

High Hedges

What is a high hedge?

A hedge is considered to comprise be a line of two or more evergreen or semi-evergreen trees or shrubs and rises to a height of more than 2 metres above ground level which form a barrier to light.

When considering whether a particular hedge can be the subject of a complaint under the Act, the following questions need to be addressed:

- is the hedge comprised wholly or predominantly of evergreen or semi-evergreen trees or shrubs ?
- are there two or more trees or shrubs in it and are these roughly in line ?
- is it over 2 metres in height ?
- does the hedge act, to some degree, as a barrier to light or access – even though it might have gaps in it ?

If the answer to all these questions is yes, then it is classed as a ‘high hedge’.

Who can make a complaint?

A person can bring a complaint under the Act only if a ‘domestic property’ is affected. The Act defines domestic property as ‘a dwelling or any associated garden or yard’. The garden or yard does not have to be attached to the dwelling, as long as it is linked legally, rather than physically, with the property.

A complaint cannot be brought under the Act if a hedge is affecting a garage, barn, summerhouse, shed or other outbuilding used for incidental domestic purposes.

Grounds of complaint

Anyone making a complaint to the Council must show that:

- the problems with the hedge are related to its height; and
- it is adversely affecting the reasonable enjoyment of their own property.

This could include obstruction of daylight and sunlight, jointly or as separate issues, as well as a potential loss of view or outlook. In addition, someone could bring a complaint under the Act if the neighbouring high hedge affects their own garden, making it feel claustrophobic. Impact on growing plants can also be considered, provided that the damage was attributable to the height of the hedge.

The following factors are not relevant to a high hedge complaint;

- fears that the hedge will break or fall
- that the effect of the hedge have led to health problems
- that other hedges in the area are maintained at a lower height
- that the hedge was there before the affected property was built or before the complainant moved into it
- that the roots of the hedge are affecting neighbouring land or property.

Before making your complaint

You are required to have taken ‘all reasonable steps’ to try to settle your hedge dispute before making a formal complaint to the Council. Hence, if you are being affected 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. Calling in the Council or going to court might make matters worse.

To help you deal with the situation, the Department of Communities and Local Government has produced leaflets to act as a guide to help you agree what is right for you and your neighbours and on how to complain to the Council, called '**Over the garden hedge**' and '**High hedges: complaining to the Council**'.

In the event that you fail to resolve the matter having carried out all the required steps set out in the booklet 'Over the garden hedge' you may then wish to make a formal complaint and can download the relevant **complaint form**. It is also available by contacting us at DevelopmentControl@luton.gov.uk (telephone 01582 546605).

Making a formal complaint

You must send a copy of the complaint particulars to the owner/occupier of the land where the hedge is situated, at the same time as you submit the complaint form to the Council. The Council will require evidence to show that the owner/occupier of the land in question has been forewarned by the complainant, that failure to negotiate a solution would lead to the matter being referred to the Council.

How much will it cost to make a complaint?

A fee of £320 is required to be submitted with a complaint form.

Making a Decision

There is no timetable for the Council to reach a decision on a 'high hedge' complaint. However, a 12 week period should be a sufficient length of time in which to deal with a complaint.

In reaching a decision, the Council will need to decide;

- whether the height of the hedge is adversely affecting the complainant's property,
- if the height of the hedge is adversely affecting the complainants property, how severe is the impact and is this sufficient to justify action being taken to remedy the situation,

After considering all the evidence, the Council will make a decision and determine what action should be taken (if any) to rectify the problem and if appropriate, prevent it from recurring.

If the Council concludes that the height of the hedge is having an adverse impact on the amenity of any neighbouring properties, then the Council is required to serve a 'remedial notice'. A remedial notice will specify the action that the Council will require to be taken to solve the problem and prevent it from recurring in the future.

For example, the height of the existing hedge might need to be reduced from 5 metres to 2 metres and subsequently maintained to a height of no more than 2.5 meters. A remedial notice remains in force for as long as the hedge remains on the site.

Failure to comply with the requirements of a remedial notice is an offence punishable, on conviction, in the 'Magistrates Court' to a level 3 fine (up to £1,000).

Is there a right of appeal?

Both the complainant and the owner and occupier of the land where the hedge is situated, can appeal to the Secretary of State against the Council's decision.

The Planning Inspectorate has been appointed to deal with appeals on behalf of the Secretary of State and there will be no charge for making an appeal.