



Address:

Dear Resident,

Anti-social Behaviour Act Part 8 – High Hedges.

Thank you for your enquiry about the above legislation and your request for further information. Please find enclosed the Borough Council's advice pack and forms in connection with your complaint. The documents are as follows:

- Form HH2 – Anti-social Behaviour Act Part 8 – High Hedges
- Form HH3 – What you are required to do before making your complaint
- Form HH4– High Hedges - Additional Information
- Form HH5 – How to complete the Complaint Form
- Form HH6 – Other Helpful Information
- HH7 - The Complaint Forms

Please read all of the documents carefully before you start to complete the forms and be sure that you have met all of the requirements regarding the need to contact the hedge owner and to undertake mediation before you approach the Council. Please also note that the Council will not accept repeat complaints made within 12 months of a decision on a previous complaint.

Once your complaint and fee is received an officer will assess the application and supporting evidence and undertake an initial appraisal of the hedge to ensure that it is a valid complaint, as required by the legislation. This procedure will be completed in 28 days. Until the inspection has taken place it will not be possible to offer any advice about whether the complaint will proceed. If the complaint is found to be invalid you will be informed by letter.

A valid complaint will be formally acknowledged and you will be given the name of the officer who will be dealing with the complaint. The Council will send a letter to the owner of the hedge asking for a response to the complaint. A period of 28 days will be given to the hedge owner to respond. During this period the Council will also obtain technical advice from environmental health and landscape specialists. Once all of the information is received the Council will issue the decision on the complaint.

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Anti Social Behaviour Act 2003 Part 8 – High Hedges

From 1st June 2005 the Borough Council will be responsible for dealing with complaints from people who live next to a hedge that is so high that it is affecting the level of light coming into their property or affecting the view out of their windows. The person making a complaint must be the owner or occupier of the residential property affected by a high hedge. If you do not own the property (e.g. because you are a tenant or a leaseholder), you can still make a complaint but you should let the owner (e.g. landlord or management company) know what you are doing. The property you live in must include some living accommodation otherwise the Council cannot consider the complaint. The complaint procedure only applies to evergreen hedges on someone else's land that are over 2 metres high. The Council will not be able to deal with untidy or deciduous hedges, boundary disputes, subsidence or damage to property. **Involving the Council must be your last resort and a complaint can only be made if you really cannot agree a solution with the owner of the hedge.** The Council can refuse to intervene if you haven't done everything you reasonably could to settle your dispute before making a formal complaint to the Council. **The Council will not consider a complaint received within 12 months of a previous complaint about the same hedge.**

Definition of a High Hedge

The Council is only able to deal with complaints about evergreen hedges because these cause the biggest problem between neighbours. Before you consider using the complaint procedure you must decide if the hedge about which you are concerned satisfies the following criteria:

- **It must be growing on land owned by someone else.** The hedge does not have to be on the boundary line or in next-door's garden but you can only complain if the hedge relates to a residential property.
- **The section of hedge that is causing problems must be made up of a line of 2 or more trees or shrubs.** You cannot complain about individual trees or shrubs.
- **It must be evergreen.** The complaint can only be about a species that keeps some live or green leaves all year round. This can include privet and most coniferous types. However it does not include Beech or hornbeam hedges because the leaves they keep through the winter are dead or brown.
- **It must be more than 2 metres tall.** Measure the trees or shrubs that make up the hedge from the base of each plant where it enters the soil. However if the plant is on a bank or in a raised bed then the measurement must be taken from the original ground level, before the bank or raised bed were created. Even though there might be gaps in the foliage or between the trees or shrubs, the hedge must still be capable of obstructing light or views. There are no rules that say if the trees and shrubs are more than a set distance apart you can't complain. However, where individual trees or shrubs are so widely spaced that you can see what lies behind them then it might not meet the criteria for making a complaint.

What you are required to do before making your Complaint

The Council can only deal with your complaint as a last resort. Before you contact the Council you must have tried to approach the owner of the hedge to discuss and try to resolve the problem amicably. The complaint procedure requires you to have carried out the following three steps:

Step 1 - You must have attempted to resolve the complaint with the owner of the hedge.

Step 2 - If you have not resolved the problem amicably then you must have used mediators to help you resolve the problem.

Step 3 - If mediation is unsuccessful then you must have written to the owner of the hedge notifying them of your intention to complain to the Council.

About Step 1.

To enable the Council to deal with your complaint you will need to produce evidence of the steps you have gone through. It won't be enough to say your neighbour is not approachable. Keep a record of what you have done – e.g. copies of letters or a diary. If nothing works, you should let the owner of the hedge know that you will be making a formal complaint to the Council. They might not welcome the Council getting involved and could be persuaded to compromise. The Council will expect evidence of a recent attempt to settle your dispute, even if the dispute has been running for a long time.

Have a quiet word with the owner of the hedge about your concerns. Before you contact the owner, be clear about what is the actual problem, how it affects you and what you would like to be done to solve the problem. Write these things down to help you keep to the point when you approach the owner and if you use the complaint procedure. Don't rush the owner into a discussion too soon, as they will probably need time to think about the problem and what, if anything, they are prepared to do about it. Follow this up by sitting down with the hedge owner so that you can get a better understanding of each other's concerns and try to figure out the answer. Invite the owner into your home so that they can see things from your side of the hedge.

About Step 2.

If this doesn't work, invite the owner to talk to independent mediators who can help you find a way forward. Mediators are independent and impartial and help those in dispute to work together to reach a settlement. They won't tell you what to do but they will help you both to work towards finding your own answers. You can approach them even if the hedge owner hasn't yet agreed to take part but for mediation to be a success both of you must co-operate in the process. If you are reluctant to meet the hedge owner a mediator can act as a go-between explaining your needs and suggestions to one another until a solution is found. Further information about local community mediation services is on the Mediation UK website at www.mediationuk.org.uk. People can also locate their nearest community mediation service through this site. If the hedge owner won't talk to you, lives far away (in the case of a rented property) or you are nervous about speaking to them, send a polite letter. Think carefully about what to put in it. Stick to the facts and describe the problems caused by the hedge and how these affect you. Put yourself in the place of the person receiving the letter and think how you would feel if you received it.

If you come to an agreement - Make sure you both know who is meant to do what and by when, including the long term maintenance of the hedge. Write it down and set a date to check how your agreement is working and that you agree how you will let each other know about any future problems. Keep a copy of the letter in case you have to make a complaint to the Council. Please inform the Council in writing that you are withdrawing your complaint.

High Hedges – Additional Information

Fee Payment – Payment should be made by cheque. The Council is to introduce electronic payments when the fee can be paid by Debit or Credit card. A fee must be paid to encourage people to settle disputes amicably and to ensure that **involvement of the Council really is a last resort**. A fee will deter frivolous or vexatious complaints. The Council will review the complaint as independent and impartial third parties. They are not investigating an offence because none has been committed, even if a complainant 'wins' their case. The fee is payment for the service – not a penalty. There is no procedure under the Act for the complainant to obtain re-payment of the fee, either from the Council or from the hedge owner. **Once the fee is paid to the Council there is no refund even if the complaint is upheld.**

The Small Claims Court can be used for most claims for £5,000 or less and so the procedure may apply to reimbursement of the fee for making a complaint about a neighbour's high hedge. However, issuing a claim at court should be a last resort. People should have tried other ways of settling the matter; for example, by writing to their neighbour to ask for recompense. Further information is available in leaflets '*Making a Claim*' (Leaflet EX301) and '*The Small Claims Track*' (Leaflet EX307) available from the County Court and at www.courtservice.gov.uk. Court staff can advise on the procedures, provide the necessary forms and help people to fill them out, but the final decision rests with the judge. Court staff cannot tell someone whether or not they have a good claim or comment on their chances of success. People may be able to get free legal advice from a law centre to help them with this.

Dealing with the Complaint - Once the Council is satisfied that the complaint meets the legal tests, the hedge owner will be invited to respond. When this has been received a visit will be made by a Council Officer to see the hedge and surroundings. The Officer will obtain all the information that is required about the site to assist in deciding the complaint. Such information might be measurements of the garden or taking light measurements from inside the complainant's house to measure the level of light inside. Once the information is obtained the Council will weigh up the case and make a decision. The Council will have taken account of everyone's concerns and will have assessed the consequences for the neighbourhood.

The Decision - If the decision is that action is necessary, the Council will issue a formal Notice to the owner of the hedge, which will set out what must be done to the hedge and when the work is to be carried out. This is known as a 'Remedial Notice'. It can also require the owner of the hedge to keep the hedge trimmed to its new size. **There is no set deadline for the Council to decide your complaint.** Remember it will take time for them to get a statement from the hedge owner and to arrange to visit the site. You can contact the Council to check progress at any time. If the Council uphold the complaint, they cannot require the hedge to be chopped down or to be cut down below a height of 2 metres. There is nothing in the Act that sets out what height each hedge should be reduced to. The Council can only require the hedge to be reduced to a height that will remedy the problems - or prevent them happening again. The Council will specify the time scale within which the work to the hedge must take place.

The Council must be realistic about how long it will take to carry out the works. They might also allow extra time so that the hedge does not have to be cut when birds are nesting in it. It is an offence under the Wildlife and Countryside Act to trim or cut a hedge if the action damages active birds' nests. The Remedial Notice will set out all of these matters and any maintenance requirement. The Notice will not give you any rights over cutting the hedge and the owner of the hedge could take you to court for damaging their property if you try to cut the hedge yourself.

Cont'd..

Implications of not complying with the Remedial Notice - If the work specified in the Remedial Notice is not undertaken, then this will be an offence. The owner of the hedge could be prosecuted and, if found guilty in the Magistrates Court, could be fined up to £1,000. The Council can enter the property and cut the hedge but it is up to the Council whether they step in. They are not obliged to do so.

Rights of Appeal - If you disagree with the Council's decision you can appeal to the Secretary of State through the independent Planning Inspectorate, based in Bristol. The right of appeal only relates to:

- The issue of the Remedial Notice
- The withdrawal of a Remedial Notice
- The waiver or relaxation of its requirements.

Any appeal must be received within 28 days of the date of the Council's decision. You should also be aware that the owner of the hedge could also appeal if they are unhappy with the Council's decision and they can appeal on the grounds that the hedge does not harm their neighbour's reasonable enjoyment of their property or that nothing should be done to the hedge, even if it is causing problems.

The Ombudsman - If you think the Council has not handled your complaint properly in terms of the prescribed procedures then a complaint can be made to the Local Government Ombudsman.

How to complete the Complaint Form

(The information below is numbered in the same order as the sections on the complaint form.)

1. Complainant's Details

The Council needs all the names and addresses of the people involved because there are documents that we are required, by law, to send to the owner **and** occupier of the land on which the hedge grows, including the decision on the complaint. Even if someone else is submitting the complaint on your behalf, it is important that we have the complainant's contact details. Tick the 'yes' box if you prefer to be contacted by e-mail. The Council cannot send documents to you electronically unless you agree.

2. Address or location of the offending hedge

The Council will have to arrange to visit the property to see the effect of the hedge.

3. Criteria for making a complaint

You must be the owner **or** occupier of the residential property affected by a high hedge. If you do not own the property (e.g. because you are a tenant or a leaseholder), you can still make a complaint but you should let the owner (e.g. landlord or management company) know what you are doing. Your property does not have to be wholly residential but must include some living accommodation otherwise the Council cannot consider the complaint.

4. Supplementary Questions

Please indicate if you know that the hedge contains trees that are either protected by a Tree Preservation Order or are within a Conservation Area.

5. Previous complaints to the Council

The Council only needs to know about formal complaints, made under the high hedges part of the Anti-social Behaviour Act 2003. You don't need to tell us about or other informal contact with the Council about your hedge problems.

6. Steps taken to resolve the Complaint

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

12 March 2005 - phoned to ask if we could discuss hedge. Met on 19 March but we couldn't agree a solution.

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.

It is not necessary to send copies of all correspondence with the owner of the hedge especially if the dispute is a long running one. You need only provide evidence of your attempts to settle it within the last 12 months.

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7. Grounds of Complaint

You should provide as much factual information as you can. 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 problems you have because the hedge is too tall. The Council 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 the Council consider things that are not directly about the hedge. For example, that other people keep their hedges trimmed to a lower height or that the worry is making you ill.

Provide a photo of the hedge and a plan showing the location of the hedge and surrounding properties. When drawing your plan, please make sure that you:

- 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 north is.
- Provide measurements (e.g. size of garden, distance between the hedge and any windows affected). All measurements must be in metres (m).
- Please include copies of any professional reports that you may have had prepared.

8. Details on where to contact the Complainant's Representative's Details

Your local Citizen's Advice Bureau may be able to help you complete the form. Alternatively a relative or friend could complete it on your behalf. Complete this section if all correspondence is to be sent to your professional adviser, relative, friend or other representative. Tick the 'yes' box if they prefer to be contacted by e-mail. The Council cannot send documents to them electronically unless they agree.

9. Name and Address of person who owns the hedge

If you are not sure who owns the property where the hedge is situated, you can check with the Land Registry. The relevant form is on their website (www.landregistry.gov.uk) or can be obtained from the Local Office. There is a small fee for this service. Copies of title plans and registers can also be downloaded online for a small fee. The register includes ownership details. If you think that the Council owns the hedge you should still send your complaint to the Council. The people who look after the land where the hedge is will not deal with the complaint.

10. Supporting documents

Ensure you have ticked all the relevant boxes. If you have ticked the box under part 9.5 please list these documents by date and title (e.g. January 2005 - surveyor's report). This will help the case officer to check that everything has been received.

REMEMBER - You must send a copy of the complaint to the owner of the hedge so they know what you have done. If you don't send it to them, the Council will. So bear this in mind when you complete the form.

Other Helpful Information

'Mediation Uk' – www.mediationuk.org.uk

'Community Legal Service' – www.clsdirect.org.uk

'Citizens Advice Bureaux' – www.adviceguide.org.uk

'Over the Garden Hedge' – a leaflet issued by the Office of the Deputy Prime Minister, which advises people how they might resolve their hedge dispute without resorting to making a complaint to the Council.

'High Hedges: complaining to the Council' - a leaflet issued by the Office of the Deputy Prime Minister, which contains guidance on how you can agree a solution about problem high hedges, including the new legislation which allows local authorities to consider complaints under the Anti-social Behaviour Act 2003.

(Electronic copies of both these leaflets are available on the ODPM website at <https://www.gov.uk/government/collections/high-hedges>)

'Hedge height and light loss' – guidance on how an assessment can be made to measure the degree of light loss from a high hedge. This document can be viewed and downloaded from www.gov.uk/government/publications/hedge-height-and-light-loss

Appeals should be submitted on the official form available at www.gov.uk/appeal-high-hedges-decision



FILE REFERENCE:.....

PAYMENT TYPE:.....

RECEIPT NUMBER:.....

ANTI-SOCIAL BEHAVIOUR ACT 2003 (Part 8)
High Hedges Complaint Form

Use this form to submit a complaint to the Council about a high hedge. Either the complainant or their representative should complete it. Please read the guidance note on 'How to Complete the Complaint Form' and 'High Hedges – Additional Information'. Please use **Block Capitals** and **Black Ink**. The Council will rely on the information that has been provided so please make sure it is clear and accurate. Please keep a copy of all of the documents you send to the Council.

A FEE OF £300 MUST BE PAID WHEN YOU SEND IN THIS FORM. THE FEE WILL NOT BE REPAID ONCE THE COMPLAINT HAS BEEN VALIDATED.

1. Complainants Details

Name Title Forename Surname

Address

County Postcode

Daytime Telephone No.

Mobile Telephone No.

Email Address

Is the complainant content for the Council to make contact by email? Yes No

2. Address or location of the offending Hedge

DATE STAMP
(for office use only)

3. Criteria for making a complaint – About the hedge

3.1	Is the hedge - or the portion that is causing problems - made up of a line of 2 or more trees or shrubs?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
3.2	Is it mostly evergreen or semi-evergreen?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
3.3	Is it more than 2 metres high, measured from the base of the hedge?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
3.4	Even if there are gaps in the foliage or between the trees, does the hedge obstruct light or views?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
3.5	Is it growing on land owned by someone else?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
3.6	Is the complainant the owner or occupier (eg tenant) of the property affected by the hedge?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
	Please tick whichever apply.	Owner	<input type="checkbox"/>	Occupier	<input type="checkbox"/>
3.7	Is the property residential or partly residential?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

If you have answered 'No' to any of the questions in this section, the criteria have not been met and so the Council cannot consider the complaint.

4. Supplementary Information

4.1	Are the trees within the hedge protected by a Tree Preservation Order?	Yes	<input type="checkbox"/>	No/Don't Know	<input type="checkbox"/>
4.2	Is the hedgerow in a Conservation Area?	Yes	<input type="checkbox"/>	No/Don't Know	<input type="checkbox"/>

5. Previous complaints to the Council

5.1	Has a formal complaint been previously made to the Council about this hedge?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
5.2	If 'Yes', do you know the date and/or reference number of the Council's decision letter?	Date	<input type="checkbox"/>	Ref Number	<input type="checkbox"/>

5.3 What has changed since the Council last looked at this?

If nothing has altered, the Council might not proceed with your complaint.

6. Steps Taken to Resolve the Complaint

Please describe what the complainant has done to try to settle this matter within the last 12 months. Give dates and say what the result was. Please provide copies of all of the letters or documents that are mentioned.

6.1 When was the problem first discussed with the hedge owner?

6.2 When was the hedge owner asked to try mediation?

6.3 When did the complainant inform the owner of their intention to complain to council?

If the above steps have not been taken the Council might not proceed with the complaint.

6.4 Details of any other relevant discussions/actions?

7. Grounds of Complaint

Please describe the problems actually experienced as a result of the hedge being too tall, and say how serious they are. It will save time and help the case if the facts are listed briefly and relevant information is enclosed to support the points being made.

To help the Council understand the situation, please provide a photo of the hedge and a plan or sketch of both the site where the hedge is growing and the property it is affecting, with the hedge clearly marked on it. Please continue on a separate sheet of paper if required.

8. Details on where to contact the Complainant's Representative's Details

Name	Title	Forename	Surname
	<input type="text"/>	<input type="text"/>	<input type="text"/>
Address	<input type="text"/>		
County	<input type="text"/>	Postcode	<input type="text"/>
Daytime Tel. No.	<input type="text"/>	Mobile Tel. No.	<input type="text"/>
Email Address	<input type="text"/>		

Is the representative content for the Council to make contact by email? Yes No

9. Name and address of person who owns the hedge

Name	Title	Forename	Surname
	<input type="text"/>	<input type="text"/>	<input type="text"/>
Address	<input type="text"/>		
County	<input type="text"/>	Postcode	<input type="text"/>
Daytime Tel. No.	<input type="text"/>	Mobile Tel. No.	<input type="text"/>
Email Address	<input type="text"/>		

10. Supporting documents

10.1 Have you enclosed the following:

Tick Box

10.2 A photo of the hedge

10.3 A location plan of the hedge and surrounding properties

10.4 Copies of correspondence with your neighbour about the hedge

10.5 Copies of any other documents that you mention (please list these separately)

11. Sending the complaint

Tick Box

I confirm that I have completed as much of this form as I can and that, to the best of my knowledge, the information provided is accurate.

I enclose the fee of £300.

Please make cheques payable to
Newcastle Under Lyme Borough Council

Signed

Date

On behalf Of:

Post or E- Mail this form and all enclosures to:

<p style="text-align: center;">Planning and Development Service Directorate of Regeneration and Development Newcastle Under Lyme Borough Council, Castle House, Barracks Road Newcastle-under-Lyme ST5 1BL (Fax: 01782 742414. DX 20959) E-mail planningenforcement@newcastle-staffs.gov.uk</p>

Please also send a copy of this form to the people identified in Sections 1 and 8

You can also download this complaint form from our website at

www.newcastle-staffs.gov.uk