

HIGH HEDGES GUIDANCE

What is the High Hedges (Scotland) Act 2013?

Well maintained hedges can be attractive natural features which provide security, privacy and a habitat for wildlife. Neglected hedges, however, where allowed to grow to unrestricted heights, can result in problems for neighbours.

- The High Hedges (Scotland) Act 2013 was introduced to address the problems created by hedges which, as a result of their height and dense growing habit, form a barrier to light and as a result, adversely affect a person's enjoyment of their home or garden.
- Where a high hedge unreasonably affects the enjoyment of a person's property a High Hedge Notice can be applied for to remedy the problem.
- You may make contact using the details at the end of this leaflet for advice on whether the particular hedge is likely to fall within the scope of the legislation. Whilst we will be happy to offer general advice, this cannot pre-judge or anticipate the outcome of a subsequent formal application.

Who can apply and who will be affected?

Although it is only *residential* owners or occupiers who may apply for a notice, the owner of the land on which the hedge is situated will be responsible for any notice served as a result of it being judged that it has an unacceptable impact on a neighbour. This may include hedges on

business, industrial, commercial or other types of land and property.

What do I need to do before I can apply for a High Hedge Notice?

You need to demonstrate that you have taken all reasonable steps to resolve the matter with the hedge owner.

- To do this you will need to provide details of the steps that you have already taken and this may include a record of when and what was discussed or copies of letters or other correspondence between you and the hedge owner.
- The onus is on the affected party in the first instance to demonstrate that a solution has been attempted through mediation **before** the Council will intervene. Without this, the Council cannot consider your request.
- If the Council is satisfied that you have demonstrated reasonable attempts at a resolution and you pay the appropriate fee, your request for a High Hedge Notice can be considered.

What factors will not be taken into account?

The Council requires to strike a balance between the benefits of natural features which provide greening and softens the urban fabric on the one hand; and their impact on the enjoyment of private gardens on the other. The legislation is not intended to result in the indiscriminate removal of all hedges or groups of trees such as tree-lined avenues, boulevards,

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woodland edges and amenity open space (whether in public or private ownership) and some of which may cast shadows over gardens. It is intended that intervention will only take place where it is reasonable, proportionate and necessary.

The following matters will **not** be taken into account:-

- Fears about the safety of a hedge;
- Problems related to property damage from the roots of a hedge such as interfering with the foundations of houses, greenhouses or garden buildings, walls or fences, or lifting paving slabs or patio bases.
- The hedge or roots taking moisture from the soil, creating excessive shade over garden plants or creating difficult growing conditions for plants.
- Roots blocking drains or damaging pipes.
- Health or other issues being attributed to the hedge.
- Low overhanging branches i.e. less than 2.5 metres from the ground. (These will not be considered as you have a right to cut back any branches or reduce the width of a hedge to the boundary which may be encroaching on your property – subject to your notifying the owner and offering the cuttings/trimmings back.

What may be taken into account for a High Hedge Notice?

It is expected that, in the main, it will be hedges composed of the particularly fast-growing evergreen species (such as Leylandii) which also have a dense form of foliage and which are usually located on the garden boundaries between houses that will be those most likely to create problems.

In assessing whether or not a high hedge adversely affects the reasonable enjoyment of a person's property the following matters will be considered:-

- **Obstruction to daylight or sunlight to windows** – The Building Research Establishment (BRE) guidance 'Hedge Height and Light Loss' will be used as the main means for assessing whether a hedge is obstructing daylight or sunlight.
- **Obstruction of daylight or sunlight to gardens** – The BRE guidance also takes into account the impacts on daylight or sunlight within a garden and will also be adopted as the principal means of assessing any request for a High Hedge Notice.
- **Privacy** - Maintaining a reasonable level of privacy between neighbouring properties will be taken into consideration although a hedge of two metres is usually adequate to provide acceptable levels in most urban and sub-urban situations. A more flexible approach may be necessary where

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prevailing ground levels dictate or in some rural situations.

- **High Overhanging Branches** - These may cause problems if they cannot be trimmed without specialist equipment or training in its use and would usually be branches more than 2.5 metres from the ground. The principal issue to be considered will be whether these form a barrier to light.
- **Visual Amenity** – There is no particular right to a view and hedges which block views will not automatically be assessed as affecting a person’s enjoyment of their property. However where a hedge is judged to be overbearing or over dominant having regard to the relative size of the prevailing gardens, the impact of the hedge on amenity will be considered.
- **Protected Trees** – Special consideration will be given to hedges comprised of trees which have some measure of statutory protection in the form of a Tree Preservation Order; or which are within a conservation area; or within the curtilage of a listed building. Where they are of intrinsic merit their contribution will be taken into consideration.
- **Planning Conditions** – It will not usually be appropriate to consider a High Hedge Notice for a hedge which has been retained as a condition attached to a planning consent. The impact of the hedge will have been assessed as part of the planning application.

- **Historic, wildlife, landscape and public amenity value** – Special consideration will be given to the contribution that a hedge makes to the streetscape, public realm or other area generally visible from a public vantage point or which is accessible by the public. Hedges between properties are unlikely to come into this category; nor are hedges which provide poor wildlife habitats or which are of little historic merit and these will not be given special consideration for retention.
- **Leaf and sap drop** – Leaf drop is likely to be considered only as a minor irritant and is unlikely to be a significant factor in affecting a person’s enjoyment of their property. Whilst some species of tree which make up a hedge may exacerbate the problem through mildew or aphid deposits this will be given minimal weight in assessing a hedge’s impact on enjoyment.
- **Noise, smell and smoke** – Citing a hedge as providing protection from noisy neighbours, or from the smell or smoke of bonfires or barbecues is unlikely to be accepted as reasonable justification as hedges are largely ineffective in preventing the transfer of these irritants.

What happens after the assessment is completed?

After your application has been assessed both the applicant and the owner of the hedge will be notified of the outcome. This

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may be to advise that no action is considered to be necessary or that specific action is required to be taken to remedy the problem.

Can I appeal against the decision?

If you are dissatisfied with the outcome of the Council's assessment you can submit an appeal. Similarly, if you are the owner of the hedge and you disagree with the Council's determination, you may also lodge an appeal. All appeals will be considered by the Scottish Government's Directorate for Planning and Environmental Appeals (DPEA).

What do I do if it is my hedge?

If you have been served with a High Hedge Notice it is binding and you must carry out the remedial works specified.

What happens if the hedge is not reduced in height?

If you do not carry out the remedial works the Council can take direct action and if it does it will thereafter seek to recover the costs from you for doing so.

- If the Council has to carry out the work, you will continue to be liable for the costs associated with these works even if you sell your property.

Further Information

- Further information and advice can be obtained by visiting

www.refrewshire.gov.uk or by phoning 0300 300 0144.

- Application forms and Notes of Guidance can also be downloaded from the Council's website or by telephoning using the above contact details.