

Part 8 of the Anti-social Behaviour Act 2003

Guidance Notes for Completing the High Hedge Complaint Form

These notes are to help you fill in the form to make a complaint to the Council about a high hedge. Before completing the complaint form, you should also read the guidance <https://www.gov.uk/government/publications/high-hedges-complaining-to-the-council/high-hedges-complaining-to-the-council>

and

<https://www.gov.uk/government/publications/over-the-garden-hedge/over-the-garden-hedge>

available on the Government's website (gov.uk).

Consideration of your complaint may be delayed if you do not complete the form properly or do not provide the information requested in sufficient detail.

If you are unsure how to complete the form, please contact the Council's arboricultural officer by telephone on: 01538 395788 or by e-mail to: trees@staffsmoorlands.gov.uk

Fees and Refunds

Currently, and until any further change, Staffordshire Moorlands District Council makes a charge of £510 payable by the complainant on submission of a high hedge complaint. A complaint cannot be accepted and considered without payment of this fee.

This charge would be refunded if the complaint cannot be accepted because the hedge to which the complaint relates does not meet the required criteria (see Section 2 of the complaint form and corresponding notes below). A refund would also be given if the complaint is returned to the complainant because the Council considers that the complainant has made insufficient attempts to resolve the issue with the hedge owner before submitting the complaint.

However, no refund will be given if the Council decides not to accept and decide the complaint because it is considered to be merely "frivolous or vexatious". In addition, if the complaint is accepted for assessment, there will be no refund of the fee irrespective of the outcome.

There is no provision in the legislation for a complaint fee to be reclaimed from or charged to either the Council or the hedge owner, whether or not the complaint is decided in the complainant's favour.

The numbered points below relate to the corresponding numbered sections on the complaint form.

1. The parties to the complaint

We need all these names and addresses because there are some documents that we are required by law to send to the owner(s) **and** occupier(s) of the property where the hedge is situated. These include our decision on the complaint.

- 1.1 Even if someone else (eg agent/representative) is submitting the complaint on your behalf, it is important that we have your contact details. Tick the “Yes” box if you prefer to be contacted by e-mail. We cannot send documents to you electronically unless you agree.
- 1.2 You need to complete this section only if the complainant does not live at the property affected by the hedge. We need this information because we will have to get in touch with the occupier to arrange to visit the property so that we can see for ourselves the effect of the hedge.
- 1.3 Complete this if you are a professional advisor/agent, relative, friend, neighbour or other representative of the complainant. You will be our main contact for matters relating to this complaint, and we will direct all enquiries and correspondence to you. Please bear this in mind when completing the form. Tick the “Yes” box if you prefer to be contacted by e-mail. We cannot send documents to you electronically unless you agree.
- 1.4 This will normally be the person/people you have talked to when you have tried to agree a solution to the hedge problems. If the property where the hedge is situated does not have a postal address, insert a description which is as clear as possible, eg “Land to rear of 8 to 12 Any Road” or “Adjacent land to north of 20 Any Road”. If there is more than one occupier (eg different occupiers of multiple flats sharing the ground where the hedge is situated) please complete these details for all occupiers. We need this information because we will need to contact all occupiers for their comments on the complaint, and to arrange to visit the site.
- 1.5 If you are in any doubt about who owns the property where the hedge is situated, you can check with the Land Registry via their website, where an on-line enquiry using a property address (if known) or map search provides easy access to details of registered properties in England. Copies of title plans and registers held in electronic format can be downloaded in PDF format for £3.00 each; the register includes ownership details. at: <https://www.gov.uk/search-property-information-land-registry>

If there is more than one owner please complete these details for all owners. We need this information because we will need to contact all owners for their comments on the complaint, and to send them documents including our decision on the complaint.

2. Criteria for making a complaint

- 2.1 We cannot consider complaints about single trees or shrubs.
- 2.2 There can be some deciduous trees or shrubs within the hedge, but it must be mostly evergreen or semi-evergreen. Semi-evergreen species are those which retain at least some live foliage throughout the year – this does not include Beech and Hornbeam. Privet is normally evergreen or semi-evergreen in this area.

- 2.3 The height of the hedge is measured from the ground level at the base of the hedge stems, not from ground level either side of the hedge which may be at a higher or lower level.
- 2.4 This may not be easy to judge, but where the individual trees or shrubs are so widely spaced, or the gaps in the foliage so extensive, that it is possible to clearly see what lies beyond, the hedge may not meet the criteria for making a complaint.
- 2.5 A hedge situated on land under the complainant's ownership would be under their control, and would not meet the criteria for making a complaint.
- 2.6 You must be the owner or occupier of the property affected by the hedge in order to make a formal complaint to the Council. If you do not own the property (eg because you are a tenant or leaseholder) you can still make a complaint. However, you should let the owner (eg landlord or management company) know what you are doing.
- 2.7 The property does not have to be wholly residential, but must include separate living accommodation for us to be able to consider the complaint.

3. Grounds of complaint

- 3.1 This is where you set out your case for claiming that the hedge is too high and therefore causing you problems which adversely affect your reasonable enjoyment of your property. It will help if you provide as much information as you can but keep it factual. Remember that a copy of your completed form will be sent to the person who owns the property where the hedge is situated, and also to the occupier of this property if they are different people. Concentrate on the hedge and the disadvantages you experience because of its height.

We cannot consider any problems that are not connected with the height of the hedge eg if the roots of the hedge are pushing up a path or causing damage to a building. Nor can we consider things that are not directly about the hedge in question eg that other hedges in the area are kept trimmed to a lower height, or that the worry is making you ill.

Please also provide a photograph of the hedge, ideally with a person nearby to give it some scale, and a birds-eye view plan showing the location of the hedge and surrounding properties. When drawing your plan, please try to:

- mark and name relevant roads
- mark the positions of buildings, including adjoining properties, and add in house numbers or names
- mark clearly the position of the hedge and how far it extends end to end (or at least the section about which you are complaining)

If you are complaining about the hedge blocking light, please also show on your plan:

- which way is north
- the positions of any windows which are affected by the hedge (eg whether they are located at the front/side/rear, ground floor/first floor etc and which rooms they serve)
- relevant measurements in metres (eg the size of your garden, the distance between the hedge and any windows affected).

Please include copies of any professional reports you may have had prepared, and any other documents you want the Council to take into account.

- 3.2 You may have your own suggestions about what work would be required to overcome the problems you are experiencing, and this is most likely to involve reducing the height of the hedge so it would be helpful if you state what height you would find acceptable. However, a general comment such as “reduce height by as much as possible” will not be useful.

Remember that the Council cannot require that the hedge be removed, nor reduced to below 2 metres in height. There is no pre-set maximum height or “target height” at which a hedge should be maintained set out in the legislation or regulations; if the Council does require the hedge to be reduced, this need not be to 2 metres and a greater height may be specified if the Council considers this appropriate for the individual circumstances of the case. Also bear in mind that the owner(s) and/or occupiers of the property where the hedge is situated may also have their own reasons for wanting it kept at a certain height eg for privacy, and the Council will also need to take account of this.

4. Attempts to resolve the situation

Please keep the descriptions brief, but say when and how you made the approach (eg face to face, by telephone, by letter, by e-mail) and what the result of this was. Please provide copies of any correspondence sent to or received from the owner or occupier of the property where the hedge is situated. We are very unlikely to consider that sufficient attempt has been made to resolve the dispute if copies of correspondence cannot be provided with the complaint form. Bear in mind that the owner or occupier may wish to obtain technical or legal advice, or seek quotations from a contractor, before responding to your approach.

The Council will expect evidence of a recent attempt to settle the dispute with the owner or occupier. If you rely on approaches you made more than, say, 4 to 6 months ago, this may not be sufficient. Remember that the Council may not consider your complaint if it considers that insufficient attempts have been made to resolve the situation first. It won't be enough to say the owner or occupier is unapproachable.

If your recent attempts to resolve the dispute are unsuccessful, you should write again to the owner or occupier of the property where the hedge is situated, informing them of your intent to submit a formal complaint to the Council, and allow them a reasonable final opportunity to respond or take action before sending the form to us. They may have a change of heart, and they might not welcome the Council becoming involved and could be ready to compromise.

5. Previous complaints to the Council

We only need to know about previous formal complaints to the Council under Part 8 of the Anti-social Behaviour Act 2003. You do not need to refer to past telephone calls to us, or other informal contact with the Council about your hedge problems.

Remember that if the Council considers your complaint is merely frivolous or vexatious (eg if nothing has changed since a previous formal complaint), the complaint may not be considered and in these circumstances there would be no refund of the fee.

6. Supporting documents

- 6.1 Please make sure you have ticked all the relevant boxes and sent us all the documents and supporting information you have referred to or we have requested.

7. Declaration

Please also ensure that the appropriate fee is enclosed with the complaint form and supporting documents. Currently, and until any further change, our charge is £510.

The declaration at Section 7 of the complaint form may be signed by an agent/representative acting for the complainant.

8. Sending the complaint

If you are submitting the complaint form by e-mail but will be posting the supporting documents and fee to us separately, please ensure that these are clearly identified as being part of your complaint, so we can be sure we have all the information we need.

If you do not send a copy of your completed complaint form to the owner(s) or occupier(s) of the property where the hedge is situated, we will do so when seeking their comments on the complaint, along with any copies of past correspondence you send us. You may wish to bear this in mind when completing your complaint form, as they will see what you have written. You are therefore advised to concentrate on the facts and issues relating directly to the hedge and its effects on your property, rather than the personalities involved.