

PART 8: ANTI-SOCIAL BEHAVIOUR ACT 2003

Guidance notes for completing a High Hedges complaint form

These guidance notes are prepared to help you fill in the form to make a complaint about a neighbouring high hedge.

Before filling in the form:

- You may wish to discuss the position with the Council's High Hedges Officer on 01235 422600 or email planning.enforcement@southoxfordshire.gov.uk
- You should read the following documents: '*High Hedges – A guide to the new High Hedges Legislation*' and '*High Hedges – Criteria for resolving disputes*' which are produced by the Council

Before you decide to complete the complaint form, please be aware of the following information in particular:

- A more desirable outcome to your high hedges dispute may be achieved if you are able to reach an agreement with the hedge owner. The use of a mediation service may help achieve positive outcome. Details of how to go about mediation can be obtained from the Council.
- Registration of your complaint will not automatically result in a remedial notice being served. The Council has to weigh up each case on its merits, striking a balance between the interests of the complainant, the hedge owner and possibly the wider community.
- Please note that the high hedges legislation does not require all hedges which are complained of to be cut to a height of 2 metres.
- The Council cannot require a hedge be removed altogether. Government advice indicates that it would also be inappropriate to require a reduction in the height of a hedge to a level that would result in its eventual loss. The legislation does not guarantee access to uninterrupted light.
- Although complaints are considered under the Anti-social Behaviour Act 2003, there is no provision for the service of an Anti-social Behaviour Order on a high hedge owner.
- The Council's decision on your complaint can be the subject of an appeal to the Secretary of State by either yourself or the party controlling the hedge.

You can obtain translations and large print versions of this guidance and the application form through the Council.

Consideration of your complaint will be delayed if you do not complete the form properly or do not provide the information requested. In particular, your form must be accompanied by the correct fee, as confirmed on the accompanying note, 'Fees for complaints'.

1 Contact details of complainant

- 1.1 Complete this section to include relevant details about yourself. If the complaint is being submitted by an agent or representative, you should still provide the full details of the actual complainant in this section.
- 1.2 Tick the 'Yes' box if you prefer to be contacted by email. If you tick 'Yes' the Council will conduct all business relating to this complaint by email whenever possible. The Council will not send documents to you electronically unless you agree.
- 1.3 Complete this section if you are a representative of the complainant. **If this section is completed, the person named here will be our main contact on all matters relating to the complaint. The Council will direct all queries and correspondence to them and will not expect to correspond or discuss your complaint directly with you.** Please bear this in mind.
- 1.4 Tick the 'Yes' box if the person named at 1.3 prefers to be contacted by email. If you tick 'Yes' the Council will conduct all business relating to this complaint by email whenever possible. The Council will not send documents to you electronically unless you agree.

2 Property affected by the hedge

- 2.1 Provide the full postal address of the property affected by the hedge (i.e. your property).
- 2.2 - 2.4 The property must have a residential component (i.e. it must include some living accommodation): the Council cannot consider the complaint otherwise. If the property is only partially residential, the Council needs to know which sections are residential because we will only consider the effect of the hedge on the residential component of the property. Specify, for example, part first floor, whole second floor, entire garden area.
- 2.5 You must be the owner **or** occupier of the property affected by a high hedge in order to make a formal complaint to the Council. If you do not own the property (e.g. you are a tenant or leaseholder) you can still make a complaint but you should inform the owner of the property of your actions.
- 2.6 & 2.7 These parties have a legitimate interest in any complaint and are entitled to make representations to the Council.

3 Location of the hedge

If you are concerned about a hedge which is situated on land under different ownerships, you will need to complete a separate complaint form in respect of each section of hedge. You should submit the forms together so that it is clear that they form one complaint: you may be asked to pay more than one fee if you do not follow this procedure. (Refer to, 'Fees for complaints'.)

- 3.1 This will normally be the person you have contacted to try to agree a solution to your concern. We need this information because we will almost certainly get in touch with the owner / occupier to get their side of the story and to arrange to visit the site where the hedge is growing. If the site does not have a postal address, describe as clearly as possible where it is e.g. *land to rear of 12-18 High Street*.
- 3.2 & 3.3 We need these details because there may be documents that the Council will wish to send to the owner of the land where the hedge is growing. If you are in any doubt about who owns the property, you can make enquiries of the Land Registry. The relevant form (313) is on their website (www.landregistry.gov.uk) or can be obtained from the Local Office at Gloucester (telephone 01452 511111). Please note however, that this is not conclusive as to land ownership.

4 Details of the hedge

- 4.1 - 4.5 In order to make a valid complaint under the legislation, the hedge you are complaining of must fit certain criteria. You must feel able to answer 'Yes' to each of the questions before you submit your complaint for consideration.

5 Supporting documents

- 5.1 You should provide at least one photo of the hedge from an area of your property that you feel is adversely affected. It is always helpful to include a person standing by the hedge to give an idea of scale.
- 5.2 You should provide a directional plan to show the location of your property. Normally a plan at scale 1:2500 is sufficient but in more isolated areas a smaller scale may be required. You should also provide a plan on which adjacent property can be identified and the location of the hedge marked. A plan at scale 1:1250 may be most appropriate but this will depend on circumstances. Please make sure you show:
 - The full extent of your own property, edged red
 - The full extent of the property on which the hedge is growing, edged green
 - Names of relevant roads
 - House numbers or names
 - Buildings, including adjoining properties
 - The position of the entire hedge(s), clearly identifying those sections which are causing the concern. If particular sections are not identified, it will be assumed that the entire hedge is the cause of concern.
 - Mark which way is north

You may purchase copies of suitable plans for use with this form from the Council: please refer to the separate note, 'Fees for Complaints'.

6 Previous complaints to the Council about this hedge

- Do not use this section to tell us about telephone calls or other informal contact with the Council about your hedge dispute
- Use this section only where a formal complaint has previously been made to and registered by the Council under section 8 of the Anti-social Behaviour Act 2003. You will know if the Council has accepted a complaint for consideration previously as it will have been allocated a reference number and you will have received an acknowledgement letter. If you are in doubt, the Council will check its records. Please ask if you require assistance.

7 Attempts to resolve the dispute

You need to demonstrate that you have made **all reasonable attempts** to resolve the matters complained of without the involvement of the Council.

The Council would normally expect the following as a **minimum requirement**:

As a guide, the Council would normally expect that you should have made at least 3 approaches to the hedge owner prior to making a formal complaint to the Council, at least one of which should have been within the last 3 months. Verbal negotiation will count towards this requirement but it would be usual for there to have been written communication with your neighbours before you ask the Council to register your complaint. Some evidence is required to substantiate each approach e.g. your written account of a meeting, a copy letter you have written together with any reply. At least 1 written attempt to resolve the dispute must be made after the legislation comes into effect on 1 June 2005.

- Please keep the description of each event brief.
- Say how you made the approach (e.g. face to face, phone, email, letter) and what the result was.
- If your dispute is long-running, it is not necessary to send copies of all correspondence with your neighbour. We would particularly like to see evidence of your latest attempts to settle the dispute.
- Bear in mind that anything which you submit will need to be shown to the owner/ occupier of the site where the hedge is situated and may be viewed by others on request.

If you have included any documents other than correspondence with your neighbour, please list these documents by date and title (e.g. Jan 2005 – arboricultural report).

Example 1

- ./ 12 March 2005 – phoned to ask if we could discuss the hedge. Met on 19 March but we couldn't agree a solution.
- ./ 15 April 2005 – mediators visited.
- ./ 29 April 2005 – met neighbours and mediators but unable to find an acceptable solution.
- ./ 1 June 2005 – wrote to inform neighbour would be making formal complaint to the Council.
- ./ 10 June 2005 – meeting with arboricultural advisor to discuss practical implications for reducing hedge height.
- ./ 20 June 2005 – arboricultural report received

Example 2

- . / 15 April 2005 - wrote to ask if we could discuss hedge. 2 weeks later had received no reply.
- . / 29 April 2005 – wrote to ask if would speak to mediator. 2 weeks later, no reply.
- . / 1 June 2005 – wrote to inform neighbour would be likely to make a formal complaint to the Council. 2 weeks later, no reply.

Generally speaking you should allow 2 weeks for any response to correspondence.

8 Grounds of complaint

Please refer to the separate fact sheet produced by the Council, '*Criteria for resolving disputes*'. This contains information about what the Council may consider relevant in assessing your complaint. Please make sure you include any professional reports that you may have had prepared.

- Remember that a copy of this form will be sent to the person who owns the site where the hedge is growing and to the people living there (if different).
 - Remember that the information you provide may be made available to anyone who requests access to the information.
 - Provide as much information as you can but try to keep it factual. If you are complaining about the hedge blocking light, you should indicate all relevant measurements in metres (m) e.g. size of garden, distance between the hedge and windows affected.
 - Concentrate on the disadvantages you experience caused by the height of the hedge and try to use words that describe your concerns as objectively as possible.
 - We cannot consider problems that are not connected with the height of the hedge.
 - We cannot consider problems that concern the roots of the hedge.
 - We cannot consider problems that are not directly about the hedge in question e.g. that your neighbour has undertaken other development that you believe has devalued your property.
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9 Sending the complaint

9.1 Copying this form

You must supply the Council with at least 3 copies of this form and all accompanying plans, documents, correspondence and photographs. The Council will ensure this information is forwarded to the hedge owner. One copy is retained on a working file and can be viewed on request by the public, a third is retained and may be used for consultation purposes e.g. with the Forestry Officer.

It is recommended that you keep a copy of your complaint form and all accompanying documentation for reference purposes.

In either of the circumstances listed below, you will need to supply the Council with 1 additional copy of your form and the accompanying documentation:

- where the owner and occupier of the site where the hedge is located are not the same person
- if you are not the owner of the property affected by the hedge or if somebody else is occupying your property which is affected by the hedge

You may wish to consider this information if you are intending to purchase copies of an Ordnance Survey plan from the Council in conjunction with your complaint. (Refer to, 'Fees for complaints'.)

9.2 Informing others that you are making this complaint

- You must write to the owner and occupier of the site where the hedge is growing to inform them that you have submitted a formal complaint to the Council.
- You should also write a similar letter to anyone else having an interest in the property affected by the hedge. Copies of these letters should be sent with your complaint form.

9.3 Submission

- Make sure you have signed and dated the form. Ensure you have included everything you wish the Council to consider and that you are happy with every document you have included: these will usually be open to viewing by anyone who makes a request to the Council for access to the information.