

CITY SERVICES - ENFORCEMENT DIVISION

Operational Policy Subject: **Overhanging Vegetation**

Approved by: Director of City Services

Date :

Version number: 1

1.0 Scope

- 1.1 This policy relates to any hedge tree or shrub endangering or obstructing the passage of vehicles or pedestrians on a highway, or any other road or footpath to which the public have access. Hedges trees or shrubs which, similarly effect public footpaths, as recorded on the Definitive Map, are matters, which are dealt with by the Public Rights of Way officer.

The council is only responsible for incidents affecting the highway - such matters which effect private land are generally private matters for the landowners, although the Council does have discretionary powers in certain cases; these are matters which are dealt with by the Department of Learning and Leisure.

2.0 Objective

- 2.1 To seek an improvement in the visual street environment by reducing untidy overhanging vegetation which retains street litter and causes an obstruction. Blocked paths are a particular problem for wheelchair users, people with pushchairs and those with mobility problems. To improve community safety by giving clear views of public areas.

3.0 Link to Council Plan

- 3.1 Looking after the Environment is one of the five key aims in the plan. Improving the physical appearance and condition of the streets and immediate surroundings helps improve quality of life. Community Safety will also be improved by clearing vegetation which creates "blind eye" areas.

4.0 Application of the enforcement policy

4.1 Section 5.1.1 - Notices shall be served to require offenders to remove the cause of the danger, obstruction or interference.

Section 5.5 - Provision is contained within the enforcement powers to carry out works in default and to recover expenses incurred by the authority.

5.0 Legislation

5.1 Highways Act 1980

Section 154 (1) Where a hedge, tree or shrub overhangs a highway or any other road or footpath to which the public have access so as to endanger or obstruct the passage of vehicles or pedestrians or obstructs or interferes with the view of vehicles...or light from a public lamp...the authority may require either the owner of the hedge, tree or shrub or the occupier of the land within 14 days of service...to lop or cut it as to remove the cause of danger, obstruction or interference.

Section 154 (2) Where it appears that any hedge, tree or shrub is dead, diseased, damaged or insecurely rooted...and that by reason of its condition it is likely to cause danger by falling on the highway, road or footpath...the authority may by notice require (the owner of the hedge, tree or shrub or occupier of the land) ...to cut or fell it so as to remove the likelihood of danger.

Section 154 (3) gives a person aggrieved by such a notice referred to above a right of appeal to a Magistrates Court within 21 days from the date on which notice is served by the authority.

Section 154 (4) enables the authority to carry out work required by notice in default and recover expenses.

6.0 Policy

6.1 Upon receipt of a complaint relating to overhanging or obstructive vegetation, a standard letter will be sent to the occupier asking for their co-operation and allowing 14 days to remove the obstruction. The complainant will also be sent a letter advising of this course of action and asking them to advise the department if the vegetation has not been removed after 14 days.

6.2 Dangerous trees - If the original complaint relates to a tree or vegetation, which is causing or likely to cause a danger to members of the public, an officer from the Forestry Department would be responsible to take action.

- 6.3 If the obstruction is not removed the officer will visit and investigate within 5 working days of being made aware of this by the complainant. If the situation warrants a Notice under the provisions of section 154 of the Highways Act 1980 will be served requiring the appropriate action to be taken within 14 days. This notice will include the requirement to clear up the debris cut or felled from the vegetation in question together with the attendant litter that has accumulated as a result of the overgrowth.
- 6.4 If the work is not carried out then Leeds City Council will cause the work to be done in default. No corrective action will be taken until 21 days after the service of a notice, to allow the person served with the notice time to appeal. The actual costs of this work, together with an administration fee of 25% (to a maximum of £100) will be sought from the person responsible. If an invoice is not paid the money will be recovered through the courts.
- 6.5 Where there is difficulty in tracing an owner of land or where there is a stated refusal to comply with a notice and there is an urgent need for action, the council will cut back such vegetation before the expiry of 21 days. Recovery of the monies will again be sought.
- 6.6 Recovery of the monies will be sought. A covering letter and invoice will be sent to the recipient of the Notice. Failure to pay the account within two months will result in the matter being forwarded to legal services in order that they can pursue the matter.

Guidance

Case law helps define the highway as:

The highway includes the road surface and the pavement and other adjacent land within the boundaries of the highway. (Precedent set by: *Neeld vs Hendon DC 1899* upheld in *Hale vs Norfolk CC 2000*. hedges, fences, walls etc can act as the boundary of the highway unless it can be shown that there is a compelling reason not to do so.)

Many sections within the Highways Act 1980 create offences which are subject to fines. The relevant section in relation to overhanging vegetation does not. It creates a means of serving a notice to have work done. If the person served with the notice fails to comply then the authority can do the work and charge reasonable costs to the person served with the notice.

Where a highway is affected then the City Services Highways Enforcement team will take action and deal with the matter.

Public footpaths, as recorded on the Definitive Map, are addressed by the Public Rights of Way officer, Department of Learning & Leisure. The Public Rights of Way officer maintains the Definitive Map at Redhall.

Where a footpath is neither a highway nor recorded on the Definitive Map then it can be dealt with under Common Law by either department. It is expected that the two departments liaise and work in a joined up way to ensure efficient use of resources and no overlap of work.

The Forestry Officer within the Department of Learning & Leisure carries out Work on dangerous trees.

In relation to problems of overhanging vegetation and dead trees on Leeds City Council land, action will be taken following the principles adopted elsewhere.