

For additional advice on trees:

Arboricultural Advisory and Information Service (AAIS)

Alice Holt Lodge, Wrecclesham, Farnham, Surrey, GU10 4LH

Tel **01420 22022** Fax **01420 22000**

Tree Helpline: **0897 161147** calls charged at 1.50 per minute

The Arboricultural Association

Ullenwood Court, Ullenwood, Cheltenham, Gloucestershire, GL53 9QS

Tel **01242 522152** Fax **01242 57766**

email: admin@trees.org.uk website: www.trees.org.uk

Useful contacts and references:

Contact the Tree Team by e-mail at trees@westberks.gov.uk

or phone on **01635 551111** for Council owned trees and general queries.

Contact the Tree Officers for tree works applications, trees and planning applications and trees in Conservation Areas.

The Tree Officer for the Eastern Area is Jon Thomas

Contact Jon at jon.thomas@westberks.gov.uk

or on Tel: **01635 519611** ext 2611

The Tree Officer for the Western Area is Andrew Giles

Contact Andrew at andrew.giles@westberks.gov.uk

or on Tel: **01635 519349** ext 2349

West Berkshire Council

Environment

Market Street

Newbury

Berkshire

RG14 5LD

www.westberks.gov.uk

If you require this information in an alternative format or translation, please call 01635 5191111

Environment

Dead dying or dangerous trees



The responsibility for trees rests with the owner(s) of the land on which they are growing. There is a duty for the landowner to take reasonable care to ensure that their trees do not pose a threat to people or property. This 'duty of care' falls under the Occupiers Liability Acts of 1957 and 1984.

What if my tree is protected?

If a tree is protected either by a tree preservation order or by virtue of growing within a conservation area, the duty of care still remains with the tree owner. In most situations there will be a requirement to obtain formal consent from the council to prune or remove a protected tree.

How often should I inspect my tree?

Trees are living and growing organisms and their condition can change over time. It would therefore be considered prudent for a tree owner to visually inspect their trees twice a year; in winter to look at the structure of the tree and summer to assess health and vigour. If they have concerns, it is advised that they contact an arboricultural specialist to provide advice and carry out a visual tree assessment.

What makes a tree dead, dying or dangerous?

It is usually fairly obvious if a tree is dead or dying, what makes a tree dangerous is much harder to ascertain. When you visually inspect your tree look out for fungal fruiting bodies, unnatural leans, swellings, cracks, cavities, weak forks, loose bark, damaged roots or crown dieback. These are possible indicators that all may not be well with the tree. If anything arouses your suspicions as to a tree's health and condition then further advice should be sought from a competent arborist (tree work contractor) or an arboricultural consultant. Roots lifting paving slabs or falling acorns and leaves in autumn may be overcome by reasonable household maintenance and do not necessarily make the tree(s) dangerous.

What happens if a protected tree is dead, dying or dangerous?

One of the exemptions from the requirement to obtain formal consent to work on a protected tree, is where the work is required to deal with a dead, dying or dangerous tree, which may involve pruning or complete removal. Please be aware that the burden of proof rests with the tree owner to prove that the tree is dead, dying or dangerous. If you are at all unsure, you are advised to

contact a competent arborist or an arboricultural consultant. Unless the danger is imminent, for example the tree is about to fall across a road, you should give the council 5 days notice before undertaking any work. It would be prudent to take photographs beforehand as a record. There is also a duty to plant a replacement tree for each dead, dying or dangerous tree removed although the council may dispense with this duty if a written request is made. If you are in doubt about any of these issues, you should seek independent legal advice.

What if I think that my neighbour's tree is dead, dying or dangerous?

The council has some limited discretionary powers under the Miscellaneous Provisions Act 1976 to require owners to deal with trees in private ownership that pose an imminent threat to people or property. If such a request is received, a site visit will be made to assess the health, condition and structural integrity of the tree in question. Where a landowner is required to make a dangerous tree safe, but fails to carry out the necessary work, the council may undertake the work itself and recover reasonable costs. Trees in private ownership that are merely causing a nuisance, for example by shading or dropping leaves, fall outside the scope of this act and remain a private issue.

What if I think that a council owned tree is dead, dying or dangerous?

If you feel that a council owned tree is dead, dying or dangerous you should call the streetcare team in the first instance, details may be found at the back of this leaflet.

Will a council Tree officer come to visit the tree?

If the tree is protected then a Council Tree officer will come to inspect the tree upon receipt of a tree work application. A site visit is also usually made if a 5 day notice to deal with a dead, dying or dangerous tree is received. The council does not generally undertake pre-application site visits, so if you feel that the tree falls under the dead, dying or dangerous exemption and does not require a formal application, it would be prudent to seek advice from a competent arborist or an arboricultural consultant. If the tree is in a neighbouring property and you feel it is imminently dangerous the council may undertake a site visit to confirm whether there is any action that can be taken under the Miscellaneous Provisions Act 1976.

Will the Council take responsibility for my tree?

No, the tree always remains the responsibility of the landowner. However, in the case of protected trees, if damage occurs as a direct consequence of the refusal to grant an application there may be a case for compensation. This will depend on what damage has occurred and on the type of tree preservation order that was served.

What about wildlife protection?

A dead or dying tree however may provide a habitat for plants and wildlife protected under the Wildlife and Countryside Act 1981 (as amended). Trees with hollows or crevices, for example, provide important natural sites for many protected species. Anyone proposing to carry out works to trees containing protected plants and wildlife, should first consult with the appropriate ecologist or specialist or Natural England on Tel **023 8028 6410**.