

PLANNING & HIGHWAYS REGULATORY COMMITTEE

EVALUATION OF IMPACT OF HIGH HEDGES LEGISLATION

22nd January 2007

Report of Head of Planning Services

PURPOSE OF REPORT

Upon the introduction of applications and fees for High Hedge complaints Members asked for a further report evaluating the impact of the legislation and in particular the level of fees set by the Council on potential applicants.

This report is public

RECOMMENDATIONS

- (1) That the report be noted and Members agree to maintain the current level of fee for the service in recognition of the fact that it is amongst one the lowest charges in the country and represents a subsidised service at present.**

1.0 Introduction

- 1.1** Part 8 of the Anti-social Behaviour Act 2003 introduced a mechanism whereby the owner or occupier of a domestic property may complain to the district council about high (more than 2 metres) evergreen hedges adversely affecting the reasonable enjoyment of their property. The provisions came into effect on the 1st June 2005. Full Council considered the appropriate fee level at its meeting on the 12th May 2005, and set an initial fee of £250 for dealing with a complaint. However, it delegated the function to this Committee, and requested the Committee to review the fee, with a view to introducing a sliding scale of fees to help people of limited means who might wish to have a complaint dealt with by the Council and would be unable to afford the full fee. At its meeting on the 19th September 2005, this Committee resolved to maintain the fee at £250, but introduced a reduced fee of £50 for persons in receipt of Housing Benefit and Council Tax Benefit.
- 1.2** There was to have been a further review in January 2006. However, as very few applications had been received, an early report at that stage would have given little information. There is now more data to assess to help the Committee reach a conclusion.

2. Volume Of Complaints Received In Writing:

- 2.1 No. Informal (**not** on official forms) complaints received - 10
No. Part 1 complaint forms received – 5
No. Part 2 complaint forms received with £250 fees – 2
No. Decision Notices served – 1
No. Complaints in progress following submission of Part 2 form and £250 fees – 1
- 2.2 Only 20% of the initial informal, written complaints received have proceeded to a full and detailed assessment being undertaken including submission of fees.
- 2.3 To date only one hedge owner has been served with a Decision Notice, and one complaint remains 'in progress'.

3.0 Reasons For Non-Progress Of Complaints:

- 3.1 50% of the complaints were deemed invalid because they failed to meet the criteria of the legislation. A further 50% of complainants were unwilling to pay fee of £250.00.
- 3.2 A number of complainants were pensioners who expressed difficulty meeting the requested fees and cited this along with the 'disruption' of making the complaint as reasons for not pursuing the matter with the Council.

4.0 Fee Setting:

- 4.1 Lancaster City Council has fees set at £250.00. This represents one of the lowest fees across the country. Many local authorities have set a fee around £500.00 and there are local authorities with fees set in the region of £650.00.
- 4.2 A number of fees have been assessed for local authorities in the region to enable Members to compare our charges.

Table 1: High Hedge Complaint Service – Fees Charged

| Local Authority | Fee Charged (£) | Concessionary Rate | Other discounts |
|------------------------------|------------------------|---|---|
| Lancaster City Council | 250.00 | 50.00 | - |
| Wyre Borough Council | 450.00 | - | - |
| South Ribble Borough Council | 500.00 | - | 50% costs towards mediation services provided by PANDA, Preston |
| South Lakes District Council | 350.00 | - | - |
| Chorley Borough Council | 500.00 | - | - |
| Blackburn Council | 450.00 | - | - |
| Macclesfield | 340.00 | 50% discount for those on means tested benefit. | - |
| York City Council | 350.00 | - | - |

5.0 Proposal Details

In view of the response from potential complainants, Members may feel the need to consider a reduction in the fee. However, this would be difficult to justify because the fee is set so low in comparison with other local authorities and does not currently cover the costs of providing the service.

6.0 Details of Consultation

6.1 None

7.0 Options and Options Analysis (including risk assessment)

7.1 Option A : Make no changes. Whilst there is a risk that the current fee structure may deter some applicants from asking the Council to investigate their complaints, the structure does make provision for people of limited means, and is one of the lowest in the country.

7.2 Option B : Do not alter the basic fee, but widen the scope of the concessionary fee beyond persons on housing benefit and council tax benefit. This would directly address the evidence, which suggests that genuine complainants have been deterred by the current fee level. It is not anticipated that this would radically increase the number of applications.

However, in order to avoid unnecessary bureaucracy, officers would recommend that any concessionary fee scheme should be as simple as possible, with just one concessionary fee, rather than a sliding scale. A more complex scheme would be time consuming and costly to administer and confusing to the public.

The current concessionary fee was set in the light of advice from the Head of Revenue Services that most persons in receipt of income support or job seekers' allowance will be in receipt of housing benefit or council tax benefit, and that this was therefore the appropriate qualification for the concessionary fee, in order to assist persons of limited means. If Members were minded to extend the concessionary fee to all persons in receipt of the state pension, this would not restrict the assistance to those of limited means, as the state pension is not a means-tested benefit.

7.3 Option C : To reduce the overall level of fee. This would reduce even further the potential to recover some of the costs of service provision, and might remove the deterrent effect of the fee on malicious or other forms of non-genuine complaints.

7.4 Option D : To increase the overall level of fee. This would enable the Council to recover the full cost of providing this service, but might deter genuine complainants from pursuing a complaint.

8.0 Conclusion

8.1 The officer recommended option is Option A, as it is felt that the current fee structure adequately protects people of limited means, and the fee level is such that it does not deter genuine complaints from being pursued, whilst maintaining a deterrent against misuse of the process in neighbour disputes.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Whilst the imposition of fees may be considered to restrain individuals from protecting their rights to enjoy their properties, this has to be balanced against the need for Local Authorities to cover the costs of the service.

FINANCIAL IMPLICATIONS

The low level of usage means that currently even lower levels of fee are not being received. However this must be balanced against the fact that less time is being spent by officers on High Hedge matters enabling more general Tree Protection work to be undertaken than anticipated.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has considered the report and has nothing further to add.

LEGAL IMPLICATIONS

The legislation gives local authorities discretion to set their own fees.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and her comments have been incorporated in the report.

BACKGROUND PAPERS

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