



## **CONWY COUNTY BOROUGH COUNCILS POLICY AND PROCEDURAL DOCUMENT RELATING TO HIGH HEDGES**

### **1.0 INTRODUCTION**

Part 8 of the Anti-Social Behaviour Act 2003 creates new procedures to enable Local Authorities in England and Wales to deal with complaints about high hedges. This part of the Act came into force on 31 December 2004.

The legal role of the Council under this legislation is clear. It is to act as an independent third party. Councils are not expected to negotiate or mediate between individuals but will adjudicate on whether the hedge is adversely affecting the reasonable enjoyment of the complainant's property. In doing so they will take account of all views and relevant factors- including the hedge owner's amenity. They will assess each case on its particular merits.

The Council will also issue legal proceedings against owners of high hedges who fail to cut hedges to a reasonable height in accordance with the Act.

### **2.0 FREQUENTLY ASKED QUESTIONS**

#### **What is a high hedge?**

A high hedge must be formed wholly or predominantly by a line of two or more evergreen or semi-evergreen trees, or shrubs and rise to a height of more than two metres above ground level. Therefore, the following questions must be asked;

Questions to be asked	YES	NO
1. Does the hedge act to some degree as a barrier or light or access, even though it might have gaps in it?		
2. Are there two or more trees or shrubs in it?		
3. Are these roughly in line?		
4. Is the hedge comprised wholly or predominantly of evergreen or semi-evergreen shrubs?		
5. Is the hedge over 2 metres high?		
6. Does the hedge, because of its height adversely affect the reasonable enjoyment of the home or garden?		

If the answer to all these questions is YES then it is likely to be a high hedge for the purposes of the Act.

The term semi-evergreen is not separately defined in the Act, but normally means that the hedge retains some green or live foliage throughout the year. For example, in some parts of the country, privet will come under this definition, however, the further North you live the more likely your privet hedge will lose its leaves over the winter and therefore not be covered under this definition.

Beech hedges are likely to be excluded, as although they may retain some foliage for most of the year, this is brown and dead.

### **Under what circumstances can a complaint be made?**

If the owner/occupier of a domestic property is affected by a hedge, which is situated on land owned or occupied by another party and as a result of its height, it is acting as a barrier to light or access to the extent that the reasonable enjoyment of the property is being adversely affected it may be that a complaint can be made.

### **What if the roots of the hedge are affecting the property?**

This is a civil matter and not covered by the Act.

### **The hedge forms the boundary of a business. Can action be taken?**

Yes. The same reasonable steps should be taken before approaching the Local Authority. As in the case of individual hedge owners.

### **What height should a hedge be?**

There is no specified height within the legislation other than; it is not possible to require the reduction of the height of a hedge below 2 metres. That does not mean to say all hedges can only be a maximum of 2 metres as a hedge of 2.5 metres or more may not be adversely affecting the enjoyment of a property. That is a judgement the Local Authority would have to make should a complaint be registered.

### **Is there a fee payable?**

The legislation allows a charge to be made, which Conwy County Borough Council has set at £320.

However that fee can be waived in certain circumstances. If the complainant is in receipt of State benefits such as Income Support, council tax benefit or other such benefit which indicates they would have difficulty in affording the set fee, the Council will normally waive the fee.

Conwy County Borough Council has decided to waive the fee for carrying out an initial assessment as described in the following procedure, and is therefore free of charge.

### **3.0 PROCEDURE**

3.1 Before contacting the Council, the person(s) who are affected by the hedge should attempt to resolve the issue with the hedge owner. Only if this fails to resolve the problem, should the person(s) affected contact their local Councillor or Council Offices. This can be by telephone, email, in writing, personal contact or via the internet.

3.2 If negotiations with the hedge owner fail to resolve the problem and a complaint is received, an initial assessment of the problem will then be carried out. You may wish to discuss the problem with your local Councillor, who may be able to guide and assist you. Where possible this will be within one month of the complaint being made, it will be carried out at the property being affected by the hedge.

3.3 If it is felt that there is case to be pursued, the legislation requires that all reasonable steps have been taken by the parties involved to resolve the issue prior to contacting the local authority and before a formal complaint is made. This question will be addressed during the initial assessment.

3.4 Following the Initial Assessment, if it is felt that the hedge may be causing problems a letter will be sent to the owner of the hedge within 10 working days. The letter will outline the legislation and encourage them to work with their neighbour to resolve the matter.

3.5 Should further Council officer involvement become necessary, a formal application to register the complaint must be made. At this stage a fee (currently £320) is charged which will not be reimbursed by the Council.

3.6 A full on site survey and investigation will then be carried out in accordance with the guidance provided by The Welsh Assembly Government once an application has been accepted and there are no prospects of the neighbours resolving the issue without outside intervention and the local authority have been requested to proceed.

3.7 In the event of court enforcement proceedings, the Council will take steps to recover any further costs from the owners of the hedge. The Council may also consider submitting an application on behalf of the complainant to recover any fees they may have paid to the Council.

3.8 If it becomes necessary at the conclusion of proceedings, the Council will take steps to have the hedge cut and will pursue the owners of the hedge for recovery of all the costs involved by issuing further legal proceedings.