Dear LGCC,

Below is my submission to the current consultation which deals with the review of the High Hedges (Scotland) Act 2013.

These comments are connected to efforts that I have made over the course of over 15 years in seeking to assist with complaints from current and previous constituents in a specific case. This is a case where I have tried to help resolve the severe problems and difficult experiences that residents have suffered in their own homes because of the lack of public-sector recourse and because of the failure of the HHA.

I, therefore, support and commend the submissions from my constituents Mr M Lough and Mr S Andrew. They voice concerns that I know to be shared. Their views articulate collective worries and concerns that have been conveyed to me by various constituents. I believe that it is of value for the committee to consider individual examples such as this in order to gain practical information of the issues that need to be addressed. This case demonstrates to the committee the shortcomings of the enacted legislation. This troubling situation that I have been dealing with has steadily developed over the last 15 years or so with light levels steadily declining. The lack of light brings various irritations and difficulties of diverse kinds to the adjacent domestic settings that are being impacted. The quality of life and the domestic situation of neighbours continues to deteriorate without any sign of alleviation. Hopefully, analysis of these circumstances will provide useful evidence to assist in improving the legislation so that such cases can find a reliable, effective remedy.

It is clear that in practice, the act does not provide sufficient relief to victims when they suffer the consequences of loss of light caused by dense foliage. I believe that tackling the nuisance of blocking natural light is one of the main aims of the Act. Despite this, the guidance and enforcement options are very limited in making offenders and alleged offenders responsible in the spirit of the act.

The process needs to be much more robust and effective. In particular, the statutory test is unrealistic.

Trees and foliage that obstruct natural light can bring - and have been bringing - problems for years. Harsh living conditions endure in exactly the same way that would happen if this was a ‘hedge’ under the act.
The test is directed at problem-solving and should have a more functional approach when defining the range of applicable cases.

For consistency, the act should aim to apply where the foliage is dense and clustered and functions in the same way as a 'hedge' – i.e. where the foliage brings the same negative and unwanted consequences of darkness and oppressiveness. The act is intended to deal with these situations albeit in formal terms which are more narrowly circumscribed. There are situations - such as this case - where foliage and plants cannot be classified as 'a hedge' despite having the same nature, characteristics and impacts. The current policy, therefore, appears to be arbitrary.

The act has been effective in many similar cases so it is frustrating that the intention of the legislation to protect victims has been found to be so restricted in addressing genuine needs.

I would be grateful if you could please accept this submission.

Thank you.

Martin Greig