

High Hedges/Tree(s): making a complaint

What complaints can be considered?

If you have a complaint about the height of a tree(s) or a hedge of a neighbouring property you should first try to resolve your complaint by negotiation or mediation with your neighbours.

If you cannot resolve your complaint by negotiation or mediation with your neighbour/s then you may be able to take your complaint to your local authority provided that:

- the hedge in question comprised wholly or predominantly of a tree, trees or shrubs and is over 2 metres high;
- the hedge and/or tree/s act, to some degree, as a barrier to light;
- because of its or their height, the reasonable enjoyment of your domestic property (that is your home or garden) is adversely affected;
- the Complaint Form is completed together with the specified fee.

How the local authority will deal with the complaint

If you have tried to resolve your complaint about a tree/ high hedge by talking informally to your neighbour/s, negotiation or mediation but are not satisfied with the outcome you may contact the Department or your local authority. They will send you a Complaint form and inform you of the fee that is required to be paid before your complaint can be considered.

On receipt of your Complaint Form and fee the authority will:

1. check the form for completeness and request any further details or seek further clarification in relation to the form.
2. gather further information about the tree(s)and/or hedge, its affect on you and the tree/hedge-owner or owners and its contribution to the wider amenity of the area. They may do this either on their own or by seeking the advice and assistance of the Department of Environment, Food and Agriculture (in relation to matters covered by the Tree Preservation Act 1993).
3. determine whether or not the height of the tree, trees and/or hedge is adversely affecting the reasonable enjoyment of your property, including the garden. If they do uphold your complaint they will then consider what action, if any, should be taken in relation to the tree, trees and/or hedge in order to remedy the adverse affect and to prevent it recurring. Alternatively they may determine that there is no adverse effect caused by the tree, trees and/or hedge and reject your complaint.
4. you should be aware that the local authority may determine that although the tree(s)/ hedge is adversely affecting the reasonable enjoyment of your property they may nevertheless conclude that the arguments in favour of retaining the tree/hedge wholly, or to a greater extent than you would wish, are stronger and that no action, or limited action, should be taken.

Remedies

If the local authority decides that action should be taken to resolve the complaint, they will issue a formal notice to the person responsible for the tree, trees and/or hedge, setting out what must be done and by when. This is known as a 'Remedial Notice'. This could well include long-term maintenance of the tree, trees and/or hedge at a lower height, but could not involve reducing the height of the tree, trees and/or hedge below 2 metres, or its removal. Although the local authority cannot require such action, the tree/s/hedge-owner would be free to go further than the remedial notice requires.

Appeals

The tree(s)/ hedge owner/s and/or you will be able to appeal against the local authority's decision. An appeal must be lodged within 28 days starting from the date that the local authority notifies you and your neighbour/s of its decision. (Details of how to appeal will be enclosed by the local authority with the letter notifying you of its decision.) The remedial notice is suspended whilst an appeal is being determined.

Enforcement

Failure to comply with the requirements of a remedial notice is an offence. If someone is convicted in a court of summary jurisdiction, they could be fined up to £5,000. In addition to, or in place of, a fine the court might then issue an order for the offender to carry out the required work within a set period of time. Failure to comply with the court order would be another offence, liable to a fine of up to £5,000.

If the work specified in the remedial notice is not carried out the local authority has the power to go in, do the work itself and recover its costs from the tree/hedge owner. However, there is no requirement or obligation on them to intervene in this way.

What if I change my mind? Or reach an agreement with my neighbour/s?

You may withdraw your complaint at any time by writing to the local authority stating your reasons. If the withdrawal is by mutual agreement then the letter should be submitted jointly. It may be that you and your neighbour agree a compromise after a Remedial Notice has been issued. If that happens then you may both write in jointly asking for the conditions of the Notice to be varied. It may be possible for the local authority to refund an amount of the fee if the complaint is officially withdrawn in good time.