

December 2015

Issues regarding privately owned trees



Tree management and any damage trees may cause is the responsibility of the tree owner. It is important to remember this if you own existing trees or are considering planting new ones.

Ownership

A tree is usually yours if its trunk grows on land you own. Trees growing exactly on a boundary are usually the joint property of the two owners.

If you are a tenant, your tenancy agreement should list rights and duties in relation to any trees on your property.

If you are a Council tenant, contact your [Neighbourhood Office](#) regarding any problem you may have with trees.

Communal gardens and trees

If you live in a property that has a shared communal space containing trees, all the residents will be jointly responsible for the trees. Further advice regarding help to carry out works within shared communal areas can be found [here](#).

Overhanging branches

These can often cause problems between neighbours. Provided the tree is not protected ([Protected Trees Guidance](#)), you may prune the parts of a neighbour's tree which overhang your own property, but you may not enter your neighbour's property containing the offending tree without their consent. The cut branches will belong to the tree's owner.

Before carrying out any works to trees always check to see if the tree is protected. You can do this by searching online [here](#).

The Council cannot become involved in disputes between neighbours over tree issues.

Trees blocking sunlight

Whilst the height and position of trees can sometimes cause problems between neighbours with regards to loss of daylight and sunlight, there is no law or other controls which apply to require a tree owner to prevent shade being caused. Speak to your neighbour regarding carrying out works to the tree.

Before carrying out any works to trees always check to see if the tree is protected. You can do this by searching online [here](#).

The Council cannot become involved in disputes between neighbours over tree issues.

Liability

The owner or owners of land on which a tree stands, together with any party who has control over the tree's management, has a duty of care to take reasonable steps to avoid acts or omissions that cause a risk of injury to persons or property that was reasonably foreseeable.

This means that, if a tree is situated where there is a chance it could cause injury or damage then the owner is expected to observe the health and condition of the tree and act on the evidence available to them, getting specialist advice if necessary where there appears to be an obvious problem with the tree.

Further advice is available from the National Tree Safety Group whose publications can be downloaded from www.forestry.gov.uk

The Council does not carry out tree inspections for privately owned trees.

How can you tell if a tree is dangerous?

Tree owners are not expected in law to have specialist knowledge of trees. They are expected to look at their trees from time to time or after wind damage has occurred and note obvious defects such as very little leaf cover (when the leaves should be fully out), dead/hanging or broken branches, cracks in branches or the trunk, large cavities/extensive decay, or movement at and around the base of the tree.

The Council have no powers to require a tree owner to take action where their tree is considered a danger to neighbouring occupiers. A person affected in such a way by a neighbouring tree would need to make representations to the tree owner(s). The tree owner's duty of care is referred to above. Ultimately a person can take legal action to protect themselves and their property.

If a tree appears to be a danger to a road the Council do have powers to intervene. Please report these matters to the Council on 0800 232323 or Clarence@edinburgh.gov.uk

Will a tree damage building foundations?

Tree roots are not capable of exerting the forces necessary to damage the foundations of houses. Press articles often refer to subsidence damage to buildings but this is not damage caused directly by root growth but by the drying of the soil beneath foundations. This is not a problem likely to be experienced in Edinburgh due to the nature of the soils, type of house construction and level of rainfall.

Roots can lift paving and disturb low walls and structures. At a distance beyond a metre from the tree trunk the risk of such damage occurring is greatly reduced.

Wildlife

Trees are important habitats and sources of food for all sorts of wildlife in the city. Some trees can be home to protected species such as bats, and it is an offence to damage roosts or disturb nesting birds. You should have regard to the impact of tree work on wildlife and if nesting birds or bat roosts are present get further information before having work carried out. Advice on these issues is available from Scottish Natural Heritage - [Protected species - Scottish Natural Heritage](#)

Protected Trees

Trees can have statutory protection under planning legislation which makes it an offence to carry out work to or damage a tree without the necessary consent. Further information regarding protected trees can be found here ([Protected Trees Guidance](#)).

Planting Trees

No permission is required for planting trees other than the permission of the land owner or occupier.

When planting trees, look around to make sure that there are no structures above or below ground which are likely to be damaged or adversely affected by the future growth of the tree. Remember to take into consideration the likely height and spread of the tree as it matures, and issues such as shading and loss of daylight. If a tree needs to be constantly cut back it can be time consuming, expensive and leave trees damaged and unsightly.

Further Information

For further information regarding works to privately owned trees please visit www.edinburgh.gov.uk/privatetrees