

# Guidance for high hedge applications

Updated January 2020



The High Hedges (Scotland) Act 2013 came into force on 1 April 2014 and Government Guidance has been recently updated by The High Hedges (Scotland) Act 2013: Revised Guidance 2019. The legislation is intended to provide a solution to the problem of high hedges where the height affects the enjoyment of a neighbour's residential property which an occupant could reasonably expect to have.

If you are affected by a high hedge in this way and have tried to resolve the issue with your neighbour without success, you can make an application to refer the issue to the Council.

Before making an application you should read the following guidance.

## Frequently Asked Questions

### What kind of vegetation does the High Hedges (Scotland) Act 2013 apply to?

The Act only applies to hedges; for trees and shrubs to be considered as a 'high hedge', they must first be considered to form a hedge in the normal usage of the word. Groups of trees and woodlands are not hedges and are therefore not covered by the Act.

### What is a "high hedge"?

The High Hedges Act applies in relation to any hedge which:

- a. is formed wholly or mainly by a row of 2 or more trees or shrubs,
- b. rises to a height of more than 2 metres above ground level, and
- c. forms a barrier to light.

A hedge is not to be regarded as forming a barrier to light if it has gaps which significantly reduce its overall effect as a barrier at heights of more than 2 metres.

In applying the Act in relation to a high hedge, no account is to be taken of the roots of a high hedge.

### **I've heard that only hedges made up of certain types of trees will be covered, is this true?**

No. All types of hedge, whether they are made up of evergreen, semi-evergreen or deciduous trees or shrubs, are covered by the Act. However, the hedge must be over 2 metres tall when measured from ground level before it can begin to be considered to be a high hedge.

### **I live in a property which suffers from lack of light due to a high hedge, but the hedge is not on land immediately adjoining my property. Can I still make an application?**

Yes. The hedge does not have to be on land immediately neighbouring the property of the person making the application. It just needs to meet the definition of a 'High Hedge'.

### **I have tried to reach an agreement with my neighbour, but haven't been able to. What do I do next?**

An application for a high hedge notice should be considered as a last resort and only used when all other attempts to resolve the issue between the parties have been fully exhausted. If you are finding it difficult to speak to your neighbour regarding the hedge you could invite them to talk to independent mediators who may be able to help you find a way forward. Details of mediation services can be found on the [Citizens Advice Scotland](http://Citizens Advice Scotland) web site or at [www.sacro.org.uk](http://www.sacro.org.uk) Records should be kept of all attempts to resolve the issue and these should be submitted with any application to the Council. Records can include a diary detailing conversations, mediation, and copies of letters sent by you to your neighbour (which should include proof of postage). The Council considers it reasonable for the applicant to provide proof of at least 2 attempts at resolution within the previous 6 month period before an application is made. One such attempt should be a letter from the complainant sent to the hedge owner at least 28 days prior to the date of the application, advising the hedge owner of their intention to make an application for a High Hedge Notice. This is in order to allow the hedge owner the opportunity to take action prior to an application being submitted.

### **Do I need to do anything before I make an application to the Council?**

Yes. Before making an application, you must be able to demonstrate to the Council that you have tried to reach a solution with the hedge owner following the guidance above regarding recording evidence.

If you've been unable to reach an agreement with your neighbour regarding the hedge, at that point you will be able to submit a High Hedge application to the Council. A fee will be payable by you. This is in order to ensure that the Council can cover the costs of investigating the complaint. A list of High Hedge Application fees is provided on the Council web-pages.

Involving the Council should be a last resort if you really can't agree a solution. The Council can refuse to intervene if they think you haven't done everything you reasonably could to settle your dispute.

### **How do I lodge my High Hedge application?**

When you are ready to lodge your High Hedge application please complete the High Hedge application forms and submit it with the relevant fee to the Council. This is your opportunity to set out your case so it is important that you provide full information on the form. Explain as clearly as you can the problems that you experience in your house and garden because the hedge is too tall.

Please bear in mind that this information will be shared with the hedge owner, but personal details such as email addresses and signatures will be removed in accordance with the Data Protection Act.

### **The Council has said that the hedge is not a high hedge, but I disagree. What can I do next?**

If the Council do not consider the vegetation shown in your application to be a hedge, or to meet the definition of a high hedge it cannot accept your application, as the vegetation is outwith the scope of the Act. The Council will therefore return your application and the application fee. There is no right of appeal against this decision.

### **What happens after I've paid the fee and the application is registered?**

The Council will notify the hedge owner that an application has been made. The information contained within the application will be sent to everyone with an interest in the hedge who will then have 28 days to respond and set out their case.

After the 28 day period an officer from the Council will go out to the property to assess the hedge, and its impact on your property.

Once the officer has all the necessary information to assess the application they will decide whether the height of the hedge adversely affects the reasonable enjoyment of your home and garden and what, if any, action should be taken. Both parties will be notified of the decision.

### **The Council has determined that the hedge is having an adverse impact on the reasonable enjoyment of my property. What happens next?**

If the Council decides that action is necessary a formal High Hedge Notice will be served on the hedge owner and they will be given a deadline by which to meet the terms of the notice. If they fail to take the remedial action on the hedge in that time, the Council will arrange for the work to be carried out. The Council has the power to recover the cost of any work carried out from the hedge owner.

### **I am the hedge owner. The Council has said my hedge needs to be reduced in height but I disagree - can I appeal?**

Yes. Both sides have a right of appeal to Scottish Government ministers. Both parties can only appeal once.

### **Will the Hedge have to be cut down to 2m?**

Not necessarily. The Act does not require all hedges to be reduced to 2m in height. An assessment will be made taking into consideration any unreasonable loss of daylight and/or enjoyment of the property or garden and this will determine by how much the hedge will need to be reduced.

### **What is there to make sure my neighbour keeps the hedge at its new height?**

As well as reducing the height of the hedge, the High Hedge Notice can ensure your neighbour maintains the hedge at a reduced height. So you shouldn't need to go through this process again.

### **How long will I have to wait for the Council to determine my application?**

There is no set deadline for the Council to determine the application. Please bear in mind that it will take time to get a statement from the hedge owner, to arrange a site visit, and to weigh up all the information provided. This could take at least 12 weeks.

### **FURTHER INFORMATION**

For information on application fees, downloading and submitting an application form please visit <https://www.edinburgh.gov.uk/planning-building/high-hedges/1>