

HIGH HEDGES INFORMATION PACK

THE ANTI-SOCIAL BEHAVIOUR ACT 2003

The Council's role in such matters is to act as an independent and impartial adjudicator in those cases that people cannot settle for themselves and we cannot, therefore, negotiate or mediate between you and your neighbour. If you are unable to approach your neighbour directly then you may wish to contact a mediation service <https://civilmediation.org/results/>

Swindon Borough Council can only intervene once you have tried and exhausted all other avenues for resolving your hedge dispute and the Council will expect you to show that you have already taken action to try and settle your hedge dispute, including mediation.

You should also bear in mind that the Council can reject a complaint if we think someone has not done everything they reasonably could to negotiate a solution to their hedge problems. A useful guide about high hedges, '*Over the garden hedge*' is enclosed for your information.

Should you wish to make a formal complaint to the Council **ALL** of the following criteria should be fulfilled:

About the hedge

- Is it growing on land owned by someone else?
- Is the hedge (or the portion that is causing problems) made up of a line of 2 or more trees or shrubs?
- Is it mostly evergreen or semi-evergreen?
- Is it more than 2 metres tall?
- Even though there might be gaps in the foliage or between the trees or shrubs, is the hedge still capable of obstructing light or views?

Who can complain

- Are you the owner or occupier (e.g. tenant) of the property affected by the hedge?
- Is the property residential?

Grounds of complaint

- Does the hedge detract from the reasonable enjoyment of your home or garden because it is too tall?

If you cannot agree a solution with your neighbour, and the above criteria have been met then please let me know and I will send you some further information about the procedure should you wish to make a formal complaint along with the appropriate form. Alternatively the necessary forms and guidance are available on our website at www.swindon.gov.uk .

You should be aware that there is a fee of £375 (£200 concession) to be submitted along with your complaint form and this fee is non-refundable.

The wrong hedge – and what to do about it

Problems can occur if a hedge is allowed to grow unchecked.

If you are troubled by someone else's hedge, the best way to deal with the issue is to talk to them about it. It is in both your interests to try and sort things out. After all, you have to continue to live near each other and so it is better if you are on good terms. And calling in the Council or going to court might make matters worse.

Here are some ways to help you agree a solution. They are worth trying even if you have fallen out with your neighbour.

Step 1: be prepared

Before you contact your neighbour, be clear in your own mind about:

What the problem is

For example:

- the hedge blocks light to the main rooms of your home
- it deprives you of winter sunshine
- it spreads into your garden and is affecting the growth of your plants
- the hedge is pushing over your fence
- the roots are damaging your path, garage or home

How it affects you

For example:

- you have to have the lights on for longer
- your garden is in shade for much of the day
- you will have to pay to replace your fence only for the hedge to knock it over again
- you are afraid someone will trip on the broken path or drive
- you will have to pay to repair your path, garage or home

What you want

For example:

- the size you would prefer the hedge to be
- how it should be kept to this size

Someone who is not involved – like Citizens Advice Bureaux, law centres or other organisations in your local Community Legal Service Partnership – can help you work out what to say. You might also find it helps to write it down.

Step 2: making the first move

This is only to fix a time and place so that you and your neighbours can talk about the problem properly. You are most likely to be able to sort things out if you:

- speak to your neighbours face to face rather than push a note through the door
- don't rush them into a discussion too soon. They also need time to think



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- invite them into your home so that they can see things from your side of the hedge. But don't press it if they are uncomfortable with the idea

Even if you and your neighbour aren't on speaking terms, it is still worth trying to set aside your differences to find a solution to your hedge problems. In these circumstances, you might prefer to make the first move by letter. Think carefully about what you put in it:

- stick to the facts. You might want to describe the problems caused by the hedge and how these affect you (see **Step 1**)
- don't dwell on past failures to sort this out. Look forward to taking the heat out of the situation by airing your differences in a cool and collected manner
- don't be rude or abusive



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- put yourself in the place of the person you are writing to. Think how you would feel if you received the letter
- it pays to spend time sketching out the letter in rough
- type or write the letter out neatly and put it in an envelope. It shows you have taken time and trouble and are serious. A scrappy note pushed through the door suggests that you don't really care



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Step 3: it's good to talk

When you get together with your neighbour, you might:

- welcome the chance to try and sort things out
- tell your side of things. Use the notes you have prepared to say what the problem is and how it affects you
- be honest and say how you feel. But be prepared for your neighbour to do the same
- show your neighbours the problems that the hedge is causing
- don't accuse, insult or blame and don't charge in with a list of demands
- let your neighbours have their say, without interrupting them

- listen to what they're telling you, even if you don't agree

This won't be easy or comfortable. You might be told some things about yourself that you'd rather not hear. It will force you to examine your own behaviour and do some soul searching. But only by trying to understand each other's point of view will you reach a lasting solution.

Talking to a stranger – mediation

If your neighbour refuses to talk to you, you can ask for the help of independent mediators. Mediators are totally impartial. They don't tell you what to do but help you and your neighbour to work towards finding your own answer. You can approach them even if your neighbour hasn't yet agreed to take part. But for mediation to be a success, both you and your neighbour must co-operate in the process.

The way it usually works is that mediators will first visit the person who contacted them to find out more about the problem. They will then get in touch with your neighbour to see if they would like to take part. If so, mediators will visit them as well. Anything you or your neighbour say at these visits is private and confidential.

The next step, if you agree, would probably be for the mediator to arrange a joint meeting with you and your neighbour. The mediator will set the ground rules but it's up to you and your neighbour to come up with ideas and suggestions for solving your difficulties.

If you are reluctant to meet your neighbour, mediators might offer what is known as 'shuttle mediation'. It involves them going between you and your neighbour, explaining your needs and suggestions to one another until a solution is found.



Neighbour mediation is usually free of charge. Mediation UK can help you find your nearest community mediation service (details at end).

Step 4: finding the right answer

This is the difficult part because there is no single right answer. We've put some useful information in the next section for you to think about.

To find what is best for both of you:

- make sure that you have both got everything off your chest and all the issues are out in the open
- sort out the things you can agree on – even if it is agreeing to differ
- treat it as a shared problem that you need to solve together
- be ready to consider all ideas and suggestions, including what you each might do
- look at all the options before picking the one that suits you both

Step 5: putting the answer into practice

When you have your answer – whether you've negotiated this yourselves or with the help of mediators:

- make sure you both know who is meant to do what and by when. It's a good idea to write this down
- set a date to check how your agreement is working
- agree how you will let each other know about any future problems

Involving the Council – the last resort

If none of this works, you might be able to ask your local Council to step in. See the separate leaflet '*High hedges: complaining to the Council*' to find out if your complaint is one that the Council can consider.

The Council will expect you to have gone through the steps outlined above before you approach them for help. They can turn away your complaint if they think that you haven't done enough to try to sort it out yourself.

Before you go to the Council, it's as well to write to your neighbour to let them know what you are going to do. Keep the letter short and simple. Don't make it sound like a threat.



Useful information

Finding the right answer

Privacy – on a level site, a 2 metre high hedge will usually prevent you being overlooked from a neighbour's ground floor or garden and so should be enough in urban and suburban areas.

Views – by the same token, in many situations a 2 metre high hedge will be enough to restrict views from a garden or downstairs rooms of the wider landscape. Bear in mind as well that no-one has a right to a particular view or outlook.

Shelter – a hedge will usually provide good shelter from the wind for a distance of 8 to 10 times its height.

Noise, smells – a hedge is not very good at stopping noise, smells and smoke. They will work their way through or around it.

Light – for evergreen hedges, you can do some calculations that will tell you what height the hedge should be if it is not to block too much daylight and sunlight. See the booklet '*Hedge height and light loss*' for further information.

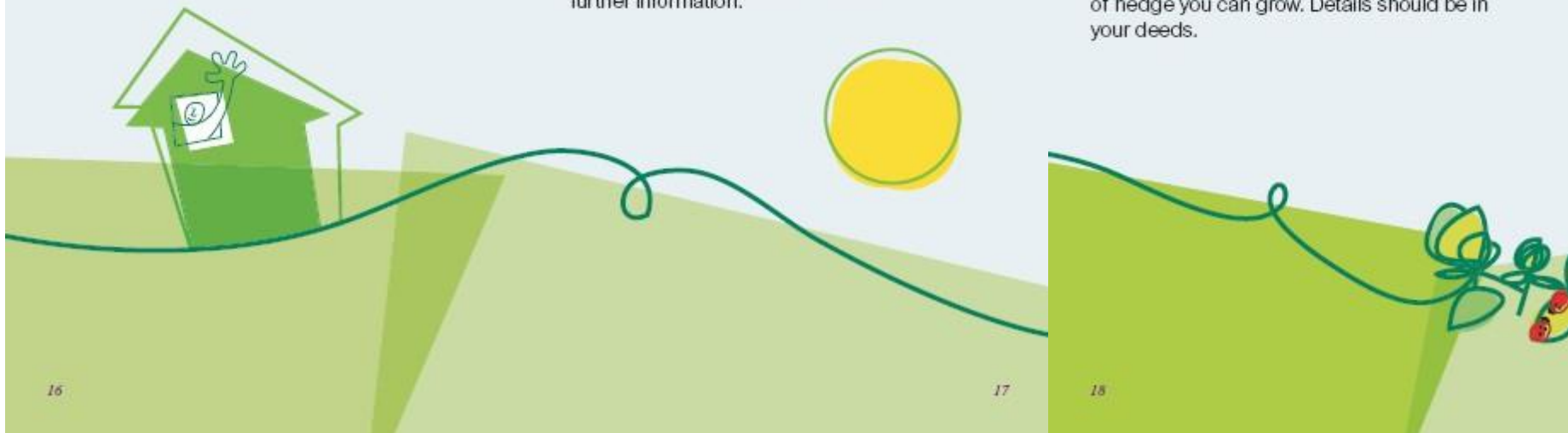
Subsidence and other damage – a hedge that is growing close to buildings, paths or drains is not bound to cause damage. And there could be better, and more lasting ways, of solving such problems than cutting the hedge. See Arboricultural Research and Information Note 142 '*Tree Roots and Foundations*' for further information.

Putting the answer into practice

Protected trees – you might need permission from your local Council to cut back or remove a hedge if you live in a conservation area or if the trees in the hedge are protected by a tree preservation order. Check with your local Council before you do any work. For more information see the leaflet '*Protected Trees: A Guide to Tree Preservation Procedures*'.

Planning conditions – some hedges must be kept under the terms of a planning permission. Check with your local Council. You would need their consent to remove such a hedge.

Covenants – some properties have legal covenants which lay down the size or type of hedge you can grow. Details should be in your deeds.



Useful contacts

Health of the hedge – if the hedge has to be pruned drastically, it might not grow back again. What's left could look ugly or the hedge might die. You could be better off removing it and starting again. In these circumstances, it is a good idea to get professional advice

Personal safety – you will probably need specialist equipment or professional help to trim a hedge over 2.5 metres high.

Birds – it is against the law to disturb nesting wild birds. Before you start to cut the hedge, check there are no birds' nests currently in use. To be on the safe side, trim hedges during the winter months when there is no danger that birds may be nesting.

Arboricultural Association – for a list of approved contractors to carry out work on trees and hedges, search www.trees.org.uk or tel: 01794 368717

Citizens Advice Bureaux – offer free, confidential, impartial and independent advice. You can find your local office in Yellow Pages

Community Legal Service (CLS) – helps people to find the right legal advice. There are CLS Information Points in local libraries. Or else search www.clsdirect.org.uk or tel: 0845 345 4 345 for your nearest Community Legal Service provider

Gardening Which? helps its members with their gardening problems tel: 0845 903 7000

Hedgeline – help those affected by problem

hedges, drawing on the experience of their members. See their website at www.hedgeline.org or tel: 0870 2400 627

Mediation UK – to find your nearest community mediation service search www.mediationuk.org.uk or tel: 0117 904 6661

Royal Horticultural Society – helps its members with their specific gardening problems tel: 01483 479700. General advice on planting and looking after hedges is available at www.rhs.org.uk/advice

Tree Helpline – for impartial advice on anything to do with trees, hedges and shrubs tel: 09065 161147 (calls are charged at £1.50 a minute)

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The above are all available at www.odpm.gov.uk/treesandhedges or from ODPM Publications (tel: 0870 1226 236)

Arboricultural Research and Information Note 142 '*Tree Roots and Foundations*'

Available from the Arboricultural Advisory and Information Service (www.treehelp.info) or tel: 01420 22022)

Further copies can be obtained from ODPM Free Literature. Tel: 0870 1226 236

For further information visit www.odpm.gov.uk

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