

## ARE YOUR NEIGHBOUR'S TREES OR HEDGES AFFECTING YOU?



Trees and hedges are usually viewed as environmental assets, useful to and appreciated by many people - but occasionally they can become a source of tension and disagreement between neighbours. The Council cannot currently adjudicate in disputes about trees between neighbours, but it does have a duty to respond to an application to carry out works to trees protected by legislation.

### Common Law On Trees

The position in common law is that you may prune unprotected trees and hedges overhanging your land and the roots growing under your land up to the boundary, without the consent of the owner, but you must not trespass on to your neighbour's land to do this. In addition you must offer to return the timber and any fruit attached or which has fallen on to your land. (This doesn't mean dumping prunings in your neighbour's garden!) Remember you may be liable for criminal damage if any work you do - or ask others to do for you - causes the tree to die or become dangerous.

If you believe that your property may be suffering direct or indirect damage by tree roots, then you are best advised to consult an arboricultural consultant or a building surveyor. There will usually be evidence of damage such as deformation or cracking of walls, uneven surface levels or blocked drains. If this is the case, you should notify your building insurer, who may initiate further investigations and negotiate with your neighbour and their insurer. A guidance note on subsidence and trees is available from the Development Enquiry Centre.

You cannot compel a neighbouring landowner to manage their trees unless you bring forward and win a civil action, which may well be very costly. The Council has no powers to intervene. You can consult a solicitor to see if you have proper grounds to proceed with this – however, one person's nuisance will often be another person's amenity. As disputes between neighbours can develop into an emotionally charged experience, it is best to try to resolve such situations amicably, before it becomes out of hand.

This can be done by explaining to the tree owner, either in conversation or by letter, how your living conditions are being adversely affected, how this is influencing your enjoyment of life, and hopefully thereby reaching agreement to carry out hedge / tree work that is mutually acceptable. Keep a record of your correspondence or discussions, as future evidence in case things go wrong. Mediation services are sometimes available – consult the Citizen's Advice Bureau for information, (tel 0870 120 2450)

### Protected Trees

If your neighbour's tree is "protected", you will need the prior consent of the Council - if you proceed without this, you may be liable to prosecution. Protected trees include trees covered by a Tree Preservation Order, standing in a Conservation Area or affected by a planning condition or planning legal agreement. To find out if a tree is protected or to request a protected tree works application form, see details below., contact the Development Enquiry Centre using the details below or submit an online tree check, [www.leeds.gov.uk/treecheck](http://www.leeds.gov.uk/treecheck). An application for tree work does not have to be made by the owner - there is nothing to stop a neighbour offering to prune trees on his or her neighbour's land by prior agreement; this may or may not include an arrangement for sharing the cost. If the tree is council-owned, e.g. in a park or on a highway verge, contact the Forestry team, telephone (0113) 237 5221. If it's on housing land, contact the local area housing office.

### Nuisance High Hedge Legislation (large conifer hedges e.g. "Leylandii" etc. )

The Government has supported introduction of legislation on excessively high hedges, via the Anti-Social Behaviour Bill, which received parliamentary assent in November 2003. The regulations for this become operative on 1 June 2005. A separate guidance note "*New legislation on High Nuisance Hedges*" and a government leaflet "*Over the garden hedge*" is available from the Development Enquiry Centre, contact details below.