

Research Briefing

30 September 2022
Nikki Sutherland

Powers and protections for trees and hedges in the community



Summary

- 1 Tackling problem trees
- 2 Protection for trees

Contributing Authors

Image Credits

Trees hill green blue nature park by Skitterphoto. CC0 Creative Commons

Disclaimer

The Commons Library does not intend the information in our research publications and briefings to address the specific circumstances of any particular individual. We have published it to support the work of MPs. You should not rely upon it as legal or professional advice, or as a substitute for it. We do not accept any liability whatsoever for any errors, omissions or misstatements contained herein. You should consult a suitably qualified professional if you require specific advice or information. Read our briefing [‘Legal help: where to go and how to pay’](#) for further information about sources of legal advice and help. This information is provided subject to the conditions of the Open Parliament Licence.

Sources and subscriptions for MPs and staff

We try to use sources in our research that everyone can access, but sometimes only information that exists behind a paywall or via a subscription is available. We provide access to many online subscriptions to MPs and parliamentary staff, please contact hoclbraryonline@parliament.uk or visit commonslibrary.parliament.uk/resources for more information.

Feedback

Every effort is made to ensure that the information contained in these publicly available briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Please note that authors are not always able to engage in discussions with members of the public who express opinions about the content of our research, although we will carefully consider and correct any factual errors.

You can read our feedback and complaints policy and our editorial policy at commonslibrary.parliament.uk. If you have general questions about the work of the House of Commons email hcenquiries@parliament.uk.

Contents

1	Tackling problem trees	5
1.1	Resolving disputes	5
1.2	Cutting back overhanging trees	5
1.3	Damage by trees	6
	Inspecting trees	6
1.4	Dangerous trees	7
1.5	Problems with high hedges	8
	England and Wales	8
	Anti-Social Behaviour Act 2003	8
	When can complaints be made?	9
	Local authority processes	9
	The Act does not apply to damage by roots	11
	High hedges: Scotland	11
	High hedges: Northern Ireland	11
1.6	Trees affecting the amenity of an area	12
1.7	Problems where tree owners are unknown	12
2	Protection for trees	13
2.1	Tree Preservation Orders	13
	What is a Tree Preservation Order?	13
	Who can request a TPO?	14
2.2	Protecting trees in hedges	15
2.3	Street trees and felling	16

Summary

Trees and hedges in gardens and in communities can provide amenity and environmental benefits. But what can be done if they become overgrown or dangerous, or a nuisance to neighbours? This note summarises the legal position on what individuals and local authorities can do about problem trees and hedges. It also explains the main protections for trees and outlines measures in the [Environment Act 2021](#) to further protect trees on streets and in communities.

Note: Property law and common law on nuisance are complex and this note outlines the broad legal framework only. Guidance on managing disputes is given on the [Government website](#) .

1 Tackling problem trees

Trees in gardens and communities are valued for their amenity and environmental benefits. But they can become a problem in some circumstances, for example if they become dangerous or impinge on a neighbour's amenity. This section sets out approaches for resolving disputes and the legal framework for taking action on nuisance trees and hedges.

1.1 Resolving disputes

Property law and common law on nuisance are complex and this briefing does not constitute legal advice but a general overview of the laws in place. Guidance is available from the [GOV.UK website](#) where individuals face a specific problem with a tree or hedge. In some circumstances people may require legal advice for tackling problem trees and hedges but as outlined in the Government advice there are alternative dispute resolution mechanisms that could be appropriate before or instead of seeking legal resolution. An alternative to incurring legal costs would be to try to resolve the dispute with the neighbour by using a mediation service. Mediation is a way of resolving disputes without the need to go to court. It involves an independent third party – a mediator – who helps both sides come to an agreement. There can be a fee for mediation, but this will usually be cheaper than taking legal action.

Legal advice can also be obtained free of charge from a local Citizens Advice Bureau (CAB). The [Citizens Advice website](#) contains a useful search tool to help people to find their nearest CAB. A Library briefing paper, [Legal Help: where to go and how to pay](#) (CBP 3207) (24 September 2021) may be of interest.¹

Specific questions on managing trees may require the use of a professional arboriculturist or tree surgeon.

1.2 Cutting back overhanging trees

Common law relating to nuisance and trespass (built up by precedent) ordinarily allows someone to cut any overhanging branches from a neighbour's tree or hedge which are encroaching on their property as long as

¹ Commons Library Briefing Paper, [Legal help: where to go and how to pay](#), September 2021

no legal protection for that tree or hedge is in place (e.g. a Tree Preservation Order (TPO), or a requirement for the owner/tenant to keep the hedge). The key rules are that

When you can trim hedges or trees

You can trim branches or roots that cross into your property from a neighbour's property or a public road.

You can only trim up to the property boundary. If you do more than this, your neighbour could take you to court for damaging their property.

If you live in a conservation area, or the trees in the hedge are protected by a '[tree preservation order](#)', you might need [your council's permission](#) to trim them.²

The local authority will have a list of tree preservation orders (TPOs).

1.3 Damage by trees

A tree belongs to the person on whose property it grows; landowners have responsibility in common law for any tree growing within the boundary of their property.³ The owner is required to take reasonable management measures to prevent foreseeable harm from that tree and has a duty to maintain it in a safe condition. The basic principle underlying both the law of negligence and the Occupiers Liability Acts is that the owner of the land, including trees, owes a duty to take reasonable care to protect those reasonably likely to be affected:

Under the Occupiers Liability Acts (1957 & 1984), a tree owner has a duty of care,⁴ to make sure he/she has taken reasonable steps to ensure the safety of his/her tree⁵

Inspecting trees

The Royal Horticultural Society's guide to [Trees and the Law](#) says

Inspecting trees

There is nothing set down about how often a tree should be inspected. However, if you own a tree and fail to inspect it, you will be considered to be negligent should something happen. Equally, in law if it is obvious to a layman that there is something wrong with a tree and he fails to do anything about it

² [Resolving neighbour disputes – High hedges, trees and boundaries](#), accessed 20 September 2022

³ See the Arboricultural Association guide to [Trees and the Law](#). Accessed 20 September 2022

⁴ Section 2 of the Occupiers' Liability Act 1957 discusses the duty of care an occupier of land has towards anyone who visits it

⁵ [Occupiers' Liability Act 1957, Section 2 \(2\)](#) and [Occupiers Liability Act 1984, Section 1 \(3\)](#).

then he is negligent. It is particularly important to check trees after high winds.

An inspection can be done by the tree owner. The National Tree Safety Group's '[Common sense risk management of trees](#)' (pdf) is a good place to find information. However, for trees in high risk areas (e.g. overhanging a public footpath) or where there is any concern about the safety of a tree it is best to have a professional inspection⁶

The National Tree Safety Group's '[Common sense risk management of trees](#)' includes a discussion of the standard of inspection. They say that

[...] generally, the courts appear to indicate that the standard of inspection is proportional to the size of and resources available (in terms of expertise) to the landowner [...]⁷

1.4 Dangerous trees

If a person believes an overgrown tree to be a threat to people or to property, then in the first instance they should discuss the matter with the owner of the land where the tree is growing. If there is disagreement about the tree's condition, an affected person could contact their local council.

The Government publishes [guidance](#) on disputes over high hedges, trees and boundaries.⁸ This stresses that neighbours should attempt to resolve disputes informally before the council can intervene.

In England and Wales, the local authority (district council or London borough council; county or county borough council in Wales) has powers under the [Local Government \(Miscellaneous Provisions\) Act 1976](#) to deal itself with any trees it considers to be dangerous, if requested to by someone else within its area who is affected. It can recover the costs from any owner it can trace of the land where the dangerous tree is growing.

These powers are discretionary and while someone can request such action, the Council is not obliged to act and may be reluctant to do so if it seems unlikely that costs will be able to be recovered.

⁶ Royal Horticultural Society's guide to [Trees and the Law](#), Further Information and Recommendations, accessed 20 September 2022

⁷ National Tree Safety Group '[Common sense risk management of trees](#)', p33, accessed 20 September 2022

⁸ Gov.UK guidance, Resolving neighbour disputes - [high hedges, trees and boundaries](#), accessed 20 September 2022

1.5

Problems with high hedges

England and Wales

High hedges can cause problems in communities where, for example, they block light or cause damage. The [Government guidance](#) says that a neighbour is responsible for maintaining their hedges so “they don’t, for example, damage your property or grow too high. If they do damage your property, your neighbour may be liable”.⁹ Liability for damage is discussed in section 1.3 above. Problems can be resolved informally in some instances, although there are also statutory powers for tackling some types of problem, as set out below.

The Government document, [Over the Garden Hedge](#), provides advice on resolving disputes about hedges and provides examples of the possible problems:

Before you contact your neighbour, be clear in your own mind what the problem is. For example, the hedge:

- blocks light to the main rooms of your home
- deprives you of winter sunshine
- spreads into your garden and is affecting the growth of your plants
- is pushing over your fence
- the roots are damaging your path, drive, garage or home
- Be clear about how it affects you. For example:
 - you have to have the lights on for longer
 - your garden is in shade for much of the day
 - you will have to pay to replace your fence only for the hedge to damage it again
 - you are afraid someone will trip on your broken path or drive
 - you will have to pay to repair your path, drive, garage or home.¹⁰

Anti-Social Behaviour Act 2003

Government guidance [High hedges: complaining to the council](#) explains that [Part 8 of the Anti-social Behaviour Act 2003](#) allows local councils whose area

⁹ [Resolving neighbour disputes – High hedges, trees and boundaries](#), accessed 20 September 2022

¹⁰ Ministry of Housing, Communities and Local Government (MHCLG), [Over the Garden Hedge, updated 18 August 2017](#), accessed 20 September 2022

contains the land on which a high hedge is situated to deal with complaints about them.¹¹

The Act also allows councils to charge a fee which it can determine to examine a complaint. A PQ asked about these fees in June 2017:¹²

Grahame Morris

To ask the Secretary of State for Communities and Local Government, if he will introduce legislative proposals to abolish or reduce the fees local authorities charge to mediate high-hedge disputes under the Anti-social Behaviour Act 2003 and the High Hedges Regulations...

Answer: Mr Marcus Jones

Local authorities have discretion over whether to set fees for dealing with high hedges complaints and to set their level. Part 8 of the Anti-social Behaviour Act 2003, the high hedges legislation, enables local authorities in England to charge fees for intervening in unresolved neighbour disputes about tall evergreen hedges. Decisions on setting such fees are a matter for each local authority and has been since the legislation was implemented.

These powers are narrowly defined and apply in specific circumstances, as this section sets out below.

When can complaints be made?

The Government [guidance](#) on disputes over high hedges, trees and boundaries notes that complaints can be made to the council if there is more than one tree and the trees therefore are deemed to be a high hedge.¹³ This is the case if the hedge is all of these:

- 2 or more mostly evergreen or semi-evergreen trees or shrubs,
- over 2 metres tall, and
- affecting your enjoyment of your home or garden because it's too tall.

There is no specified height limit for single trees or hedges of only deciduous trees so these provisions cannot be used for problems with these types of trees/hedges.

Local authority processes

When councils are determining a complaint they must first decide whether the height of the high hedge is having an adverse effect on a neighbour's

¹¹ Ministry for Housing and Local Government Guidance, [High hedges: complaining to the council, updated 18 August 2017, accessed 20 September 2022](#)

¹² [PQ368 21 June 2017](#)

¹³ Ministry for Housing, Communities and Local Government, Resolving neighbour disputes: [High hedges, trees and boundaries](#), accessed 20 September 2022

enjoyment of their home and/or its garden or yard. If it is, then councils can order the owner of a high hedge to take action to put right the problem and stop it from happening again.

[High hedges: complaining to the council](#) also explains the conditions and procedure for complaining to the council and what it can require neighbours to do, for example issuing a formal remedial notice:

Once they're satisfied that your complaint meets the legal tests, the council will invite your neighbour to set out their case. When they've got both sides of the story, a council officer will visit the site to look at the hedge and its surroundings.

The officer will also get other facts that they need to help them decide your complaint. They might, for example, measure the size of your garden or how far the hedge is from windows in your home.

Once they've got all this information, the council will weigh it all up. They will decide whether the hedge adversely affects the reasonable enjoyment of your home and its garden or yard and what, if anything, should be done.

If the council decide action is necessary, they'll issue a formal 'remedial notice' to your neighbour and give you a copy. This notice sets out what must be done to the hedge and when it must be done by. It may require your neighbour to keep the hedge trimmed to a certain height.¹⁴

The guidance also explains the limits of what a council can do:

Can the council order my neighbour to remove the hedge?

The council cannot order your neighbour to:

- remove the hedge
- take any action that could result in the hedge's death or destruction
- trim the hedge to a height less than 2 metres above ground level

The guidance also sets out what happens if a remedial notice is not complied with:

What happens if my neighbour doesn't cut the hedge when they're meant to?

It's an offence to fail to do what a remedial notice requires. Such an offence is punishable with a fine of up to £1,000. Also, the council can enter the land and carry out the required work. Chapter 9 of [High hedges complaints: prevention and cure](#) gives detailed guidance on enforcing remedial notices.

¹⁴ MHCLG Guidance, [High hedges: complaining to the council](#), updated 18 August 2017, accessed 20 September 2022

The Act does not apply to damage by roots

Although the Government guidance above states that neighbours may be liable for damage to another's property and cites damage to fences and garages, other Government [guidance](#) states that the Anti-social Behaviour Act 2003 specifically excludes complaints about the effects of the roots of a high hedge:

The Council will not, therefore, deal with complaints made under this legislation about such matters as:

- root-related property damage, including subsidence;
- roots taking moisture and nutrients from the soil, so creating difficult growing conditions for plants;
- roots blocking drains or invading pipes.¹⁵

High hedges: Scotland

If a hedge is adversely affecting reasonable enjoyment of a person's property by blocking light and they have taken steps to resolve this with the neighbour, the [High Hedges \(Scotland\) Act 2013](#) allows a local authority to issue a High Hedge Notice requiring preventive action.

[Section 4 of the Act](#) allows the local authority to fix and charge a fee to examine an application.

The Scottish Government publishes [guidance](#) on the Act¹⁶, and Citizens' Advice Scotland also publish [advice](#).¹⁷

High hedges: Northern Ireland

The [High Hedges Act \(Northern Ireland\) 2011](#) provides a legal basis for people who are adversely affected by high hedges bordering their domestic property to take action. The Department of Agriculture, Environment and Rural Affairs (DAERA) [summarises](#) the Act.¹⁸ The Act introduces a formal complaints system that will be operated by local councils in respect of evergreen and semi-evergreen hedges that are more than two metres in height and affecting light reaching a neighbouring domestic property.

Section 4 of the Act allows the council to charge a fee, to a maximum level set by the Department, to examine a complaint.

¹⁵ ODPM, [High Hedges Complaints: Prevention and Cure](#), May 2005, accessed 20 September 2022

¹⁶ Scottish Government, [High Hedges \(Scotland\) Act 2013: revised guidance 2019](#), accessed 20 September 2022

¹⁷ Citizens' Advice Scotland, [If a neighbour's hedge or trees are blocking light in your home](#), accessed 20 September 2022

¹⁸ DAERA, [High hedges](#), accessed 20 September 2022

Guidance to the operation of the Act stresses that this formal complaints system should only be used as a last resort as neighbours are encouraged to resolve the problem themselves.¹⁹

1.6 Trees affecting the amenity of an area

Councils have powers to take action where the state of land is adversely affecting the amenity of an area. This could include cutting back trees.

Section 215 of the Town and Country Planning Act 1990 may provide powers for the local council to act. Best Practice Guidance on Section 215 of the Town and Country Planning Act 1990, (from the Office of the Deputy Prime Minister, January 2005) explains that Section 215 allows a local planning authority (LPA), in specific situations, to require land cleaning if the amenity of the area is adversely affected.²⁰ The guidance notes that it can be used in circumstances such as where there are amenity problems from rundown residential properties and overgrown gardens. Notices may be served on landowners and set out steps to be taken within a specific time. The LPA can clean the area themselves, and recover costs from the landowner. Page 11 of the guidance covers situations where there are problems with recovering costs because of difficulties in identifying landowners.

The use of Section 215 is discretionary (ie the council is not under a duty to use the power) and the decision-making process takes place at a local level. Anyone wishing to request such action would need to contact the local authority to discuss whether they would consider the site in question to be suitable for using section 215.

1.7 Problems where tree owners are unknown

The powers outlined above require the owner of a tree to be identified. In some circumstances the owner of the land cannot be identified, for example if it has not changed hands since registration of title to land became compulsory. The Land Registry gives advice on searching its registers and looking for information on who owns land if it is not registered.²¹

¹⁹ nidirect Government services, Disputes about high hedges, accessed 20 September 2022

²⁰ Ministry of Housing, Communities and Local Government, Town and Country Planning Act 1990 Section 215: best practice guidance, January 2005, accessed 20 September 2022

²¹ HM Land Registry, Searching for the owner of unregistered land, February 2018, accessed 20 September 2022

2 Protection for trees

[Note: This briefing considers the legal framework for trees in the community. It does not address rules applying to larger scale woodlands or forests, for example felling regulations for commercial forestry.]

In general terms, people may prune or remove trees in their gardens. Councils may remove trees in the community. However, there are protections for some trees, although these are the exception. This section discusses the main protection of trees – the Tree Preservation Order (TPO). It also sets out how councils will in future be required to consult communities before they cut down street trees, under new powers in the Environment Bill 2019-21.

2.1 Tree Preservation Orders

What is a Tree Preservation Order?

The Tree Preservation Order (TPO) is a key means of tree protection in England.

Under Section 198 of the [Town and Country Planning Act 1990](#), local planning authorities (LPAs),²² have the power to make TPOs if it appears to them that this “is expedient in the interests of amenity”, i.e. it is considered to bring amenity value to the surrounding area.²³ This section of the Act is unchanged by the more recent [Town and Country Planning \(Tree Preservation\) \(England\) Regulations 2012](#),²⁴ and the concept of amenity therefore continues to underpin an LPA’s power to make a TPO.

The first provision for TPOs was in s28 of the [Town and Country Planning Act, 1947](#) and s26 of the [Town and Country Planning \(Scotland\) Act 1947](#).

In Scotland, current provision is made under Part 7 of the [Town and Country Planning \(Scotland\) Act 1997](#). In Northern Ireland TPOs are regulated by

²² The [National Planning Policy Framework](#) document published by the Ministry of Housing, Communities and Local Government in July 2021 defines Local planning authority on p68: The public authority whose duty it is to carry out specific planning functions for a particular area. All references to local planning authority include the district council, London borough council, county council, Broads Authority, National Park Authority, the Mayor of London and a development corporation, to the extent appropriate to their responsibilities. Accessed 1 October 2021

²³ [Town and Country Planning Act 1990](#) s198

²⁴ [Town and Country Planning \(Tree Preservation\) \(England\) Regulations 2012](#)

Chapter 3 of the [Planning Act \(Northern Ireland\) 2011](#). The Welsh Government publishes guidance on [Protected trees: guidance on tree preservation orders](#).

The Order makes it an offence to cut down, uproot, prune, lop or damage the tree in question without first obtaining the LPA's consent. However, there are exceptions for pruning and cutting down a tree with a TPO in certain situations without permission e.g. in the case of a dangerous tree posing an immediate risk or a tree which is in the way of development for which planning permission has been granted. The LPA keeps a register of all trees covered by a TPO.

Who can request a TPO?

TPOs are applied by LPAs to specific trees but residents can also request that an LPA consider making a TPO on a tree. The LPA must follow [government guidance](#) when making a decision as to whether to make the TPO, taking into account the impact on amenity.²⁵ The guidance sets out details of how the authority should consider whether awarding a TPO will bring a reasonable degree of public benefit in the present or the future. Examples of factors which will be considered include:

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

In addition to the above factors but not alone, importance to nature conservation or response to climate change can be considered.²⁶

There is no right to appeal against the LPA's decision whether or not a TPO is granted.

If a TPO applies to a tree, the owner is prohibited from:

- cutting down;
- topping;
- lopping;

²⁵ Ministry of Housing, Communities and Local Government, [Tree Preservation Orders and trees in conservation areas](#), March 2014, accessed 20 September 2022

²⁶ Ministry of Housing, Communities and Local Government, [Tree Preservation Orders and trees in conservation areas](#), March 2014, accessed 20 September 2022

- uprooting;
- wilful damage; and
- wilful destruction

of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed. In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent.²⁷

Their general responsibilities as tree owners remain:

Owners of protected trees must not carry out, or cause or permit the carrying out of, any of the prohibited activities without the written consent of the local authority. As with owners of unprotected trees, they are responsible for maintaining their trees, with no statutory rules setting out how often or to what standard. The local planning authority cannot require maintenance work to be done to a tree just because it is protected. However, the authority can encourage good tree management, particularly when determining applications for consent under a Tree Preservation Order. This will help to maintain and enhance the amenity provided by protected trees.²⁸

If a TPO is imposed, work may be carried out on a tree in certain circumstances but permission must be gained from the LPA. Where permission is refused, or granted subject to conditions, or not determined, the tree owner has a right of appeal to the Secretary of State for Housing, Communities and Local Government (in practice a Planning Inspector appointed by the [Planning Inspectorate](#), an executive agency sponsored by the Ministry of Housing, Communities and Local Government).

The responsibility for varying or revoking a TPO lies with the local authority. Authorities must use the procedures set out in the [Town and Country Planning \(Tree Preservation\) \(England\) Regulations 2012](#) to do this. Government [planning guidance on TPOs](#) gives examples of circumstances under which an authority may want to vary or revoke an order.

2.2

Protecting trees in hedges

This note does not cover the protection or removal of countryside hedgerows. However, it is worth noting that Tree Protection Orders (TPOs) can be used to cover more than just individual trees. Government guidance states that:

²⁷ Ministry of Housing, Communities and Local Government, [Tree Preservation Orders and trees in conservation areas](#), March 2014, accessed 20 September 2022, para 001

²⁸ Ministry of Housing, Communities and Local Government, [Tree Preservation Orders and trees in conservation areas](#), March 2014, accessed 20 September 2022, para 002

What trees can be protected?

An Order can be used to protect individual trees, trees within an area, groups of trees or whole woodlands. Protected trees can be of any size or species.

Orders covering a woodland protect the trees and saplings of whatever size within the identified area, including those planted or growing naturally after the Order was made. This is because the purpose of the Order is to safeguard the woodland as a whole, which depends on regeneration or new planting.

Can shrubs and hedges be protected by a Tree Preservation Order?

Authorities may only use an Order to protect anything that may ordinarily be termed a tree. This would not normally include shrubs, but could include, for example, trees in a hedge or an old hedge which has become a line of trees of a reasonable height. The removal of countryside hedgerows is [regulated under different legislation](#). See [guidance on tree size in conservation areas](#).²⁹

2.3 Street trees and felling

The felling of trees generally requires a licence, issued by the Forestry Commission.³⁰ However, there are exemptions to this requirement – a licence will not always be needed to fell trees which are small in diameter, trees in public open spaces or trees which have become dangerous or a nuisance (subject to any Tree Protection Order).³¹

Concerns have been expressed in some communities in recent years about the loss of established street trees. For example, residents in Sheffield protested when street trees were felled. It appeared that a number of trees (quoted at 5,400),³² were to be removed as part of a road maintenance contract entered into by Sheffield City Council in 2012. A new position was negotiated with Sheffield Tree Action Groups (STAG) in December 2018.³³ These kinds of community concerns led the Government to consult in 2018-19 on protecting and enhancing England's trees and woodlands including street trees. The consultation launched in December 2018 received 4,671 responses before it closed on 28 February 2019.³⁴ The Government's [response](#), published on 15 October 2019, clarified that additional funding will be provided to local authorities to cover the costs of implementing a Duty to Consult before felling street trees. The duty will only apply to street

²⁹ Ministry of Housing, Communities and Local Government, [Tree Preservation Orders and trees in conservation areas](#), March 2014, paras 011 & 012, accessed 20 September 2022

³⁰ See Forestry Commission, [Tree felling licence: when you need to apply](#), updated 8 November 2021, accessed 20 September 2022

³¹ See the Forestry Commission guide, [Tree felling: Getting Permission](#), 2020, accessed 20 September 2022

³² Sheffield Star, [Newly released email reveals Sheffield Council had 'financial interest' in the felling of 5,400 street trees](#), 11 December 2019, accessed 20 September 2022

³³ Sheffield City Council, [Managing and looking after street trees](#), accessed 20 September 2022

³⁴ Department for Environment Food and Rural Affairs, [Consultation on Protecting and Enhancing England's Trees and Woodlands](#), 30 December 2018 – 28 February 2019

trees, and there are exceptions to the duty – for example for young or damaging trees, and those at sites with active planning permission. On overall trees and woodlands policy, the Government response said that instead of placing a statutory obligation on local authorities to produce a Tree and Woodland Strategy, best practice guidance on Tree and Woodland Strategies should be produced.³⁵

Measures on including protections for street trees and provisions through enhanced community involvement in felling decisions were subsequently included in the Environment Act 2021:

- [Section 115 of the Environment Act 2021](#) requires local highway authorities in England to consult before felling street trees, by amending the Highways Act 1980. Guidance will be issued about how to discharge the duty which will apply to street trees over a certain size provided they are not dangerous nor covered by certain specific exemptions. The clause defines the type of urban road to which the provision apply.
- In addition, [Section 114 and Schedule 16 of the Environment Act 2021](#) make amendments to Part 2 of the Forestry Act 1967 in relation to the enforcement of the power to control the felling of trees in England. The Bill gives the courts more powers to specify requirements to restock trees and enforcement actions (in addition to a fine) and gives the Forestry Commission certain powers to require land ownership information.

A [Parliamentary Answer in March 2020](#) described how the measures fit with the Government's policy on increasing the number of trees in streets and urban environments:

The Government is committed to increasing the number of trees on streets and in urban environments, in and around the places where most people live and work.

In 2019, we launched the £10 million Urban Tree Challenge Fund which is providing matched funding to councils, charities, community groups, private sector bodies and individuals to plant 130,000 trees, including 20,000 street trees, in our towns and cities.

In addition, we are giving hundreds of thousands of schoolchildren across England, mostly in urban areas, the opportunity to plant trees in schools and local communities, as part of our 1 million Trees for Schools programme in partnership with the Community Forest Trust and the Woodland Trust.

The Environment Bill includes new duties on councils to consult when felling street trees and increased penalties for illegal felling. As part of our 25 Year Environment Plan, we have worked with stakeholders to develop and publish an Urban Tree Manual and we are developing policies to ensure all new

³⁵ Department for Environment, Food and Rural Affairs, Consultation on Protecting and Enhancing England's Trees and Woodlands, [Summary of responses and Government response](#), 15 October 2019, accessed 20 September 2022

streets are lined with trees. These measures will help to ensure councils pick the right trees in terms of biosecurity, value for money, air quality impact and biodiversity.³⁶

Further information on the Environment Act measures can be found in the [Library Briefing](#) on the Environment Bill, published on 6 March 2020.³⁷

Note: These provisions apply in England. In Scotland, licences to fell trees are issued by [Scottish Forestry](#)³⁸. In Wales, they are issued by [Natural Resources Wales](#)³⁹. In Northern Ireland, they are issued by the [Department of Agriculture, Environment and Rural Affairs](#)⁴⁰

³⁶ [PQ 25190, Tree Planting: Urban Areas](#), answered 13 March 2020

³⁷ [Commons Library analysis of the Environment Bill 2019-20](#), 6 March 2020, accessed 20 September 2022

³⁸ Scottish Forestry, [Felling Permissions](#), accessed 20 September 2022

³⁹ Natural Resources Wales, [Tree felling licences](#), accessed 20 September 2022

⁴⁰ Department of Agriculture, Environment and Rural Affairs, [Felling licences](#), accessed 20 September 2022

The House of Commons Library is a research and information service based in the UK Parliament. Our impartial analysis, statistical research and resources help MPs and their staff scrutinise legislation, develop policy, and support constituents.

Our published material is available to everyone on commonslibrary.parliament.uk.

Get our latest research delivered straight to your inbox. Subscribe at commonslibrary.parliament.uk/subscribe or scan the code below:



 commonslibrary.parliament.uk

 [@commonslibrary](https://twitter.com/commonslibrary)