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

1. The Bill provides a very narrow definition of a high hedge. It could, for example, include two yews or Scot’s pines which have aesthetic, historic, cultural and/or biodiversity value and may be growing in close proximity as open-grown trees and not intended to be or managed as a hedge. General guidance will be necessary to ensure that this definition is consistently and correctly interpreted.

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

2. No. More guidance on what type of vegetation the Bill aims to control would be useful. It should specifically exclude native evergreen species.

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

3. Loch Lomond and The Trossachs National Park Authority is the planning authority for the geographical area it covers and therefore has the same powers as any other planning authority under the Town & Country Planning (Scotland) Act 1997 to make new and administer existing TPO’s within the National Park; consider notices of intention to remove trees in conservation areas and; attach conditions to planning permissions to protect trees/require new planting. While we agree that the most suitable body to administer the high hedge legislation would be the relevant local authority we think it’s necessary that the relevant National Park Authority is a statutory consultee for any proposed high hedge notice within its area. This should ensure that any notice affecting a protected tree or other trees considered to contribute to the special qualities of the National Park can be carefully considered. In this regard we consider it appropriate to: (1) include consultation with the NPA’s in section 6 (2) and to amend Section 6 (7) to include “(c) comments from any relevant National Park Authority”. Section 7 (3) should include “(c) any relevant NPA”.

4. General guidance is needed on what is meant by “...take all reasonable steps...”in Section 3 (‘Pre-application requirements’) and referred to in Section 5(1) (b) (Dismissal of application) to ensure the law is consistently and fairly applied across Scotland. The Explanatory Notes, for instance, note that the local authority may require applicants to have tried mediation before making an application. Unless nationally applied this would be an unfair requirement and it may put off potential applicants for reasons of cost (approximately £50 + VAT / hour) or for other reasons including that they may be intimidated or confused by the process.
Do you have any comments on the enforcement procedures proposed under a high hedge notice?

5. Subsection 16 (2) should include “(d) any relevant NPA”.

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

6. The provision in the Bill to allow local authorities to charge a fee to consider applications has the potential to discriminate against potential applicants who cannot afford to pay the set fee. It is not normal practice to charge members of the public for the right to lodge what is effectively a complaint.

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

7. The application based process being proposed is a novel one. There may be issues in its implementation but at this point it’s difficult to foresee what other aspects of other enforcement systems may be pertinent.

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

8. Yes, we believe the requirement to pay a fee would impact negatively on equality of opportunity (see answer to question 5 above).