

An overview of trees and high hedges

The Current Position

The Trees and High Hedges Act 2005, which gives the Department Infrastructure or local authorities powers to deal with complaints about tree(s) and high hedges came into operation on 1 November 2006. It is intended that all complaints will be investigated by local authorities acting under delegated powers.

Introduction

Provided they have tried and exhausted all other avenues for resolving their tree or hedge dispute, people will be able to take their complaint about a neighbour's tree(s) or hedge to the local authority for their area.

The role of the local authority is not to mediate or negotiate between the complainant and the tree/ hedge owner but to adjudicate on whether - in the words of the Act - the tree/ hedge is adversely affecting the complainant's reasonable enjoyment of their property. In doing so, the authority must take account of all relevant factors and must strike a balance between the competing interests of the complainant and tree/ hedge owner, as well as the interests of the wider community.

If they consider the circumstances justify it, the local authority will issue a formal notice to the tree/hedge owner which will set out what they must do to the hedge to remedy the problem, and when by. Failure to carry out the works required by the authority is an offence which, on prosecution, could lead to a fine of up to £5,000.

Cutting the tall stories down to size

- The legislation does not require all hedges to be cut down to a height of 2 metres
- You do not have to get permission to grow a hedge above 2 metres
- When a hedge grows over 2 metres the local authority does not automatically take action, unless a justifiable complaint is made
- If you complain to the local authority, it does not follow automatically that they will order your neighbour to reduce the height of their tree/ hedge. They have to weigh up all the issues and consider each case on its merits
- The local authority cannot require the hedge to be removed
- The legislation does not guarantee access to uninterrupted light
- The Tree and Preservation Act 1993 takes primacy over the Trees and High Hedges Act 2005.