



Preliminaries to using the Anti-Social Behaviour Act 2003, Part 8: High Hedges

Further to your query regarding the above. From 1 June 2005, provided you have tried and exhausted all other avenues for resolving the hedge dispute, you can complain about a neighbour's evergreen hedge to the Council.

The role of the Council is not to mediate or negotiate between the complainant and the hedge owner but to adjudicate on whether the hedge is adversely affecting the complainant's reasonable enjoyment of their property. In doing so, the Council must take account of all relevant factors and must strike a balance between the interests of the complainant and hedge owner, as well as the interests of the wider community.

If we consider the circumstances justify it, the Council will issue a formal notice to the hedge owner which will set out what they must do to the hedge to remedy the problem, and by when. Failure to carry out the works required by the Council is an offence which, on prosecution, could lead to a fine of up to £1,000.

Making a complaint about a high hedge to the Council should be a last resort.

Before you are able ask the Council to use this new legislation you will have to demonstrate that you have made every reasonable effort to settle the dispute yourself:

1. You will have contacted your neighbour within a few weeks of asking us to intervene.
2. We suggest that you write a polite letter to the hedgeowner/grower at least a few weeks before you intend to ask us as a Council to use the High Hedges legislation and that you may wish use this opportunity to offer your neighbour the chance of mediation.

In this letter you should ask the hedgeowner/ grower to communicate with you about the reduction of their hedge mentioning very briefly what

problems the High Hedge is causing for you. You should politely ask the grower to reduce the hedge sufficiently to alleviate these problems, (though not to below 2 metres). If you think it appropriate you could offer them mediation. Keep your letter as short and to the point as possible - try to get it on one side of paper.

(Please see the ‘Specimen Letter’ below for guidance on writing the letter to your neighbour - you can base your letter on this example)

- Send your letter by recorded delivery or hand deliver with a witness, and keep a copy, because you will have to confirm that you have made every reasonable effort to settle the dispute with your neighbour before the Council will accept a complaint under the new legislation.
- Once 21 days have passed, if you decide to use the High Hedges Law, you are advised to send another letter to inform the grower of your intention, to give them one last warning.

Please read the enclosed leaflet ‘High hedges: complaining to the Council’ which explains what will happen if the Council get involved using their powers under the new legislation. Also enclosed is a leaflet entitled ‘Over the garden hedge’ which contains useful information that may be able to help. Should you think it suitable we can send you a spare copy of these leaflets for you to include with your letter to the grower.

If the hedge grower is still unwilling to resolve the problem hedge after you have tried all means at your disposal please contact us again for a complaint form requesting the Council intervenes. The fee for this service has been set at £350 – please read the leaflet ‘High hedges: complaining to the Council’ for more details on this.

If you have any queries please contact the Environment Technician on (01904) 551371 or write to DCSD, City of York Council, West Offices, Station Rise, York, YO1 6GA.

Specimen letter which you can use as a model for the letter to the grower before you ask the Council to intervene using the new legislation

“Address of property where the hedge is

Your address, including all forms of contact – e.g. telephone number, mobile phone number (including times when you will be available)

Dear Name/Occupier

Anti-Social Behaviour Act 2003, Part 8: High Hedges

I am writing to you (*again*) about your hedge along your (back, left looking out from your house, right looking out from your house) boundary. This hedge comprises (*x number*) of (leylandii, laurel, mixed evergreen) It is now about (*x*) feet high. It is a considerable nuisance to me. Mention in not more than two or three short sentences the forms this nuisance takes - see below in [].

[*REMEMBER this law is about loss of enjoyment of your amenity because of someone else's hedge. It is not just about loss of light to your home and garden. When you write your letter make sure you outline ALL the forms of nuisance caused to you by the height of the hedge*

Light and sunlight deprivation to homes and to gardens is only one of the criteria to be considered. Other criteria to consider are -

- *safe height for regular trimming and maintenance, where the hedge is in such a position that it needs to be regularly maintained, because, for instance, the overhang is taking up too much of the victim's ground;*
- *plant damage where it is clearly caused by hedge height through deprivation of light or rainfall;*
- *Visual amenity*
 - *deprivation of a cherished view;*
 - *the hedge being oppressive and spoiling reasonable enjoyment of a property;*
 - *the hedge being disproportionate to the garden space it dominates.]*

This letter is sent as a result of the above Act, and I would ask you to communicate with me to try and amicably sort out the problem of your hedges' height.

If you wish to go to mediation, I am quite amenable to this, or if you wish you are welcome to view the hedge from my property – if you wish to do this I would suggest (*time*) when the problem is most evident.

I appreciate there will be a cost to have the hedge cut and I willing to pay £*x/x%* towards this. [it is worth bearing in mind that as the Council will be charging you £350 for the service, offering to help pay with the hedge work may be the more reasonable option]

If you do not reply within 21 days I am afraid I will have to resort to instituting formal proceedings under part 8 of the Antisocial Behaviour Act: High Hedges.

I will (*recorded deliver / hand deliver, taking an impartial witness with me*) this letter.

Yours sincerely/faithfully ”