within Government

88. The following Government Departments and Agencies have been consulted on implementation of high hedges legislation:
- Cabinet Office
  - Department for Constitutional Affairs
  - Department for the Environment, Food and Rural Affairs
  - Department of Trade and Industry
  - HM Treasury
  - Home Office
  - Small Business Service
  - The Planning Inspectorate

### Public Consultation

89. A report summarising the results of the public consultation held between March and July 2004 is attached as an Appendix. It also explains how the results have helped to shape the detailed arrangements for implementing high hedges legislation in Part 8 of the Anti-social Behaviour Act 2003.

## Summary and Recommendation

90. The costs and benefits of the options identified in paragraph 13 above are summarised in Table 20.

*Table 20: summary of costs and benefits*

Option	Annual Cost	Benefits
<b>1. Do nothing</b>	£0.09m to £0.66m <sup>17</sup>	None identified.
<b>2A. Implement part 8 of the Anti-social Behaviour Act 2003 following established procedures.</b>	£1.14m to £5.83m	Transparent process to resolve outstanding hedge disputes. Role of local authority, plus appeals procedure, provide certainty of fair and impartial resolution. Improved amenity for complainants. Better neighbour relations. Better managed hedges. Fewer new hedge disputes.
<b>2B. As Option 2 but with more streamlined procedures</b>	£0.74m to £4.35m	Benefits as for Option 2A but with a lighter regulatory touch.

91. Option 2B is recommended as offering the most effective means of minimising hedge disputes, with a light regulatory touch.

## Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed \_\_\_\_\_

Date \_\_\_\_\_

### Phil Hope

Parliamentary Under Secretary of State  
Office of the Deputy Prime Minister

### Contact Point

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<sup>17</sup> These may be an underestimate because of the possible effect on house prices.

## Appendix: Analysis of Consultation Responses

### High Hedges Consultation: Implementing Part 8 of the Anti-social Behaviour Act 2003

#### Introduction

1. Between March and June 2004, the Government undertook a public consultation on how Part 8 of the Anti-social Behaviour Act 2003, which gives local authorities new powers to deal with complaints about high hedges, should be implemented in England. In addition, soundings were taken of 10 local authority officers at a meeting in June.
2. The consultation sought views on draft Regulations governing certain procedural details – notably the fee for making a complaint and how appeals against local authority decisions should be handled. Comments were also invited on draft operational guidance, principally intended for local authorities.
3. In total, 194 responses were received. 96 (50%) of these were from local authorities, 22 (11%) were from organisations and professionals (including arboricultural, planning, local government, and legal interests) and 76 (39%) were from members of the public. A full list of respondents is at Annex A. A table summarising the answers to each question, by category of respondent, is at Annex B.
4. Some respondents replied specifically to the questions asked while others adopted a more thematic approach. Not every respondent dealt with each question asked. For example, members of the public tended to confine their comments to the issue of fees. As a result, this report is divided into key areas, incorporating all responses. Percentages given relate to the number of respondents who commented on a particular topic.
5. It does not cover the results of the separate consultation on implementation of the legislation in Wales conducted by the Welsh Assembly Government. These are available on the planning pages of the Welsh Assembly Government website at: [www.wales.gov.uk/subiplanning/index.htm](http://www.wales.gov.uk/subiplanning/index.htm).

#### Fees

##### *What we asked*

6. Section 68 of the Anti-social Behaviour Act 2003 requires that, in submitting a complaint, it must be accompanied by such fee (if any) as the local authority determines. The Government has a discretionary power to set a ceiling on what local authorities can charge for this service, through Regulations.
7. The key issue for consultation was, therefore, the level at which any maximum fee should be fixed. Views were sought, in particular, on whether it should be set so as to allow local authorities fully to recover their costs in administering high hedge complaints.

*What you said*

8. There were widely divergent views on the issue of fees.
9. On the one hand, 76% of local authority respondents favoured a maximum fee based on full cost recovery. While 38% of authorities agreed that the proposed fee of £280 to £320 would cover their costs, more (47%) thought this was an underestimate. A fee in the range of £400 to £600 had most support but a few authorities thought that £1,000 to £2,000 might better reflect the full cost of administering the legislation. Some of these alternative costings were, however, based on the mistaken belief that the legislation required them to mediate between the parties to the dispute, involving lengthy discussion and negotiation.
10. On the other hand, Hedgeline (which represents around 4,000 people who have problems with neighbours' hedges) and 77% of the public who commented on the subject argued strongly for a national maximum fee of no more than £100. They drew parallels with the cost of making a planning application to extend your home and argued that a higher fee would prevent people getting access to the system, and so would be counter-productive. The latter concern was also shared by some local authorities.
11. In addition, some members of the public queried why the complainant should pay, particularly where the complaint was upheld. People felt that in such cases the hedge owner should bear part, if not all, of the cost.

*How we've responded*

12. The differences revealed by the consultation suggest that decisions on whether and at what level it is appropriate to charge for this service should rest with local authorities, so that they can take account of local circumstances and local taxpayers' wishes. This would also be in line with the Government's general policy of allowing such decisions to be made at the local level. We will, not therefore, be prescribing a maximum fee.
13. Under the terms of the Anti-social Behaviour Act 2003, authorities may set different rates for different groups – for example, for those on low incomes or benefits. They may also decide whether, and in what circumstances, to allow any refund. But there is no obligation on them to do so.

**Appeals***What we asked*

14. Section 71 of the 2003 Act specifies the appeal rights of the complainant and the hedge owner in relation to the decision by the local authority on the original complaint, including the issue of a remedial notice. It also provides rights of appeal against any decision by the authority to withdraw a remedial notice, or to waive or relax its requirements. The grounds on which appeals can be made and the procedures for determining appeals are left to Regulations.

15. The consultation sought views on the grounds of appeal set out in draft Regulations and the proposal that appeals should be determined on the basis of an exchange of written representations, together with a visit to the site of the hedge. Comments were invited, in particular, on how the appeals procedure might be simplified.

#### *What you said*

16. Around 67% of respondents supported the proposed grounds of appeal, though some additional grounds were put forward. In particular, it was felt that people should be able to appeal against a remedial notice on the grounds that the works specified in it would have an adverse effect on the visual amenity of the local area. Or that the works were not in accordance with good arboricultural practice and so might result in the death of the hedge. As such matters are encompassed within the broad grounds of appeal proposed, these comments showed the need for clarification on the circumstances covered.
17. On the appeals procedure, 57% of respondents across all sectors considered that only the main parties to the original complaint – that is, the complainant, hedge owner and local authority – should be involved in the appeal. Some 27% of respondents felt there should be discretion to seek representations from others who had commented on the original complaint, depending on the circumstances of the case.
18. There was consensus that appeals were best dealt with by the submission of written representations. As the proposed procedures closely followed the planning model, respondents generally regarded them as fair and reasonable, including the timetable for submission of representations. Hedgeline suggested shorter deadlines in the light of concerns that appeals might be unreasonably prolonged. They also considered that a site visit by the appeal Inspector should be mandatory.
19. Despite this overall support for the consultation proposals, comments from local authorities revealed serious reservations about the cost implications associated with high hedges appeals. Some proposed a fee in order to deter frivolous appeals. Others suggested that appeal procedures should be simplified. In particular, local authority officers who we sounded out on the proposals favoured a streamlined process where their input was confined to handing over the case file.

#### *How we've responded*

20. The Regulations governing the grounds of appeal against local authority decisions on complaints about high hedges have been refined and the relevant section of the guidance has been expanded so it is clearer what circumstances are covered.
21. In the light of concerns about the impact of the proposed appeal procedures on local authorities and on the Planning Inspectorate (PINS), who will administer appeals relating to high hedges, the process has been radically slimmed. The key features of the revised procedure are:
  - **Only the main parties – the complainant, hedge owner and local authority – will be involved.** Other interested people (eg neighbours, amenity societies) may have made their views known to the local authority at the complaint stage. These will be on file and will be taken into account in determining the appeal;

- **All appeals will be conducted in writing;**
- **Evidence to enable the Inspector to determine the appeal will be supplied from the local authority case file.** This would replace the normal procedure of gathering information through an exchange of representations, which often duplicate material obtained during consideration of the original complaint;
- **Other information/evidence will be sought at PINS' or the Inspector's discretion.** For example, the views of the parties would need to be sought on any new issues raised in the appeal, which had not been considered at the complaint stage;
- **A site visit by the Inspector will remain an integral part of the process.**

## Draft Guidance

### *What we asked*

22. Alongside the main consultation paper we published *'High Hedges Complaints: Prevention and Cure – Consultation Draft'* which offered advice, principally for local authorities, on the operation of the legislation in England. The consultation sought comments on this draft guidance, not only whether it was clear and easy to use but also whether the proposed procedures could be simplified.

### *What you said*

23. There was a general welcome for the draft guidance, with most respondents finding it clear and well structured. A few people thought it was overly prescriptive, while others sought more detail. It was suggested that checklists or flow charts, and perhaps chapter summaries, should be added to aid navigation.
24. The proposed procedure for dealing with complaints, through written submissions and a site visit, was generally considered sensible and workable. 70% of respondents thought it should be simplified, however, by only inviting the parties directly affected – the complainant and hedge owner – to submit written representations and by limiting the exchange of comments. Although 75% of respondents regarded high hedge complaints as essentially private matters that should not be advertised to stimulate comment, some 16% felt that local authorities should have discretion to canvass wider views in certain circumstances. For example, where the hedge contributed to the wider amenity of the area, perhaps because it was situated in a conservation area or it contained protected trees.
25. Several respondents took the trouble to submit detailed comments on the draft guidance. These included requests for additional advice on some issues that might be encountered when considering complaints or enforcing the legislation. Specific suggestions were also made on how the draft guidance might be improved. The sections offering advice on how local authorities might assess and determine complaints, in order to achieve a reasonable balance between the competing interests of the individuals affected and the community as a whole, received most comment.

### *How we've responded*

26. The guide '*High Hedges Complaints: Prevention and Cure*' has been altered to incorporate many of the detailed comments made and to simplify the process where possible. In particular, it suggests that while the complainant and hedge owner should exchange statements setting out their case to ensure transparency, inviting further comment is unlikely to generate additional information. The section on assessing and determining complaints has been recast so that it is clearer.

## Draft Regulatory Impact Assessment

### *What we asked*

27. Comments were sought on the draft Regulatory Impact Assessment on implementing the high hedges legislation. We asked local authorities if they had been keeping records of the number of people who had approached them about making a complaint and thus how many cases they were anticipating. In addition, we asked for comments on the estimated costings for both private individuals and public sector bodies, and whether there were any benefits of not implementing the legislation.

### *What you said*

28. Apart from a handful of individuals and Hedgeline, the bulk of the comments on the draft Regulatory Impact Assessment came from local authorities and their representative organisations. While several local authorities offered estimates of the number of complaints expected, few had kept records of enquiries. Even where they had such records, authorities accepted that not all enquiries would result in formal complaints.
29. Most local authority respondents were concerned about the resource implications of this new burden. As noted in the discussion on fees above, the majority considered that we had underestimated the time that it would take to determine these complaints and thus the costs. Some also predicted a higher percentage of cases going to appeal and requiring enforcement action. Where alternative costings were offered, however, few provided a breakdown to show how they had arrived at the figures.
30. No benefits of the 'do nothing' option of not implementing high hedges legislation were identified, other than the fact that it would not impose a new burden on local authorities.

### *How we've responded*

31. The estimated costs to local authorities have been revised and put on a more robust footing in the final Regulatory Impact Assessment. In addition, in view of the uncertainties over demand, different scenarios are illustrated – depending on whether the caseload is high, medium or low. Other changes reflect the simplified procedures that have been adopted, especially in relation to appeals (see above).

## Annex A: List of Respondents

Mrs E Appleyard	Country Land & Business Association
Ashford BC	Mr D F Crabtree
Aylesbury Vale DC	Lesley Cundiff
Mr Christopher Balogh	Dartford BC
S W D Banks	Mr Garth Davies
LB Barnet	Mr & Mrs John Daykin
Basingstoke & Deane BC	Derby City Council
Mr John Bazley	Derbyshire Dales DC
Mr & Mrs W Beck	Dover DC
Bedford BC	Mr Clive Dunnico
Birlingham PC	East Cambridgeshire DC
Bolsover District Council	East Dorset DC
Mr Peter Bottomley MP	East Hampshire DC
Bournemouth DC	East Herts DC
Mr Clive Bowman	Mr & Mrs John Elliott
Mrs Roselyn Bradford	English Heritage
Braintree DC	Essex Association of Local Councils
Breckland DC	Forest of Dean DC
Bridgnorth DC	Mr L M Garner
Broads Authority	Gateshead Council
Bromsgrove DC	Mr Lawrence Geary
Broxtowe BC	Guildford BC
Mr P C Buckingham	Harborough DC
Richard Burden MP	Sarah Harrison
Mr John Cairns	Harrow Council
Cannock Chase DC	Health & Safety Executive
Canterbury CC	Hedgeline
Caradon DC	Mr D E Hennessey
Mrs Judith Carter	Hertsmere BC
Mr Ronald Cavanagh	Mr C W E Heywood
Sir Sydney Chapman MP	Mr Alan Hingley
Cheltenham BC	Mr Paul Hoddy
Chesterfield BC	Horsham DC
Colchester BC	Mr & Mrs John Humphries
The Commission for Local Administration in England	Hyndburn BC
Cornwall County Council	Institute of Horticulture
Cotswold DC	Isle of Wight Council
Council on Tribunals	Mr Richard Jackson
	Mr Robert Jackson MP

Mr Christopher Jarvis	Northampton BC
Mr A D Jones	Mr Adam Ogilvie-Smith
Lynne Jones MP	Mrs Alyson Osborne
Kent Tree Officers Group	Mr Tom Perry
Kerrier DC	Mr & Mrs Phillips
Kettering BC	Planning & Environment Bar Association
Kingston Upon Hull City Council	Planning Inspectorate
Kirklington PC	Planning Officers Society
Lancaster City Council	Poole BC
Mr Brian Laughland	Mr A W Popham
The Law Society	Purbeck DC
Leeds City Council	LB Redbridge
Mr Ken Lewis	Redcar & Cleveland
Ms Sue Lewis	Redditch BC
Lichfield DC	LB Richmond
Mr & Mrs Mike Liddicoat	Rochford DC
Liverpool CC	Royal Horticultural Society
London Tree Officers Association	Royal Town Planning Institute
Luton BC	Cllr Jan Ruhmund
Mr John Machin	Mrs Hazel Rumbelow
Maidstone BC	Runnymede BC
Mr J T Mallinson	Ryedale BC
Malvern Hills DC	Mr & Mrs William Sannwald
Mr Ian Mateer	Mr B F Sansom
Mr V Merrill	Sefton Council
Mid Sussex DC	Shrewsbury & Atcham BC
Mr Ian Miller	Mr D E Smith
Milton Keynes Council	Mr Michael Souper
Mole Valley DC	South Cambridgeshire DC
Mr Deepak Mukerjee	South Norfolk Council
National Association of Estate Agents	South Northants DC
National Association of Tree Officers	South Staffordshire Council
National Consumer Federation	Southampton City Council
National Urban Forestry Unit	Mr Brian Spencer
Dr Doug Naysmith MP	St Albans DC
New Forest DC	Stafford BC
Newcastle CC	Stockport Council
North Norfolk DC	Surrey Heath BC
North Somerset	Tandridge DC
North Warwickshire BC	Mr P Tebbit

Teignbridge DC  
Mr Trevor Terry  
Tewkesbury BC  
Thanet DC  
Mrs C Thomas  
Jenny Tonge MP  
Torbay Council  
Totnes Town Council  
Mrs T Tyler  
Mrs Barbara Vaughan  
Mrs Lesley Vaughan  
Mr Edward Walliss MBE  
LB Wandsworth  
Warrington BC  
Warwickshire DC  
Waverley BC  
Wealden DC  
Wellingborough Council  
Mr D Wells  
Mr Charles Welsh  
West Dorset DC  
West Lancashire DC  
Mrs M E Weston  
Mr & Mrs D W Whetton  
Mr Christopher White  
Wilks Head & Eves  
E Williams  
Mr Derek Williamson  
Berry Wilson  
Windsor & Maidenhead RB  
Woking BC  
Woodland Trust  
City of Worcester

4 respondents requested confidentiality

## Annex B: Statistical Summary of Responses

<b>Sector totals</b>		<b>Local Authorities</b>		<b>Organisations &amp; Professionals</b>		<b>Public</b>		<b>TOTAL (&amp; % of total)</b>
<b>Responses</b>	Sector totals	96		22		76		<b>194</b>
	% of total	49%		11%		39%		
<b>Fees (Q1-3)</b>		<b>Local Authorities</b>		<b>Organisations &amp; Professionals</b>		<b>Public</b>		<b>NUMBER (&amp; % of total)</b>
<b>Responses</b>	Topic total	90		13		53		<b>156</b>
	% of sector total	94%		59%		70%		<b>80%</b>
<b>Should fees be set to allow full recovery?</b>	number	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
		68	8	7	4	3	41	<b>131</b>
	% of sector total	71%	8%	32%	18%	4%	54%	<b>68%</b>
	% topic total	76%	9%	54%	31%	6%	77%	<b>84%</b>
<b>If so is £280-£320 OK?</b>	number	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
		34	42	3	5	1	41	<b>126</b>
	% of sector total	35%	44%	14%	23%	1%	54%	<b>65%</b>
	% topic total	38%	47%	23%	38%	2%	77%	<b>81%</b>
<b>Grounds of appeal (Q4-6)</b>		<b>Local Authorities</b>		<b>Organisations &amp; Professionals</b>		<b>Public</b>		<b>NUMBER (&amp; % of total)</b>
<b>Responses</b>	Topic total	80		14		6		<b>100</b>
	% of sector total	83%		64%		8%		<b>52%</b>
<b>Are grounds of appeal against RN OK?</b>	number	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
		57	15	10	3	0	2	<b>87</b>
	% of sector total	59%	16%	45%	14%	0%	3%	<b>45%</b>
	% topic total	71%	19%	71%	21%	0%	33%	<b>87%</b>
<b>Are grounds of appeal against refusal to issue RN OK?</b>	number	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
		58	13	9	1	0	2	<b>83</b>
	% of sector total	60%	14%	41%	5%	0%	3%	<b>43%</b>
	% topic total	73%	16%	64%	7%	0%	33%	<b>83%</b>
<b>Are grounds of appeal against withdrawal of RN OK?</b>	number	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
		64	5	8	1	0	2	<b>80</b>
	% of sector total	67%	5%	36%	5%	0%	3%	<b>41%</b>
	% topic total	80%	6%	57%	7%	0%	33%	<b>80%</b>

<b>Appeals Procedure (Q7-11)</b>		<b>Local Authorities</b>		<b>Organisations &amp; Professionals</b>		<b>Public</b>		<b>NUMBER (&amp; % of total)</b>
<b>Responses</b>	Topic total	84		16		9		<b>109</b>
	% of sector total	85%		73%		12%		56%
<b>Should the main parties play an equal part?</b>		<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
	number	70	3	12	0	3	0	<b>88</b>
	% of sector total	73%	3%	55%	0%	4%	0%	45%
	% topic total	83%	4%	75%	0%	33%	0%	81%
<b>Should all interested parties take part (Y) or be restricted to main parties (N)?</b>		<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
	number	23	50	3	10	3	2	<b>91</b>
	% of sector total	24%	52%	14%	45%	4%	3%	47%
	% topic total	27%	60%	19%	63%	33%	22%	83%
<b>Are the procedures fair?</b>		<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
	number	55	13	10	1	0	2	<b>81</b>
	% of sector total	57%	14%	45%	5%	0%	3%	42%
	% topic total	65%	15%	63%	6%	0%	22%	74%
<b>Are all the actions needed?</b>		<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
	number	50	15	10	0	1	0	<b>76</b>
	% of sector total	52%	16%	45%	0%	1%	0%	39%
	% topic total	60%	18%	63%	0%	11%	0%	70%
<b>Are timetables for submissions reasonable?</b>		<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
	number	52	16	8	2	0	1	<b>79</b>
	% of sector total	54%	17%	36%	9%	0%	1%	41%
	% topic total	62%	19%	50%	13%	0%	11%	72%
<b>Draft guidance – Form of complaint (Q12-14)</b>		<b>Local Authorities</b>		<b>Organisations &amp; Professionals</b>		<b>Public</b>		<b>NUMBER (&amp; % of total)</b>
<b>Responses</b>	Topic total	80		15		4		<b>99</b>
	% of sector total	83%		68%		5%		51%
<b>Is the format of the guidance OK?</b>		<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
	number	68	7	8	1	0	0	<b>84</b>
	% of sector total	71%	7%	36%	5%	0%	0%	43%
	% topic total	85%	9%	53%	7%	0%	0%	85%
<b>Is it clear and comprehensive?</b>		<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
	number	58	13	7	3	0	1	<b>82</b>
	% of sector total	60%	14%	32%	14%	0%	1%	42%
	% topic total	73%	16%	47%	20%	0%	25%	83%
<b>Are all the model documents useful?</b>		<b>Y</b>		<b>Y</b>		<b>Y</b>		
	number	58		4		0		<b>62</b>
	% of sector total	60%		18%		0%		32%
	% topic total	73%		27%		0%		63%

<b>Draft guidance – Gathering evidence (Q15-16)</b>		<b>Local Authorities</b>		<b>Organisations &amp; Professionals</b>		<b>Public</b>		<b>NUMBER (&amp; % of total)</b>
<b>Responses</b>	Topic total	80		11		5		96
	% of sector total	83%		50%		7%		49%
<b>Should the exchange of reps be limited to main parties only?</b>		<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
	number	57	12	9	1	1	2	82
	% of sector total	59%	13%	41%	5%	1%	3%	42%
	% topic total	71%	15%	82%	9%	20%	40%	85%

<b>Draft guidance – Dealing with the complaint (Q17-19)</b>		<b>Local Authorities</b>		<b>Organisations &amp; Professionals</b>		<b>Public</b>		<b>NUMBER (&amp; % of total)</b>
<b>Responses</b>	Topic total	78		13		4		95
	% of sector total	81%		59%		5%		49%
<b>Should complaints be advertised?</b>		<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
	number	7	64	4	7	4	0	86
	% of sector total	7%	67%	18%	32%	5%	0%	44%
	% topic total	9%	82%	31%	54%	100%	0%	91%
<b>Is advice on weighing the evidence clear?</b>		<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
	number	39	23	6	2	0	0	70
	% of sector total	41%	24%	27%	9%	0%	0%	36%
	% topic total	50%	29%	46%	15%	0%	0%	74%

<b>Draft guidance – Reaching a decision (Q20-22)</b>		<b>Local Authorities</b>		<b>Organisations &amp; Professionals</b>		<b>Public</b>		<b>NUMBER (&amp; % of total)</b>
<b>Responses</b>	Topic total	77		13		4		94
	% of sector total	80%		59%		5%		48%
<b>Is advice on balancing issues raised OK?</b>		<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	
	number	29	18	6	4	0	0	57
	% of sector total	30%	19%	27%	18%	0%	0%	29%
	% topic total	38%	23%	46%	31%	0%	0%	61%

<b>Introduction to the legislation and its implementation (Q23-24)</b>		<b>Local Authorities</b>		<b>Organisations &amp; Professionals</b>		<b>Public</b>		<b>NUMBER (&amp; % of total)</b>
<b>Responses</b>	Topic total	79		11		2		92
	% of sector total	82%		50%		3%		47%
<b>Would a workshop be useful?</b>		<b>Y</b>		<b>Y</b>		<b>Y</b>		
	number	76		10		2		88
	% of sector total	79%		45%		3%		45%
	% topic total	96%		91%		100%		96%

<b>RIA (Q25-27)</b>		<b>Local Authorities</b>		<b>Organisations &amp; Professionals</b>		<b>Public</b>		<b>NUMBER (&amp; % of total)</b>
<b>Responses</b>	Topic total	69		6		3		78
	% of sector total	72%		27%		4%		40%
<b>Have LAs kept records of enquiries about high hedges problems?</b>		<b>Y</b>		<b>Y</b>		<b>Y</b>		
	number	22		1		0		23
	% of sector total	23%		5%		0%		12%
	% topic total	32%		17%		0%		29%

