

AGENDA ITEM: 13

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Meeting	Cabinet Resources Committee
Date	21 July 2005
Subject	Setting of Fee for Complaints – High Hedges
Report of	Cabinet Member for Planning and Licensing Services; and Resources
Summary	To approve the proposed fee for processing formal complaints regarding high hedges made under section 8 of the Anti-Social Behaviour Act 2003.

Officer Contributors	Head of Planning
Status (public or exempt)	Public
Wards affected	Not applicable
Enclosures	List of fees set by other Local Authorities
For decision by	Cabinet Resources Committee
Function of	Executive
Contact for further information:	Clive Robinson, Planning Performance and Regulations Manager, ext 4358

1 RECOMMENDATIONS

- 1.1 That a fee of £450 with a 50% reduction for those complainants receiving income benefit as outlined in 8.2 of the report be approved and the appropriate officers be instructed to implement this with immediate effect.

2 RELEVANT PREVIOUS DECISIONS

- 2.1 None

3 CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 None

4 RISK MANAGEMENT ISSUES

- 4.1 No budget is allocated or available to the function 2005/2006. Costs will need to be met from fee income and any shortfall made up from the Planning Budget.
- 4.2 If the fee is set substantially below cost then there is a risk that implementation of the various processes associated with this legislation will impact on the ability of the service to operate within budget. Conversely if the fee is set high to fully cover cost there will be a risk of alienating customers.

5 FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 5.1 None

6 LEGAL

- 6.1 None.

7 CONSTITUTIONAL POWERS

- 7.1 Constitution, Part 3, Responsibility for Functions, Section 3, Powers of the Executive, paragraph 3.6 - terms of reference of the Cabinet Resources Committee.

8 BACKGROUND INFORMATION

- 8.1 The Act places a requirement on Local Authorities to determine complaints from owners and/or occupiers of domestic property regarding high hedges (defined as two or more evergreen trees or shrubs in excess of 2m in height) and their adverse impact on the reasonable enjoyment of property.
- The process is intended as last resort and complainant is obliged to have taken all reasonable steps to resolve the matter.
- Unless it considers the complainant has not taken all reasonable steps or the complaint is frivolous/vexatious the Local Authority is obliged to determine complaints and can, if it considers such action is warranted, issue a remedial notice specifying both initial and future preventative works.
- Both the complainant and owner of the high hedge have a right of appeal, respectively, against the failure to issue a notice or the issue of Notice itself; there is also a right of appeal against the requirements or lack of requirements of a Notice.

The Local Authority can prosecute for failure to comply with a Notice; the maximum fine being £1000.

The legislation took effect from 1 June 2005.

- 8.2 The Act enables each Local Authority to set its own charge for determining a complaint. In setting a fee it is considered that there is a need to balance the actual cost and what is reasonable. On this basis a fee of £450 is proposed with a 50% reduction for those complainants receiving income benefit. No VAT is payable on the fee.
- 8.3 In setting this fee there is no certainty that the income received will cover the cost, for much will depend on the number of complaints and their complexity. Where complaints proceed to appeal and enforcement the actual cost is expected to significantly exceed the fee income and there is the potential for a 50% shortfall with a maximum or perhaps £20,000 in a full year.
- 8.4 It is proposed to review the fee and the resources needed to implement the legislation after 6 months.

9 LIST OF BACKGROUND PAPERS

- 9.1 Anti-Social Behaviour Act 2003
- 9.2 Any person wishing to inspect the background papers listed above should telephone Clive Robinson on 020-8359 4358.

HIGH HEDGES - SUMMARY OF ACTIONS

Authority	Service Area	Charge to be levied	Basis for Fee	Concessions
Pendle	Tree Officer	£320		none
Wigan		£500		50% for residents on benefit
Stockport	Planning enforcement	£500	estimate of staff time	50% for residents on benefit
Kensington & Chelsea	Planning Services	£100	estimate of staff time	none
West Devon	Planning Services	£350	estimate of staff time	none
Newham	Anti-social behaviour unit			
Kirklees	Planning enforcement			
Broadland	Planning enforcement	£400	estimate of staff time	no charge for benefit claimants
Worcester	Enforcement/Tree Officers	£300	estimate of staff time	none
Norwich City	Environmental Health			
Breckland	Environmental Health			
South Norfolk	Landscape			
Great Yarmouth	Planning enforcement			
North Norfolk	Planning enforcement	£350		
Kings Lynn and W Norfolk	Planning enforcement			
Three Rivers		£395		
Watford	arboricultural officer	£260 plus £50 admin	base on plan app fee	none £35 fee for initial assessment
Halton	Planning Department	£135	Ability of residents to pay	None
Mansfield		£320	estimate of staff time	None
Warwick	Planning enforcement	£350	estimate of staff time	none - review in six months
Rushmoor		£265	based on plan app fee	£150 reduction for benefit claimants
Bexley London Borough	Development Control	£135	Householder application	None
South Staffordshire	Landscape Services	£385	estimate of staff time	50% for residents on benefit
Chiltern	Building Control	£400	estimate of staff time	none
Mid Sussex	outsourced	£500	likely cost of provision	50% reduction for benefit claimants
St Helens		£350		
Birmingham	tree preservation team	£350		none review in 6 months
Stockton		£350		free for pensioners or on income support
Richmondshire	Development Control	£135	staff time/househldr app	none
Luton	Development Control	£320	On earlier POS advice	None
Ribble Valley	Countryside Officer	£500	estimate of staff time	
Blackpool	Planning enforcement	£450	Staffing costs	none
West Somerset	Planning Services	£400	estimate of staff time	50% for residents on benefit
Bristol		£320		
Newcastle upon Tyne	Environmental Health	£250		under consideration
Kennet	Planning Services	£300	cost recovery	none

Sedgemoor	Development Control	£400	in line with other la's	none
Vale Royal	Planning Control	£320		50% for pensioners or on benefits
Westminster	Planning Services	£340		none
Aylesbury Vale		£350		
Cherwell		£320		
Brent	Landscape team		estimate of staff time	
Rother		£600		
Cotswold	New Tree Officer	£530		
Wealden		£500		
Mid Sussex		£500		
Macclesfield		£450		
Lewes		£370		
Isle of Wight		£340		50% for residents on benefit
Crawley		£320		
Worthing		£320		
Test Valley		£300		
Wyre Forest		£300		
Hastings		£260		
Chichester		£135		
Waverley		£340(if 2 neighbours); £680 if more		
North Hertfordshire		£500		