Do you agree with the definition of a high hedge as set out in the Bill? If not, please provide details;

1. Response: - Yes, the Council agrees with the definition of a high hedge. The definition as detailed within the Bill is specific enough that it leaves no room for doubt. The definition is clear for the purpose of the Bill. Part of the definition is that the hedge ‘forms a barrier to light’ but should the definition also include the other general nuisance caused by a high hedge. For example, the effect of visual domination caused by the sheer scale of the hedge maybe enough to prevent the reasonable enjoyment of a private garden.

Do you consider that other forms of vegetation should be covered by the provisions of the Bill? If so, please specify why?

2. Response: - No. To include other types of vegetation further confuses the issue. There is also a risk that if this legislation included individual trees for example, then it could be used to require inappropriate works to trees covered by a Tree Preservation Order.

Do you have any comments on the proposed approach to dispute resolution as set out in the Bill?

3. Response: - In preparing guidance the Scottish Minsters (reference section 31 sub-section (1) for the Bill) should make clear the due process an applicant has to have gone through before an application is made to the local authority. The use of examples must be considered as part of the guidance as to when is an appropriate time to contact the Council. The form of the dispute resolution should be detailed as part of any application to the Council and must include a level of detail that demonstrates applicants has taken any necessary steps to resolve the matter before approaching the Council. Any guidance note also needs to make it clear as to the role of the Council in resolving the dispute. This is to ensure that both the applicant and the hedge owner are clear as to the level of and reasons for the involvement of the Council.

Do you have any comments on the enforcement procedures proposed under a high hedge notice?

4. Response: - It is right that if the decision notice is not complied with then local authority has the right to carry out the works and recover the costs. It is also right that in issuing a ‘notice of liability for expenses’ this is a burden on the land. This is more likely to ensure that if the Local Authority does have to carry out the
required works then they can be sure of recovering the costs. It is hoped that this will be a sufficient deterrent to avoid high hedge disputes going this far.

Do you have any comments on the proposed fees and costs?

5. Response: - The Council agrees with the Bill that each individual Local Authority has the right to set their own fees. There is no doubt that dealing with a high hedge application will require additional resources and therefore it is right that local authorities can determine the level of fee required to carry out this duty. The effectiveness of individual local authorities to determine high hedge applications will vary between local authority areas and this will be reflected by the level of fee charged.

6. The costs recovered should vary based on the nature and the scope of the work that was carried out. It is important that the local authority should be able to recover all costs. It may be that the work is carried out by an appropriate contractor and that the costs are just recharged from the council with a surcharge for officer time and administration.

7. Any fee chargeable by the Local Authority and payable by the applicant should be paid by the owner/s of the high hedge if the complaint is upheld by the Local Authority.

Are there any aspects of the systems used in other jurisdictions which should be included within this Bill?

8. Response: - In determining an application the guidance note to be prepared by the Ministers should include details of a formula or mechanism for helping to work out the final height of the hedge such as they have in England, Wales and Northern Ireland. The high hedges and light loss guidance prepared by the Department for Communities and Local Government introduces a formula for determining the height hedge should be to prevent the blocking of light. Details of a similar formula / mechanism in Scotland can then be used as part of the reasons for the decision. By having a standard formula or mechanism that can be used by all local authorities in Scotland will ensure a fair and transparent system across the country. This would also allow for a fair and transparent appeals process.

Are there any aspects of this Bill which would impact positively or negatively on equality of opportunity?

9. Response: - No
Any other issues relating to the Bill which you wish to bring to the attention of the Committee?

10. Response: - In order to protect against damage or disturbance of protected species the cutting down or reduction in height of a high hedge should be done with careful consideration of the timing of the proposed works. For example no works to be carried out from March to August during the bird nesting season. Prior to works being carried out a survey should be done to establish the extent of any protected species present in the hedge and the timings of the works adjusted to prevent damage or disturbance.

Aberdeen City Council