I wish to submit the following points for the Committee to consider in the review of the legislation enacted in the High Hedges (Scotland) Act 2013 regarding the application and interpretation of the Act.

In my case the High Hedge was formed by the planting of seven fast growing Cypress type trees in 1994 with an annual growth rate of approximately two feet per annum. By 2014 the trees, which were located close to the boundary wall by my neighbour, had grown to a height of approximately 45 feet and were inhibiting light to my house, garden and greenhouse. The trees were configured in two groups with one group of 5 trees spaced at around 2 foot apart along one boundary wall at the north of the property and a further group of 2 trees along the other boundary wall at the west of the neighbouring property. A number of these trees had split into multiple trunks adding to the density. As well as growing to a height of 45 feet the trees also had a considerable coverage in width and with the coalescence of foliage growth the overall distance covered was of the order of 40 feet.

I had various conversations with my neighbour over the years from 1997 to 2013 requesting that the trees be cut back to allow the ingress of light but, although he made a commitment to do this each time, the work was never undertaken. The prospect of the legislation to enforce the cutting back was regarded by myself as very welcome and much needed as had a structure of this size been erected by my neighbour then he would have required planning permission.

I submitted my application to Angus Council on 21st August 2014 along with photographic evidence and a statement of the impact and severity on me to enable them to determine whether a High Hedge Notice should be issued.

Angus Council issued a High Hedge Notice on 23rd December 2014 stating that the Notice would come into effect on 1st April 2015 with a 30 day compliance period. The Notice required that the group of five trees be reduced to a height of 4 meters or 13 feet with the need for annual maintenance to restrict the growth to that height. The group of two trees were excluded from the Notice on the grounds that there was limited impact on the light from my windows and garden area and that it was only a single tree. The Notice did observe that there was an overbearing visual impact.

- The definition of a high hedge may need to be improved to clarify what fits the definition as I felt that the other two trees should also have been included in the Notice as they were and continue to be a barrier to light.
- The 2 metre definition of a high hedge also causes an element of confusion as it can be interpreted that this is a maximum for the hedge and the result of the Notice will be to reduce the hedge to this height.
On 1st May 2015 I notified Angus Council that the Notice had not been complied with by my neighbour. Further telephone calls on 21st May and 22nd May 2015 still did not lead to any follow up by the Council but I was informed that my neighbour could cut the trees back at any point between April and August. On 19th June 2015 I wrote to Angus Council pointing out that they were misinterpreting the Notice which required compliance by 1st May 2015 with no extension beyond that time and that only the annual maintenance should be carried out from April to August.

On 1st June 2015 Angus Council wrote to my neighbour to ascertain whether the work would be carried out and advised that they could pursue enforcement action.

On 20th July 2015 I called the Planning Officer at the Council to ascertain what progress was being made. I was informed that he could give me no information on the position but that they were trying to work with my neighbour to give him every opportunity to comply with the Notice. A further telephone call to him on 4th August elicited that the Council only intended to send another letter to my neighbour requesting action and that he would not confirm any timescale for the enforcement of compliance.

On 5th August 2015 I wrote to the Service Planning Manager expressing my frustration with the continuing non-compliance and the apparent lack of willingness of the Council to enforce compliance. My contention being that there was no attempt to ensure that the rights of the applicant were protected and that little or no respect was being given to the requirements of the legislation.

In a response on 12th August 2015 the Service Planning Manager stated that there was no requirement or obligation on the local authority to intervene and that the guidance did not clarify the circumstances for intervention.

- The legislation should require the local authority to have a robust system of follow up in place to ensure that compliance takes place in the stated timescales of the Notice
- The legislation should clarify that the local authority does have an obligation to enforce compliance
- The legislative guidance should endeavour to clarify the circumstances for intervention by the local authority.

My neighbour started the work to comply with the Notice on 20th September 2015 and it was completed on 2nd October 2015.

The issue of the remaining two trees was raised with Angus Council on 25th October 2015 by advising that the assessment to exclude these trees from the Notice was flawed and that they should also have been reduced to a height of 4 metres. I pointed out that they fitted the definition of a High Hedge as per the Act and requested a further site visit and that the Council reconsider the Notice.

In their reply on 17th November 2015, the Service Planning Manager stated that these trees did not comply with the definition of a hedge as per the Oxford English Dictionary and that there was limited impact on my windows and garden ground.
My letter in response to Angus Council on 4th December 2015 stated that the trees did, indeed, fit the definition of the High Hedges (Scotland) Act 2013 and were 14 metres high and continued to be a barrier to light and rainfall and, thus, were having an adverse impact on my garden. This was reinforced by reference to the photographs and statements from my original application.

The reply from the Council on 23rd December 2015 stated that no further action would be taken by them.

- There should be clarification of which definition must be used. I believe that the definition given in the Act is quite clear and making reference to other definitions such as the Oxford English Dictionary appears to only be used to justify a lack of action by the local authority.

The position is that I am now left with five bare tree trunks standing at a height of 13 feet in my neighbour’s garden together with the two remaining trees at a height of 45 feet and growth will continue annually on them. While this is a partial improvement on the original situation it is not wholly satisfactory and shows that the legislation has not completely resolved the issues surrounding High Hedges.

The cost of the application set by Angus Council at a sum of £275 does not seem excessive. However, it does raise the question of whether this cost should be borne by the applicant or by the owner of the offending trees.

- Consideration should be given to the recovery of the cost of making an application from the hedge owner in the situation where a High Hedges Notice is issued to allow the applicant to be reimbursed.

Pamela Ballie