

I think my tree is *dangerous*, what should I do?



As the owner of the tree, you remain responsible for its safety, whether a tree is protected by legislation or not. However, determining whether a tree is dead, dying or dangerous is not always a straightforward matter. For example, a branch dropping from a tree is not evidence in itself that a tree is dangerous, although it may be an indicator of an underlying problem. If you are not an expert in this, then you should obtain advice from an experienced and qualified tree expert, (sometimes referred to as an arboricultural consultant) who should also carry public liability insurance.

In law, you do not need the Council's permission to cut down a tree which is dead, dying or dangerous. Removing a partly severed hanging branch or dead wood from a tree is relatively uncontroversial, but felling a tree may well be. Anyone proposing to cut down a tree under this exemption is strongly advised to give the Council five days' notice before carrying out the work, except in an absolute emergency. To make sure whether the tree falls within the exemption, obtain the advice of an arboricultural consultant.

If work is carried out to a protected tree under this exemption, the burden of proof is on the owner / agent to demonstrate that the tree was dead, dying or dangerous and if it came to a prosecution case, to prove this in court. This can be by taking photographs, retaining sections of decayed timber and any other relevant evidence.

You will normally be required to plant a replacement tree or trees for those felled under this exemption, to maintain the character of the Conservation Area. If the tree is covered by a Preservation Order and is outside a woodland, you have a duty to plant a replacement as near to the original tree as possible.

A dead or dying tree may be a habitat for plants or wildlife protected under the Wildlife and Countryside Act 1981. Trees with hollows and crevices for example, provide important natural roost sites for many bat species covered by the Act. In large gardens and woodlands away from buildings, it may well be possible to retain such trees for their habitat value, where necessary reducing their height and spread.

What happens if I carry out work on a protected tree without permission?

If you cut down, uproot or wilfully destroy a tree, or wilfully damage (including cutting roots), top or lop a tree in a manner likely to destroy it, you could be fined up to £20,000 on summary conviction, or on indictment be liable to an unlimited fine. In determining the amount of the fine, the court would take account of the actual, or likely, financial benefit arising from the offence. For other offences you could be fined up to £2,500.