

# **GUIDANCE NOTES FOR COMPLETING THE COMPLAINT FORM: HIGH HEDGES**

## **GENERAL NOTES**

These guidance notes are to help you fill in the form to make a complaint about a neighbouring high hedge. You should also read the leaflets '[High Hedges: Complaining to the Council](#)' and '[Over the Garden Hedge](#)'.

Consideration of your complaint will be delayed if you do not complete the form properly, do not provide the information requested or do not pay the mandatory fee.

If you are still unsure how to answer any of the questions, please contact the Planning Department via the contact details on Page 1 of the form..

For a summary of these guidelines and the form in Gujarati, Bengali or Urdu or other languages, if possible, please contact 0161 342 8355 for advice. On request, they may also be provided in large print or audio formats.

## **SECTIONS 1 & 2 – ‘COMPLAINANT’ AND ‘COMPLAINT AGAINST’**

We need all these names and addresses because there are some documents that we are required, by law, to send to the owner **and** occupier of the land on which the hedge grows. These include our decision on the complaint. We also have to ensure that all relevant interested parties have an opportunity to comment and make their views known as part of the assessment.

- 1.1 The name here should only be the one who is making the complaint about the hedge, i.e. allegedly suffers directly from it. Others who are complaining on behalf of or for friends, neighbours, relatives, etc., are classed as 'Agents' and they should complete 1.5. If you represent or are a part of a group of neighbours complaining about a hedge, EACH PROPERTY OWNER/OCCUPIER MUST SUBMIT THEIR OWN INDIVIDUAL APPLICATION. This is because each property will have a different aspect to the hedge and, therefore, different problems and/or differing levels of severity.
- 1.2 Has to be asked to ensure privacy. If you give a works e-mail address for instance, make sure it is allowable to use the service for personal correspondence.
- 1.3 This is to ensure 1.1 is complied with.
- 1.5 **This person will be our main contact on all matters relating to this complaint.** We will direct all queries and correspondence to them. Please bear this in mind.
2. It is vital to complete as much information in these boxes as possible as the allegation you are making is directed against them and could ultimately result in legal proceedings. The Council also has to make contact to process the complaint, make site visits, etc., and if we do not have the right information we cannot proceed with the matter in an efficient and speedy manner.
- 2.1 If you are in any doubt about who owns the property where the hedge is situated, you can check with the Land Registry. The relevant form (313) is on their website ([www.landregistry.gov.uk](http://www.landregistry.gov.uk)) or can be obtained from the Local Office. There is a set fee for this service, if you know the full postal address of the property.

Alternatively Land Register Online (at [www.landregisteronline.org.uk](http://www.landregisteronline.org.uk)) provides easy access to details of registered properties in England. Copies of title plans and registers held in electronic form can be downloaded in PDF format for a set fee. The register includes ownership details.

- 2.2 In many cases one person's boundary is shared with several others and a single hedge planted by design or created by accident can follow that line. You should concentrate your complaint solely on that part of the hedge that you find directly detrimental but if that part does spread over

multiple ownerships 'on the other side' then we need all the relevant details, as with 2.1; in this box.

- 2.3/4 It may be that the property is tenanted and the landlord is responsible for grounds maintenance, so it is important to give details of the actual property owner. If you are a tenant you can still legitimately make a complaint but you must let your landlord/management company know what you are doing.

### **SECTION 3 – 'CRITERIA FOR MAKING A COMPLAINT'**

These are mandatory criteria to validate a complaint. If any answer is 'NO' we suggest you do not continue with the complaint form but seek further information or clarification.

- 3.2 Evergreen is a plant that retains live foliage throughout all seasons and semi-evergreen, throughout most of all seasons. This is mainly conifers but not exclusively. It could include laurel, holly, box and possibly privet but not beech or hornbeam, ivy or bamboo, for instance.
- 3.3 This is a vertical measurement that needs to be as accurate as possible. There may be different measurements at different points, therefore state the range – highest/lowest. 'Natural' ground level is basically original without artificial increases or decreases (including excavation to achieve a measurement over 2 metres).
- 3.7 The property does not have to be wholly residential but must include some living accommodation. A flat over or to the rear of a shop for instance.

### **SECTION 4 – 'ATTEMPTS TO RESOLVE THE COMPLAINT'**

Be specific in answering these questions. Dates and copies of correspondence are important in showing evidence of a pro-active effort by you to resolve the problem amicably. The government guidelines make it clear that the introduction of this legislation should be a stimulus to make one final concerted and documented effort to resolve matters even though attempts may have been made over many years previous. Therefore, we have set a maximum period of 3 months before the date of the submission of this form with respect to dates that should appear in this section.

'Independent mediation' is **NOT** the Council. If you can obtain agreement with your neighbour(s) for mediation then you will have to arrange this yourselves.

Please keep the descriptions brief but say how you made the approach (e.g. face to face, phone, letter) and what the result was.

#### ***Example 1***

- ◆ 12 March 2016 – phoned to ask if we could discuss hedge. Met on 19 March but we couldn't agree a solution. Agreed to mediation.
- ◆ 15 April – mediators visited;
- ◆ 29 April – met neighbours and mediators. But still couldn't find an answer we were both happy with;
- ◆ 14 May – wrote to inform neighbour would be complaining to Council.

#### ***Example 2***

- ◆ 12 March 2016 – wrote to ask if we could discuss hedge. 2 weeks later still no reply;
- ◆ 9 April – wrote to ask if would agree to referral to mediator. 2 weeks later still not reply;
- ◆ 7 May – wrote to inform neighbour would be complaining to Council.

#### ***Example 3***

- ◆ 12 March 2016 – saw neighbour in their garden and asked if we could discuss hedge. Neighbour came round on 19 March. Saw the effect of the hedge for themselves. Sympathetic but unwilling to reduce the hedge as much as we wanted;

- ◆ 9 April 2016 – asked neighbour if they would agree to mediation, they said no.
- ◆ 23 April – saw neighbour again and told them that if we couldn't agree a solution, we would make a formal complaint to Council. Left it for a couple of weeks then confirmed in writing that we would be going ahead with the complaint.

It is not necessary to send copies of all correspondence with your neighbour about the hedge; if the dispute is a long-running one. You need only provide evidence of your latest attempts to settle it.

## **SECTION 5- 'GROUNDS OF COMPLAINT'**

It will help if you provide as much information as you can but keep it factual. 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 person living there if they are different people.

Concentrate on the hedge and the disadvantages you actually experience because it is too tall.

We cannot consider problems that are not connected with the height of the hedge. For example, if the roots of the hedge are pushing up a path.

Nor can we consider things that are not directly about the hedge in question. For example, that other people keep their hedges trimmed to a lower height; or that the worry is making you ill.

Please also provide a photo of the hedge and a plan showing the location of the hedge and surrounding properties.

When drawing your plan:

- ◆ Mark and name surrounding roads.
- ◆ Sketch in buildings, including adjoining properties. Add house numbers or names.
- ◆ Mark clearly the position of the hedge and how far it extends.
- ◆ Mark which way true north is.
- ◆ Show as many relevant measured distances, in metres, as possible (e.g. size of garden, distance between the hedge and any windows affected).

## **SECTION 6 – 'PREVIOUS COMPLAINTS'**

We only need to know about formal complaints made under the High Hedges part of the Anti-Social Behaviour Act 2003. You do not need to tell us about telephone calls or other informal contact with the Council about your hedge problems.

## **SECTION 7 – 'DECLARATION'**

Payment should accompany the submission of this form. It can be made in cash (but please do not send through the post), cheque (made payable to Tameside MBC) and all major debit/credit cards.

It is vital that you copy 2 full sets of the completed form and all documents you submit – one to be sent to the owner/occupier of the property where the hedge is located, and one for you to keep. If there are multiple owners then you must send each one a full set copy.

## **WHAT HAPPENS NEXT?**

- ◆ On receipt of your form it will be checked as to whether all relevant questions have been adequately answered, the fee is received and the correct supporting evidence is submitted.
- ◆ If there is a problem you will be contacted, or all documents may be returned to you, depending upon the extent of the omissions. The fee will not be cashed in that case.
- ◆ A complete submission will then be formally assessed for legal validation and registered
- ◆ You will receive an acknowledgement letter within 15 working days stating whether your complaint is, or is not, formally validated and your complaint accepted as a serious case for consideration.
- ◆ Non-validation will be designated if a complaint is considered 'frivolous or vexatious', i.e. does not have any valid legal grounds and is being made just to inflame neighbour dispute tensions for instance. In cases such as these, the Council would probably retain the fee to cover costs of initial investigations.
- ◆ There are no appeal rights to either party with respect to the validation/non-validation decision.
- ◆ Once a complaint has been formally validated, the Council has to investigate it and eventually reach a decision as to uphold it or dismiss it. There is no time limit set in the legislation or government guidance, but obviously all efforts will be made to be as efficient as possible given staff resources and the complexity of the case.
- ◆ The Council's decision can be appealed against by either side to the Secretary of State.
- ◆ If the Council upholds the complaint, it will also serve a 'Remediation Notice' on the owner of the hedge instructing what work should be carried out to resolve the problem, within a time limit. This will be a legal 'Land Charge' on the property which will remain as long as the instructions require. Rights of Appeal from both sides exist against the instructions.
- ◆ Ultimately, if a 'Remediation Notice' is not adhered to, the Council can decide to take the hedge owner to court under a breach summons and seek a fine of up to £1,000 and a specified amount per day thereafter.
- ◆ If the hedge owner still refuses to carry out the work, the Council can decide to carry it out themselves and recharge – this would be another 'Land Charge' on the property.