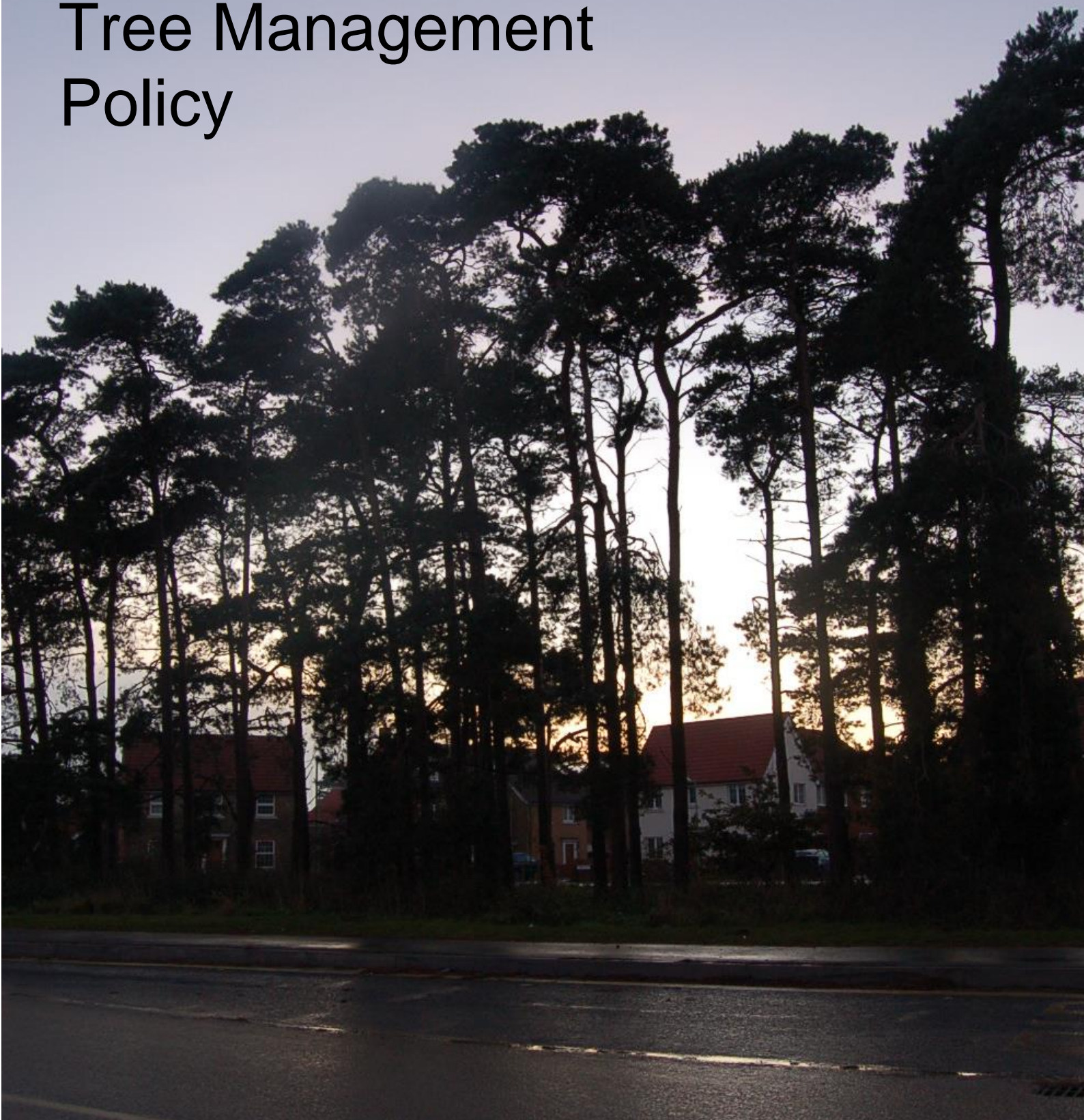


# West Suffolk Tree Management Policy



Forest Heath • St Edmundsbury

**West Suffolk**

working together

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## 1. Introduction

Tree cover is one of West Suffolk's defining features and is a major factor in what makes the area a fine place to live, work and visit. In total, around 10% (6500 hectares) of land within St Edmundsbury is covered by trees and 25% (9500 hectares) of land with Forest Heath is covered by trees. The Forest Heath area also contains part of the largest lowland forest plantation in Europe in the form of Thetford Forest.

Forest Heath is also unusual within the county of Suffolk in having an exceptionally high percentage of its area designated as Sites of Special Scientific Interest. There are also large areas designated as Special Protection Areas (SPAs) and Special Areas of Conservation (SACs).

Trees provide a range of benefits upon which our quality of life will continue to depend. By moderating climate, improving air quality, conserving water, offering habitats for wildlife, offering health benefits and conferring a sense of place and season, Appendix 12 explores the full range of benefits that trees confer both socially, environmentally and economically.

This critical environmental resource faces numerous challenges and conflicts that risk its gradual erosion and which need to be comprehensively addressed if it is to be sustained. These problems include: new development and competing infrastructure; climate change, storms and drought; disease, pollution, ignorance and neglect. Appendix 13 explores these threats in more detail.

The high level of tree cover within West Suffolk, while immeasurably beneficial, can also create challenges. Where trees and habitation coincide, the needs of trees and people often clash. People's needs and expectations can make the management of trees intense and costly.

Sustainable management needs to be implemented today if this natural resource is to benefit, and be enjoyed by, future generations. Woodland will need regenerating through carefully selected felling and coppicing and new trees will need to be nurtured to create a diverse age structure. The trees in our parks, open spaces, cemeteries and streets will also need phased removal and replacement programmes to ensure continuity of tree cover as disease, decay and terminal decline inevitably take hold.

All local authorities have legal duties to protect significant trees for their amenity value, to conserve biodiversity and to ensure that the trees they own are properly managed and maintained so that they do not cause damage and/or injury to others.

The West Suffolk Tree Management Policy:

- Underlines the importance that Forest Heath District Council and St Edmundsbury Borough Council place on trees and woodlands in both public and private ownership and spells out its long term commitment to this critical environmental resource.

- Aligns the policies and approach to tree management of both Councils under the banner of West Suffolk.
- Provides a commitment to ensure that data pertaining to the Councils' tree stock is accurately maintained.
- Provides an understanding of the conflicts that can arise when trees and people inhabit the same area and sets out a framework for ensuring.
  - Our tree and woodland cover is managed sustainably and systematically.
  - Tree-related problems and concerns are dealt with appropriately, efficiently and in an accountable manner.

## **2. Strategic links**

This policy has been created with due consideration to current national, regional and corporate policies and legislation, which can be found in Appendices 6 & 7. Through adopting this strategic approach, and aligning the approach of both councils, this policy will ensure both councils fulfil legal and policy requirements.

### **3. Management of trees**

#### **3.1 Structure and Responsibility for trees across West Suffolk**

Across West Suffolk there are a number of organisations that manage trees in the public realm. Forest Heath District Council, St Edmundsbury Borough Council and Suffolk County Council manage the majority of these. However, with the historical transfer of housing stock, a number of Housing Associations are responsible for a significant amount of public realm trees. This division of responsibility can cause confusion and frustration for local communities and this policy sets out to provide clarity on how the West Suffolk councils propose to manage the trees and woodland they are responsible for, and how to disseminate this information to residents.

Identifying the type of enquiry and routing it to the correct department is of high priority to reduce confusion and resulting irritation of callers being put through to the wrong department or experiencing an unnecessarily high number of transfers within the customer service system. All departments dealing with customer services, such as front desk and switchboard will be made aware, through this Policy, of the councils division of responsibility to ensure enquiries are routed to the correct department.

#### **Privately owned trees**

Enquires about trees on private property are generally not the responsibility of the councils. Disputes relating to private trees are a case for civil action and complainants will be advised of this.

The councils have some limited powers they can exercise concerning trees on privately owned land. Most relevant are issues relating to protected trees within the role of Local Planning Authorities. Local authorities also have some powers concerning dangerous trees on privately owned land and high hedges.

#### **Tree Preservation Orders, Conservation Areas and trees within developments**

Within Forest Heath District Council and St Edmundsbury Borough Council, Planning Services is responsible for the administration of trees, predominantly to be found on private land, covered by the Town and Country Planning Acts.

West Suffolk Planning Service is also responsible for matters relating to the hedgerow regulations.

Where council owned trees are protected by Tree Preservation Orders an application must be made for any works proposed. This will be made within the standard planning application process.

Where council owned trees are within a Conservation Area, the councils are exempt from the usual application process to gain permission for carrying out work. However, we will operate a best practice policy to consult with the council's Planning Service where work is proposed on council owned trees within Conservation Areas, and where advisable, full applications will be made. This will ensure transparency, and where appropriate engage and consult with local communities through the existing planning process.

## **High Hedges**

Local Authorities have powers under section 8 of the Anti-social Behaviour Act 2003 to become involved in disputes relating to high hedges.

A high hedge is defined in the Act as a barrier to light or access as is formed wholly or predominately by a line of two or more evergreen or semi-evergreen trees or shrubs and rises to a height of more than 2 metres above ground level. The Act only offers control over hedges that affect domestic properties, which are defined as a dwelling or any associated garden or yard. The legislation is not open for those who wish to complain about a solitary tree.

The councils can only intervene when the complainant has explored (and exhausted) all steps to include, if possible, mediation. The council will charge an administrative fee to process a complaint. That fee is non-returnable. If the complainant has not explored all the alternatives or if the line of trees is not as designated by the legislation then the process will conclude at that stage but the fee will not be refunded. It is therefore in the complainant's best interest to ensure that they have explored all possible alternatives and to ensure that the tree is as designated by the legislation.

Complaints made under the above mentioned act are administered by the West Suffolk Legal Service.

## **Privately Owned Dangerous Trees**

The Councils have discretionary powers under the Local Government (Miscellaneous Provisions) Act 1976 to require trees to be made safe under certain circumstances. Where a tree under private ownership is endangering people or property on public land or private land with public access, the council will always be prepared to use these discretionary powers to serve notice or undertake tree work.

Following the Government advice in Circular 36/78 (DoE, 1978), the councils will only use their discretionary powers as a last resort and will initially approach the owners, advising them of the situation and attempting to obtain an undertaking to carry out the work. If a tree does represent a significant and imminent risk to the public and an undertaking is not received to carry out the work or make the tree safe in a reasonable period, the councils will either carry out the work immediately or serve notice on the owner depending on the level and imminence of risk presented by the tree.

The Local Government Act provides a means for local authorities to carry out emergency arboricultural work and recover the costs over a period from a tree



owner unable to immediately pay for the work. If a tree owner were unable to pay for work to make safe a tree on his or her land the council would usually require that a commercial loan be obtained to finance the work rather than use the Act.

Where it is important to take action immediately due to a severe and imminent threat to public safety, an arboricultural officer within the Councils would make a decision.

Any officer or agent of the Councils entering land to assess any tree in respect of these provisions will do so with written authority from the Councils.

Dangerous trees on privately owned land are administered by the West Suffolk Legal Service.

The Councils can use its discretionary powers in the following situations:

***Where the Councils are asked by the owner to deal with his/her dangerous tree.*** The Councils may be asked to make a dangerous tree safe because the owner is unable to pay the bill. Having established the imminence of the danger, the council may decide to recommend action but repayment in full will be required from the owner, or his or her agents, within an agreed timescale.

***Where the Councils are asked to deal with a dangerous tree on land with no known owner.*** The Councils may need to take immediate action before discovering the owner of the dangerous tree. Where the danger is imminent, the Councils will authorise the necessary safety work and the cost will be placed as a land-charge for later reclamation. If the danger is not imminent, then site notices may still be used to warn the owner or users of the site that action to make the tree safe may be needed in the near future.

***Where a dangerous tree is on neighbouring land and the owner is known.*** The Councils will serve a notice on the owner, allowing not less than 21 days to make their tree safe if found to pose an imminent danger. If the owner fails to act within the designated period, the Council may decide to enter the land to make the tree safe and to recharge the owner.

***Where a privately owned dangerous tree threatens nearby Council land.*** Where the owner is not known, the Councils may decide to take immediate action to make the tree safe and to recharge the owner later, in accordance with the above provision. Where the owner is known, procedures for notifying the owner as detailed above will apply.

### **Housing association trees**

The Councils' have transferred their housing stock to housing associations. The housing associations determine the responsibilities tenants have for trees located in their gardens.

The management and maintenance responsibilities for amenity land, and trees' around the former Council housing stock varies. In St Edmundsbury Borough



these areas and trees tend to be owned and managed directly by a housing association and in Forest Heath District Council the Council have, in most instances, retained that responsibility.

If the Councils receive a call about a possible housing association tree, officers will utilise a GIS system to ascertain ownership. In some cases the tree may be identified as Council owned, and normal enquiry procedures can be utilised relating to council owned tree stock.

If the tree is identified as being within housing association owned property or land, the caller will be advised to contact the appropriate housing association.

### **Highway trees**

Highway trees are often the most prominent of all trees in an area. Where there are few private, highway trees/street trees add particular value, helping to improve and soften the street scene.

Highway trees/Street Trees are defined as trees being "within the highway". Trees "within the highway" are almost always owned by the adopting Highway Authority, and in Suffolk this is Suffolk County Council. As owners Suffolk County Council are responsible for their management.

If the Councils receive a call about a possible highway/street tree, officers will utilise a GIS system to ascertain ownership. In some cases the tree may be identified as Council owned, and normal enquiry procedures can be utilised relating to council owned tree stock.

If the tree is identified as standing on adopted highway land, the caller will be advised to contact the County Council.

Highway Authorities, such as Suffolk County Council, have certain powers under the Highways Act 1980. These include:

**Section 79.** The Highways Authority may serve a notice to restrict new planting or remove existing vegetation which is/may cause a danger to road users on a bend or junction.

**Section 154.** The Highways Authority can serve a notice requiring the pruning of vegetation which obstructs the passage of vehicles, the view of drivers, the light from a street lamp. This section also covers the ordering of the removal of dangerous trees which may threaten users of the highway.

**Section 294.** Allows the courts to grant an order authorising entry into a private property and allowing works associated with Section 154 to be carried out if access to the property is refused by the owner.

## **3.2 Tree Risk Management**

### **Assessing the Risk**

An owner of land upon which a tree stands has responsibilities for the health and safety of those on or near the land and potential liabilities arising from the fall of the tree (including parts of), under both the civil law and criminal law. The civil law gives rise to duties and potential liabilities to pay damages in the event of a breach of those duties. The criminal law gives rise to the risk of prosecution in the event of an infringement of the criminal law.

When assessing a tree, owners and managers need to judge whether the management measures they adopt will fulfil society's reasonable expectations. 'Reasonableness' is a key legal concept when considering the risks of trees to the public and tree owners' obligations. For more details on trees and legislation please refer to Appendix 7: Legislation.

The National Tree Safety Group commissioned the Centre for Decision Analysis and Risk Management at Middlesex University to quantify the risk to the UK public of fatal and non-fatal injuries from falling or fallen trees and branches:

The research identified 64 deaths during the ten years after 1 January 1994. With a UK population of roughly 60 million, this leads to an overall estimated risk of about one death in 10 million people per year from falling or fallen trees and branches.

So far as non-fatal injuries in the UK are concerned, the number of accident and emergency cases attributable to being struck by trees (about 55 a year) is exceedingly small compared with the roughly 2.9 million leisure-related A&E cases per year. Footballs (262,000), children's swings (10,900) and even wheelie bins (2,200) are involved in many more incidents.

The individual risk of death attributable to trees is TEN TIMES LESS than the threshold of one death in a million per year which the Health and Safety Executive says people regard as insignificant or trivial in their daily lives.

## **Defendable Practice**

This policy takes into account the relative risk from the trees in the councils' ownership, and balances this against the benefits and applies the proportionate resource to managing those risks.

Defendable management is consistent with a duty of care based on reasonable care, reasonable prediction and reasonable practicability.

Reasonable tree management has both reactive and proactive elements. The Councils' will continue to react to events involving dangerous trees as they arise. The Councils' will also maintain forward-looking procedures to keep tree-related risks at an acceptable level. The Councils' proactive procedures will take into consideration the following aspects:

- Zoning: appreciating tree stock in relation to people or property
- Tree inspection: assessing obvious risky tree defects
- Managing risk at an acceptable level: identifying and prioritising safety work according to level of risk
- Maintain records: Providing evidence, should it be needed, of actions taken to mitigate risks.

If reasonably carried out, the above procedures should meet the duty of care required by law.

## **Zoning**

This practice prioritises the most used areas, and by doing so contributes to a cost-effective approach to tree inspection, focussing resources where most effective. Zoning contributes to sensible risk management and a defendable position in the event of an accident. In some cases it may be reasonable to decide that no areas require inspection.

Classifying levels of use in this way only requires a broad assessment of levels of use. Generally a minimum of two zones, high and low use, may be sufficient:

- High use zones are areas used by many people every day, such as busy roads, railways and other well-used routes, car parks and children's playgrounds.
- Low use zones are used by less people or less frequently, such as isolated paths, small roads, or areas not easily accessible such as woodland and shelter belt interiors.

The Councils will utilise the above two zone system when carrying out inspections of trees, which will inform the level of inspection required, and subsequently the level of resource required to carry out the inspections.

### **3.3 Inspection of Trees**

In line with a tree risk management approach, the councils undertake regular planned inspections of their tree stock. The approach to inspection is detailed in Appendix 2. Details of the inspection areas and frequencies are provided in Appendix 3.

The term inspection covers a whole range of activities, from a superficial quick, visual 'check' to a detailed, device-assisted inspection. Inspections are carried out by non-specialists through to specialists trained to different levels of competence and experience. While technology can assist in inspecting important trees under exceptional circumstances, normal, day-to-day observation is the most useful source of information and provides the principal basis of tree assessment.

Inspection will vary according to the circumstances of the site, influenced by levels of use and the importance of the trees (principle of zoning). Even in well used areas, inspecting and recording each tree is not always considered reasonable.

Trees with structural faults, but valued for their habitat or amenity interests, that are retained in frequently used areas may require specific assessment and management.

#### **Informal Inspection**

The contribution of informal inspection to sensible maintenance of reasonable safety should not be underrated.

In an informal inspection, owners or managers do not go out of their way to assess the trees, but notice their health and condition as they pass by, identifying structural weakness or actual failure that pose an imminent threat to public safety and that would be patently apparent to a non-expert.

Reports by staff or members of the public of any problems are an integral part of informal inspections and can be acted upon as and when necessary. The councils receive many such reports from members of the public, staff or volunteers who are out and about in the West Suffolk Area.

Although this does not negate the need for more formal and detailed inspections of trees, it is a valuable tool within the councils' risk management of trees. As such it should be recognised as part of its reasonable, balanced and defensible approach to tree management.

#### **Formal Inspection**

In a formal inspection, someone visits the tree with the specific purpose of performing an inspection, which is not incidental to other activities. The spectrum of formal inspection ranges from survey work for tree inventories, to health and condition assessments.

Formal inspections may be carried out through 'drive-by' and 'walk-over' inspections, ground-based visual checks, aerial assessment or device-based investigation. Drive-by and walk-over inspections are accepted types of reasonable risk assessment depending on the circumstances.

Drive-by inspections are a reasonably practicable means of tree safety assessment for tree-lined roads and other high use areas with vehicle access. Drive-by inspections can assist in deciding where tree management, walk-over or detailed inspection might be appropriate.

Walk-over inspections may not identify hidden features, such as fungal fruiting bodies tucked in the roots of the tree. However, simple formal inspection through ground level visual checks in the course of walk-over surveys provides a useful, cost effective means of identifying clear and present signs of imminent instability. This is an important means of identifying when pressing action is needed, including further specialist inspection.

Walk over inspections combined with a zoning approach can provide a valuable means for inspection. Trees in a high use or high risk situation within a survey area can receive a simple formal inspection with ground based visual checks, in more detail than a general walkover survey. In this way the surveyor can identify such trees during the walkover survey, and assign a greater time resource where required.

### **Detailed Inspection**

The need for detailed inspection typically only applies to individual, high value trees giving high priority concern in well-used zones. Given that most trees pose an extremely low risk, it is unreasonable to expect that every tree in a given area should receive a detailed inspection; to do so would be grossly disproportionate to the benefit gained in risk reduction.

Detailed inspections are therefore unusual, typically reserved for trees valued for their heritage, amenity or habitat and which are suspected of posing a high level of risk, as already identified through owner interest or a previous formal or informal inspection.

The detailed inspection will normally be prioritised according to the level of safety concern, and will usually entail an initial ground-level, visual assessment by a competent specialist looking at the exterior of the tree for signs of structural failure. In a few special cases, further detailed investigations may be required, involving soil and root condition assessments, aerial inspections of upper trunk and crown, or other procedures to evaluate the nature of suspected decay and defects, including using specialist diagnostic tools.

### **Inspection Frequency**

Informal tree inspections contribute significantly to public safety, being important for deciding when action is needed and when more formal assessment is appropriate. Such informal inspections are ongoing and occur whenever members of the public, staff or volunteers are in any given area.

Guidance relating to inspection frequency varies greatly; there is no uniformly accepted frequency appropriate to all situations. Frequency of inspection will often depend upon the specific hazards presented by a tree, its location and the level of use in the area.

If there is no significant potential for harm, i.e. the trees are remote from access/use; there is no automatic need to check them at all. However, as the potential for harm increases, i.e. more people get closer to the trees more often, the need to inspect the trees emerges.

Currently there is no clearly defined threshold on precisely what level of access/use triggers the above mentioned need or what frequency of inspection should be related to a given level of access or use. However, it is possible to attempt to narrow the range by looking at existing guidance, and a good starting point is the guidance for Highway Maintenance relating to trees. The Department for Transport's publication *Well-maintained Highways – Code of Practice for Highway Maintenance Management* (2005), advises that:

*"Most trees should ideally have an arboricultural inspection every five years but this period may be reduced on the advice of an arboriculturalist. Default intervals is for arboricultural inspections at least every five years."*

When assessing the frequency of inspections, the resources available must be considered against the potential risk, to ensure that an appropriate and reasonable allocation of resource is made. Given the relatively low risk from its tree stock, a 5 yearly inspection regime, in line with the Highways Code of Practice would be acceptable. However, given the resource available to the authority, a 4 year inspection cycle is achievable and would strengthen the councils' defensible practice.

While there will be many trees within the councils tree stock which could reasonably be excluded from inspections, due to their low risk or inaccessibility, rather than commit resources to mapping and identifying such trees or areas within West Suffolk, all areas of trees will be formally inspected on a 4 year cycle, but the level of resource placed on the inspection will be varied according to circumstance and risk (in line with the principle of zoning).

## **Tree Inspectors**

People with good local knowledge and familiarity with local trees are often well suited to carrying out informal inspections. Typically this does not require a specialist with knowledge of trees. Reports of problems by staff, volunteers or members of the public are an integral part of informal inspections and can be acted upon.

Formal inspections do not necessarily require specific qualifications but do require general tree knowledge and the ability to recognise normal and anomalous appearance and growth for the locality. Inspectors need the capacity to assess approximate tree height and falling distance from the tree to the area of use. They also need an ability to recognise obviously visible signs of serious ill

health or likely short-term significant structural problems, such as substantial fractured branches or a rocking root plate which, were they to cause tree failure, could result in serious harm.

The Councils will use competent officers to carry out formal inspections of trees within its tree stock. These Officers have a good level of experience and knowledge of trees, or a related qualification. This will form the main approach to the councils' formal regular tree inspection regime.

Detailed inspections require an appropriately competent person, experienced in the field of investigation that is to be carried out. Whoever is commissioning the detailed inspection should satisfy themselves as to the suitability of the inspector's qualifications and experience. A specialist involved in conducting a detailed tree inspection should be able to demonstrate the reasonable basis for allocating risks according to priority, and identify cost-effective ways of managing those tree related risks.

Where a detailed inspection is required, at times a suitably qualified external inspector may be commissioned by the councils on a case by case basis.

### **3.4 Data Collection**

Records, including maps, provide the basis for safety management reviews and, in the extremely rare event of an accident, can be important proof of reasonable tree management. It is not necessary to record every tree inspected; however, records of trees posing a serious risk and requiring treatment are useful, as is a record of how they have been treated.

Both councils use Arbortrack to record and manage their tree stocks. Arbortrack is a GIS based system which can record a large selection of data about the councils' tree stock including location, unique identifier, species, condition and size. In addition the system can record tree health problems, hazards and maintenance requirements.

Arbortrack will continue to be used to record specific tree problems and maintenance requirements generated through formal regular inspections, (proactive work). It will also be used to record details of maintenance requirements resulting from enquiries or reports from the public or other parties, (reactive work).

As the councils' land ownership is often complex, from time to time trees are identified which are not currently recorded on the Arbortrack system, or trees may be on land that is disposed of. When such circumstances arise Arbortrack will be updated with new records. Therefore it must not be assumed that as a tree is not on the Arbortrack system it is not owned by the council and vice versa.

There are also some areas where the councils have responsibility for trees which are not on land under the councils' ownership. Such circumstances arise where there is either a lease or management agreement in place. Generally speaking



such trees are not entered onto the Arbortrack system, but will require some form of inspection. Separate records for these sites will be maintained.

The councils will maintain the Arbortrack system as part of their record keeping process, along with records of its formal regular inspections.

### **3.5 Proactive Management of Council Maintained Trees**

All Council owned trees and woodlands will be managed on a regular, cyclical basis. An overview of both council's tree stock is contained in appendices 4 and 5.

Under this programme all council-maintained trees will be inspected, and maintained as necessary, at least once every four years. The programme incorporates all operations and encompasses all aspects of routine management - risk management, woodland management and ecological works, as well as new and replacement planting. Without such a programme the effective, responsive, equitable and sustainable management of council trees across West Suffolk cannot be achieved.

This proactive approach also enables the councils to manage risk at an acceptable level by identifying, prioritising and undertaking safety work according to level of risk. Work generated by programmed inspections will be prioritised according to urgency, and is a key part of the councils' approach to tree risk management.

When inspecting trees for public safety, the inspection primarily looks for external features indicating mechanical (structural) defects that pose a significant risk to public safety, concentrating on risks that are either immediate or reasonably foreseeable in the near future. The inspection will not normally identify trees that fall outside these categories for action.

The introduction of a planned, proactive cyclical management programme has several advantages:

- The provision of a fair and even-handed service
- Increased efficiency and greater cost-effectiveness. By carrying out a logical, sequential and thorough approach in one geographical location before moving onto the next, this saves time, fuel and overheads spent on preparations and travelling and optimises the use of resources. It also reduces carbon usage.
- Fewer requests for service. Because tree maintenance follows a regular pattern and results in the causes of complaints being pre-empted before they arise.
- A basis for the defensible risk management of trees and woods

- Environmental sustainability. The cyclical management programme is geared to the perpetuation and enhancement of tree cover since it incorporates planting, as well as risk management.
- Improved communications with stakeholders. Cyclical management makes systematic consultation and notification in advance of work programmes that bit easier because stakeholders can readily appreciate when and where work is planned to take place in a given area.

In addition to the four year programme more frequent tree inspections will be carried out on trees in the following categories:

- Trees which have been retained on grounds of their continuing amenity but whose condition has given sufficient cause for concern to merit inspection at increased frequency. Regardless of its geographical inspection area.

Any trees considered, during the course of inspections, to present an imminent danger to the safety of the public or property and which require felling or remedial pruning to alleviate the hazard will be dealt with urgently.

As part of a proactive approach, replacement of trees, and new planting will take place. Appendix 8 lays out the approach to tree planting and aftercare, and Appendix 9 details the "right tree, right place" approach for sustainable tree selection.

### **3.6 Reactive management of council maintained trees**

The Councils' (St Edmundsbury Borough & Forest Heath District) each receive around 700 enquiries per annum concerning requests for services/enquiries about trees.

The majority of these enquiries relate to issues such as seasonal minor nuisance, unfounded fears about safety of trees or issues relating to trees of which the council have no responsibility.

Reactive management is not an efficient or effective use of the Councils' financial and staffing resource.

With the implementation of a proactive tree management system, it is likely there will be a reduction in such reactive tree related issues. However tree related enquiries are not likely to quickly or entirely disappear. Concerns will continue to result from a conflict between the natural growth and development of trees and the built environment within West Suffolk.

It must be acknowledged that such conflicts are often difficult to resolve to everybody's satisfaction. As such it is important for the councils to have a clear set of policies based on tree related nuisance, and to be clear under what circumstances work to trees can and cannot be carried out and this needs to be commuted accordingly.

#### **3.6.1 Major Incidents**

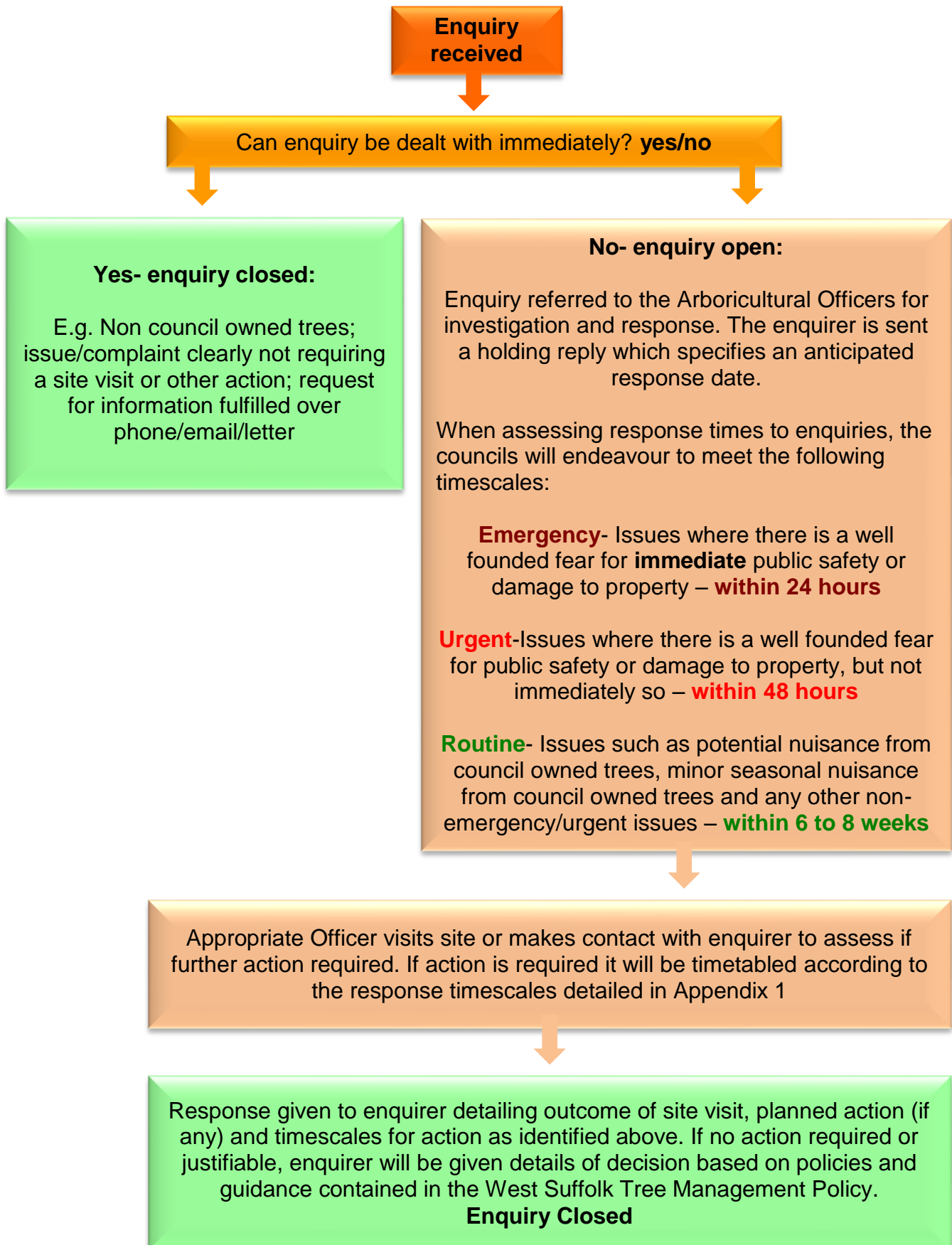
A major incident is any event, which leads to a level of tree failure requiring the dedicated efforts of more than just the appointed tree officers to resolve. In real terms this is likely to be a situation in excess of four incidents an hour. The great storms of October 1987 and January 1990 clearly fall within these criteria. Lesser storms, which could result in a major incident classification, occur on average every two years. Appendix 10 details the councils' Major Incident Plan.

#### **3.6.2 Tree Enquiry System**

Identifying the type of enquiry and routing it to the correct department is of high priority to reduce confusion and resulting irritation of callers being put through to the wrong department or experiencing an unnecessarily high number of transfers within the Council. All departments dealing with customer services, such as front desk and switchboard, through this Policy, will be made aware of the councils' division of responsibility to ensure enquiries are routed to the correct department.

The councils' utilise an electronic enquiry management system to record and manage enquiries. All tree enquiries are logged using this system. Along with the GIS tree management system it is an integral part of the councils' tree management policy.

When an enquiry is made relating to council-owned or managed trees we will take the following steps:



### **3.6.3 Tree related nuisance**

This section deals with the serious nuisance of structural damage caused by trees and the minor nuisances of light obstruction, view obstruction and the dropping of honeydew, bird droppings, leaves, fruit and flowers. Minor 'Nuisance' here refers to nuisance caused to anybody, including the tree owner. This is in contrast to the legal definition whereby nuisance cannot be caused to the tree owner.

The councils' do not generally endorse the felling of trees. Often it is only once a tree is removed that its value becomes apparent. Even after planting with substantial and large trees, the amenity lost can rarely be adequately replaced. However, it is sometimes necessary to remove trees for safety, design or biodiversity in the interest of good management.

This policy will help people understand when and under which circumstances certain work is, or is not, carried out by the councils.

#### **3.6.3.1 Dangerous trees on council-maintained land**

When the condition of a tree presents a significant, clear and foreseeable threat to the personal safety of residents, visitors, or to property, action will be taken to minimise that risk, such as removing all or part of the tree.

Any risk that is an indirect consequence of a tree, such as slippery leaves on the pavement in autumn, will not be dealt with through pruning. Other options are available for the management of debris – see Leaves, seeds and fruit below.

Where the amenity/wildlife value of a tree outweighs its risks, the council will seek to retain the tree and monitor its condition.

### **3.6.3.2 Damage by Tree Roots**

#### **Indirect Damage (Subsidence)**

This section deals with the councils' response to subsidence claims against its own trees. Subsidence is a complex interaction between the soil, building, climate and vegetation that occurs on highly shrinkable clay soils when the soil supporting all or part of a building dries out and consequently shrinks, resulting in part of a building moving downwards.

Trees lose water from the leaves through transpiration that is replenished by water taken from the soil by the roots. If the tree takes more water from the soil than is replaced by rainfall the soil will gradually dry out. Trees have a large root system and they can dry the soil to a greater depth, critically below the level of foundations. The amount of water trees can remove from the soil can vary between different species.

The opposite of subsidence is a process called 'heave' and this occurs as a shrinkable clay soil rehydrates (re-wets) and begins to increase in volume exerting upward pressure. Heave can also cause damage to buildings and is just as undesirable as subsidence. Care must be taken removing trees as this can be a factor in heave.

However, trees are not the only factors that can cause building movement for example natural seasonal soil moisture changes, localised geological variations, lack of flank wall restraint, over loading of internal walls, internal alterations reducing the load-bearing capacity of the original building, installation of replacement windows without proper support, loft conversions, settlement and land slip etc.

While the councils recognise their responsibilities for the trees they manage, it will expect any claim against its own trees to be supported by sufficient evidence to show that the tree in question on the balance of probabilities is an influencing cause in the subsidence. The councils will adopt the following evidence levels for subsidence claims, as contained in the London Tree Officers Association Risk Limitation Strategy for Tree Root Claims contained in Appendix 11:

Where necessary, the councils will obtain expert specialist advice, be that from in-house staff or from an independent expert, to verify submitted evidence and where it demonstrates that the tree is an influencing cause, appropriate action will be taken by the council.

It should be stressed that proven cases of indirect root damage have only been an occasional occurrence across the West Suffolk area. Many of the residential areas have been built on soils that are of a non-shrinkable nature, and when buildings are damaged, it would be unusual for trees to be part of the cause of the problem. The councils will provide clear, concise information on this subject when concerns about indirect root damage (subsidence and heave) are brought to its attention.

## **Direct Damage**

Direct root damage results from the pressure that tree roots and trunks can exert. Lightly loaded structures, such as garden walls, driveways and patios, may be affected but damage to heavily loaded structures, such as houses, is rare. Cases of direct root damage will be investigated and considered on an individual basis, with a balance struck between the nuisance experienced and the tree's benefits to the wider community.

Removal of a tree would not necessarily be an acceptable solution, alternative options such as root pruning and/or the installation of a root barrier may be more suitable.

Surface roots in gardens and areas of grass are a natural occurrence near trees. Neither pruning nor removal of the tree will have any effect on the presence of the roots i.e. in a lawn.

Unless the roots are causing some form of mechanical damage (pushing against a structure, for example) pruning or removal would not be recommended. In fact, pruning or removal may possibly have a detrimental effect on surrounding structures.

## **Drains and Roots**

Whilst tree roots do not actively seek out water contained in underground pipes or drains, if they are growing in close proximity they can gain access to weakened or cracked pipes exploiting them and eventually blocking them if there is enough water, nutrients and oxygen.

It should be noted that tree roots can rarely directly break drains by lifting or girdling them as drains usually fail by other means, such as failed drain collars, old drain piping and differential settlement or movement of soil along the drain length.

The removal of one tree will not prevent other vegetation from exploiting the same opportunity. The presence of roots close to, around, or alongside drains will not be taken as proof that root invasion is or will occur.

The councils' presumption is that the appropriate way to deal with tree root blockage of drains is to ensure that the drains are watertight and in good condition.



### **3.6.3.3 Structural Damage to Property**

Where a council owned tree is causing damage to private property, the councils will take action to resolve the problem. This type of damage will usually be in the form of direct physical contact between any part of a council owned tree and any part of a structure. Such an example would be a branch in contact with a roofline which could dislodge tiles, gutters, fascia etc.

In such cases the council will look towards established arboricultural techniques such as pruning and crown lifting to alleviate the nuisance and there will be a presumption against felling of the tree.

### **3.6.3.4 Minor and Seasonal Nuisance**

Minor nuisances are generally those that may cause inconvenience to people, but rarely cause significant discomfort or financial loss. Most trees in areas where people live have the capacity to cause nuisance, and it is common to hear that trees are generally appreciated, but not wanted in a particular position because of this.

Action in response to all minor nuisances would lead to the removal or mutilation of many trees, to the detriment of both public amenity and wildlife. The recognition of the value of trees across West Suffolk requires that trees be retained for the benefit of wider society, even where they cause minor inconvenience to immediate residents.

As well as having an environmental cost, action by the councils in response to all the minor nuisance complaints that they receive would be an unsustainable burden on resources.

## **Leaves, Flowers, Seeds and Fruits**

The dropping of leaves, flowers, seeds and fruits is a natural function of a tree's biology, and are not considered to be a legal nuisance and cannot be controlled without damage to the tree's health and appearance.

Activities such as clearing up fallen leaves and seeds, from gutters and pathways, are part of normal household maintenance. While they are clearly a burden or tiresome to deal with for some property owners, they are a part of normal life and the disadvantages should be weighed against the benefits of trees to the area.

Once leaves, flowers or seeds have fallen from trees they belong to no-one. The Law has determined that it is reasonable to expect a householder to clear leaves if they live in an area where there are trees.

All vegetation also produces pollen as part of its life cycle. Everything from grass to trees can have an effect on those members of our community who suffer from sensitivity to pollen. Whilst over 90% of hay-fever sufferers are allergic to grass pollen which is prevalent throughout the summer, only 25% of sufferers are sensitive to birch which is produced for a much shorter period of time. As this is a natural and seasonal process and not one the legal system recognises as a 'legal nuisance', there is nothing the councils can do to alleviate the symptoms and effects on residents.

For these reasons the councils will not carry out tree work or fell or remove trees to control the fall of leaves, seeds and fruit or alleviate the effects of pollen.

## **Honeydew**

Honeydew is a sugary liquid which is the natural secretion of excess sugar by aphids and other sap-sucking insects. Some trees, such as certain lime and maple species are associated with larger amounts of honeydew compared with others types of trees. At peak times in the growing season, the councils receive many complaints about the covering of cars and windows and the sooty mould associated with the honeydew.

Whilst the residue can cause problems, it does not, despite popular perception, damage car paintwork and it is easily removed by washing. It is not readily controlled by pruning of trees. Honeydew is a natural occurrence and is not considered to be a legal nuisance. The councils are unable to undertake any measures, including pruning or felling, to alleviate it.

## **Roosting Birds and Bird Droppings**

Roosting birds are a natural occurrence as is their production of droppings. Generally, felling a tree will not alleviate the problem as birds will relocate to another tree in the locality. Similarly pruning will not resolve the problem as birds will relocate to other branches. Pruning or felling of trees will not be considered as a way of resolving such matters.

Members of the public should also be made aware that contrary to popular belief, bird droppings are not acidic and therefore do not corrode car paintwork. Research has shown that damage is only caused by bird droppings to the clear lacquer layer of modern car paint, where the surface layer heats up and cools down, moulding to the texture of the deposit. This results in an uneven patch. This can easily be avoided by routine cleaning of a car's paintwork with a suitable detergent.

### **TV and Satellite Reception**

The councils often receive requests to carry out work on trees to alleviate TV or satellite reception problems. However, when a member of the public buys a television licence it allows them to operate any equipment to receive a transmission; it is not a guarantee or legal right to a television reception.

Tree owners have no legal obligations to carry out remedial tree works to abate the problem of poor television reception. As such the councils cannot take responsibility for the quality of television reception, as there is no basis in law or policy for that expectation. The councils will not carry out tree work to alleviate TV or satellite reception for these reasons.

Terrestrial televisions operate in a way that will allow for a degree of variation in the reception and that will still allow a viewable image on the screen. If residents have problems with TV signals, advice can be obtained from a number of sources including the Independent Television Commission or specialist TV aerial installation companies. In most cases a suitable engineering solution can be found, such as high gain aerials, longer masts or repositioning/redirecting of aerials.

Satellite-television requires the 'dish' to have a clear line of sight at the broadcasted signal. As such trees, highway signs and buildings can all block a signal. However, as with terrestrial signals, engineering solutions are available such as repositioning the dish or positioning a dish on a mast. When a commercial satellite dish installation company install a dish, they should do so in a location that can receive a signal, which includes anticipating tree growth over time.

### **Light Obstruction from Trees and Obstruction of Views**

The councils often receive requests to carry out work on trees to alleviate light or shade problems from trees. However, the obstruction of light from a tree is not a legal nuisance and there is no legal right to light for a homeowner. This also covers light obstruction to solar panels.

Similarly there is no legal right in law to a view. In addition a view obstructed by the growth of trees cannot legally be regarded as a nuisance in the legal term of the word.

As such the councils are unable to undertake any measures, including pruning or felling, to alleviate problems of light obstruction, shading or obstruction of views.

If there is an issue relating to a High Hedge, reference should be made to the High Hedges section of this document.

### **Overhanging Branches**

The councils have no legal obligation to remove branches back to the point at which they cross property boundaries. Trees close to and growing over walls and fences will be dealt with on a case-by-case basis by the councils.

Members of the public will be advised as to their Common Law rights concerning vegetation growing over their property boundary, but where pruning to the boundary may cause an unacceptable risk to tree health or form, the council will assess the tree to seek a more beneficial solution.

Where overhanging branches are likely to cause an imminent risk of structural damage (ie within one growing season), they may be treated in the same way as branches causing actual physical damage.

#### **3.6.3.5 Perception of a Dangerous Tree**

The councils often receive requests to carry out work on trees as a resident has a perception that a tree is dangerous.

Where a report of a dangerous tree is made by a member of the public, Officers will respond by inspecting the tree within the timescales identified in the sections of this document relating to dealing with enquiries. However, the following common misconceptions should be addressed where necessary:

#### **Height/size of trees**

The capacity of a tree for long life and an ability to grow to great height and size give trees their importance for humans, providing durable and useful materials, and protection from the elements. However, for some members of the public, a tree's natural ability to grow to great height and size is a cause of concern from a perception that a tree is dangerous merely due to its size.

A large or tall tree does not mean it is dangerous or any more likely to fail than a smaller individual. The relative risk posed by a given tree must be measured solely on its unique condition, health, location and other local factors which may be an influence.

The councils will not undertake tree removal or pruning solely due to a perception that a tree is "too tall" or "too big".

#### **Deadwood**

There is often a greater perception of risk from deadwood than is actually the case. While many may think of a dead branch on a tree as a sign of ill health, in a great many cases this is a wrong interpretation. Trees benefit by allowing branches to die and be shed.

Trees, when wounded (such as from storm damage, torn or lost bark or decay), have a highly developed capacity to adapt by protecting the organism as whole. Trees incorporate decay into their roots, trunks and branches, growing and developing healthy tissue around it. This capacity to “compartmentalise” (wall off) decay and grow around dead and decaying wood has evolved to such an extent that old trees can have entirely hollow trunks and enormous branch cavities, with no detriment to their vitality, particularly when the outer living sapwood has not been unduly damaged or compromised.

A mature tree trunk is mostly composed of non-living wood and a small cross-sectional area of living outer sapwood. As long as the roots are able to function and the branches are not too shaded or damaged, it is likely that the life-giving functional sapwood can supply all the tree’s needs.

When old and large enough, an array of decay fungi colonises the wood, creating veteran tree habitat. Fungi are the key organisms involved in breaking down the constituents of wood, creating veteran habitat conditions suitable for a succession of organisms to gain entry and interact, each with their specialist life styles.

Deadwood is a vital part of the biodiversity associated with trees, as it supports a large array of wildlife. When allowed to go through their natural life cycle, trees provide habitat supporting a diversity of dependant species, and generally, as trees age, their associated biodiversity increases.

Trees may be thought of as keystone species, in that their importance for biodiversity is such that, when removed from an ecosystem, the entire set of connections between inter-dependant species breaks down and systems collapse.

Wherever possible, the councils will encourage the retention and creation of deadwood. This may be in the form of leaving deadwood within a tree where there is no risk to people or property; leaving tall stumps/trunks to create standing deadwood when tree felling is necessary; creating log piles and habitat piles where tree work is necessary.

The councils will remove deadwood from a tree where it poses a significant risk to people or property. Generally this will only apply to deadwood in excess of 50 mm and will be based on an individual tree risk assessment as part of an inspection.

### **Crown Retrenchment**

When fully mature, the crown’s foliar capacity may start to reduce in volume naturally. At this stage, trees naturally diminish their height and spread. Some tree professionals refer to this process as “growing downwards”, while others use the term “crown retrenchment” as it describes how trees reduce supply lines (for water, nutrients and sugars) from their roots to upper crown leaves. In this way a tree redirects energy and growth to the formation of a consolidated lower region of the crown.

The onset of crown retrenchment marks the beginning of the ancient phase, when trunks may also increasingly become hollow, producing a very rare habitat. Retrenchment is a survival strategy, which the tree can repeat, enabling the ancient state to be the longest phase of a tree's life.

This process can be perceived by some members of the public as the signs of an unhealthy or declining tree, which in turn can increase the perception of risk from such trees. Good information is vital to address such misconceptions.

## **Perception of Risk**

Unlike man-made structures, it is entirely normal and natural for parts to break and fall from trees. Leaves and twigs are regularly shed. Branches die and live branches may become wind damaged or overextended, occasionally falling to the ground. On rare occasions, roots can snap under wind load causing the entire tree to collapse. These types of structural tree failures are natural and, in rare instances, can cause death, injury and damage to property.

While the actual likelihood of these rare instances occurring is very low, the perception of many members of the public is that they are much more common than they really are. Such issues are often foremost in people's minds where they live in close proximity to trees or have other specific issues with trees, such as suffering from minor seasonal nuisances, or fears of structural damage from trees.

However, the individual risk of death attributable to trees is 10 times less than the threshold of one death in one million per year that the Health and Safety Executive says people regard as insignificant or trivial in their daily lives.

By carefully considering how trees fit into a particular local context, the councils can better identify those areas and situations requiring action. It will also help ensure that any management is proportionate and strikes an appropriate balance between the real risks and benefits.

It is natural for trees to shed branches and ultimately fall down. These events happen all the time and people have learnt how to live with them. However, it is accepted in risk management that it is the perception of risk as well as the actual risk itself that generates problems.

The Health and Safety Executive refers to the role of perception in its sector information minute (guidance for HSE inspectors and local authority enforcement officers) as follows:

"The risk, per tree, of causing fatality is of the order of one in 150 million for all trees in Britain or one in 10 million for those trees in, or adjacent to areas of public use. However, the low level of overall risk may not be perceived in this way by the public, particularly following an incident."

As with other serious incidents involving loss of life or injury, people can become more worried by falling trees after someone has just been killed by one and it has been widely reported in the media.

It is also common that if there has been a serious incident involving a tree, it is likely to be widely reported by the media. This is because unusual events, such as tree-related deaths, are more likely to be newsworthy than commonplace accidents, even though the latter pose a far greater risk and cause much more harm overall.

It should also be remembered that public safety is not the only concern when deciding how to manage trees. Other broader concerns, such as ecological, landscape and aesthetic value, should also be taken into account.

## **Pruning**

Another often held misconception is that trees need pruning. The councils receive many calls from residents stating that trees have not been pruned, and that they need to be pruned to keep them safe.

It should be appreciated that any cutting can weaken a tree and allow decay organisms to enter exposed and vulnerable tissue. Substantial pruning often results in vigorous new growth and can be very damaging, particularly in older trees and in species that are not naturally tolerant of cutting.

It should also be remembered that trees do not need people. Although in some circumstances tree management work may be important for human safety, it would be wrong to believe that all management intervention is necessarily carried out for the tree's benefit. Trees have their own inbuilt mechanisms for dealing with damage and decline.

The councils will not carry out pruning to trees unless specifically required for safety reasons, to abate actual legal nuisance, for genuine arboricultural reasons or any other acknowledged situation within this policy.

## **Ivy**

Contrary to popular belief, Ivy does not generally harm trees and provides a valuable habitat for bird nesting and roosting and is an important source of nectar for insects.

Ivy is a non-parasitic epiphyte. This means that it is a species which grows on another, using it for support, but does not have a negative impact on its host. Rather than a parasitic relationship, it has a commensal relationship. In a parasitic relationship, one organism gains a positive benefit while the other organism suffers a negative impact. In a commensal relationship one organism gains a positive benefit while the other organism has a neutral impact.

However, in some circumstances Ivy may cause a negative impact on a host tree. Particularly large growths of Ivy within the crown of deciduous trees can sometimes have a sail effect during winter months and cause a tree to be prone to wind damage. This is not usually a problem for a healthy tree, but if a tree is in decline, removal of ivy may be beneficial to reduce risks associated with wind effect.



Competition from the roots of Ivy for water and nutrients is not a problem for most healthy trees. However, some veteran trees or trees in decline may benefit from removal or control of ivy to reduce competition for water and nutrients.

The councils will encourage the retention of ivy within trees wherever practicable.

### **3.6.3.6 Highway and CCTV Obstructions**

In line with requirements of the Highways Act 1980, the councils will ensure that street signs and street lights within the highway are clear from obstruction caused by council owned trees. They will not take action to improve the levels of illumination to private property from a street sign.

The councils will also ensure that their trees do not cause an obstruction to a public highway, a right of way or an access right to a property. This includes an obstruction to a highway visibility splay.

Pruning of trees obstructing CCTV cameras will only be considered where it will not cause significant harm to tree health and amenity, and where specific funding for the work is provided. Where new cameras are to be sited which could be affected by council owned trees, it is essential that those responsible for installation involve the councils as early as possible in the scheme's design.

### **3.6.3.7 Security / Fear of Crime**

Occasionally the councils receive complaints about trees due to concerns that trees provide access and/or cover for criminal acts, vandalism and harassment. This can often be the result of a misconception rather than direct evidence of a problem. In such cases, the councils will direct the resident to other measures which may be more appropriate such as contacting the Safer Neighbourhood Team, and involve the council's Community Safety Co-ordinator.

Tree work will only be undertaken if clear evidence exists of a problem, and that some form of tree management would provide a tangible improvement. It is imperative that any such action is carried out as part of a wider police and local authority partnership approach.

### **3.6.3.8 Pay for Service**

Where tree work is not justifiable as the result of a request for service from a resident, some residents may wish to pay for the work themselves. This will often be in relation to minor seasonal nuisance issues.

If the councils were to engage in pay for service agreements, this would create an unfair two tier system. This would fail to deliver an even handed service for residents who are unable to pay for service.

The councils will not enter into any arrangements where members of the public pay for, or contribute towards the cost of tree works. We will also not allow tree

surgeons engaged by members of the public, access to climb trees under our stewardship.

Except in the case of overhanging branches (see above) any unauthorised works to council owned trees carried out by any person would be treated as criminal damage.

### **3.7 Emergency Out of Hours Procedure**

The councils operate an out of hours service to deal with a range of issues that may arise when the main offices are closed including fallen or dangerous trees. Appropriate publicity of the out of hours contact number is available to ensure members of the public or other organisations can make contact with the right people.

The out of hours number that people should be advised to use is **01284 763252**.

These details are readily available on such places as the council's websites and any printed information relating to council owned land.