

APPLICATION FOR HIGH HEDGE NOTICE

High Hedges (Scotland) Act 2013

Please note: the details of the application – as well as who has made it (although not the telephone number/email address) – will be copied to the owner/occupier of the land on which the hedge is situated

1. Applicant's Details	2. Hedge Owner's Details
Title <input style="width: 100%;" type="text"/>	Title <input style="width: 100%;" type="text"/>
Forename <input style="width: 100%;" type="text"/>	Forename <input style="width: 100%;" type="text"/>
Surname <input style="width: 100%;" type="text"/>	Surname <input style="width: 100%;" type="text"/>
Building No./Name <input style="width: 100%;" type="text"/>	Company Name <input style="width: 100%;" type="text"/>
Address Line 1 <input style="width: 100%;" type="text"/>	Building No./Name <input style="width: 100%;" type="text"/>
Address Line 2 <input style="width: 100%;" type="text"/>	Address Line 1 <input style="width: 100%;" type="text"/>
Town/City <input style="width: 100%;" type="text"/>	Address Line 2 <input style="width: 100%;" type="text"/>
Postcode <input style="width: 100%;" type="text"/>	Town/City <input style="width: 100%;" type="text"/>
Telephone <input style="width: 100%;" type="text"/>	Postcode <input style="width: 100%;" type="text"/>
Mobile <input style="width: 100%;" type="text"/>	Telephone <input style="width: 100%;" type="text"/>
Email <input style="width: 100%;" type="text"/>	Mobile <input style="width: 100%;" type="text"/>
Email <input style="width: 100%;" type="text"/>	Email <input style="width: 100%;" type="text"/>
<p>Is there more than one hedge owner? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If yes, please provide details on Additional Owner form on last page.</p> <p>Are you happy to be contacted by email? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Is a map or sketch detailing the high hedge attached? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If no, please explain why.</p> <div style="border: 1px solid black; height: 40px; width: 100%; margin-top: 5px;"></div>	
3. Making a Complaint	
Is the hedge made up of a row of two or more trees or shrubs?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Is the hedge over 2 metres (6 foot 6 inches) in height?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Is the hedge a barrier to light (even if there are gaps)?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Is the affected property residential?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Is the hedge growing on land owned by someone else?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Have you attempted to resolve the issue with your neighbour?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Are you the owner/occupier of the affected property?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<p>If you have answered <u>no</u> to any of these questions your application cannot be considered as the criteria have not been met.</p>	

4. What You Have Done to Try and Resolve the Issue

Approached neighbour/hedge owner? Yes No

Details:

Approached neighbour/hedge owner to take part in mediation or other form of negotiation? Yes No

Details:

Informed neighbour of intention to make application? Yes No

Details:

How you tried anything else that you would wish the Local Authority to be aware of? Yes No

Details:

5. Your Application

Please describe the effect that the hedge is having on your property and how severe you consider these effects to be. Please remember that the High Hedges (Scotland) Act 2013 only deals with adverse effects on reasonable enjoyment caused by the hedge being a barrier to light.

6. Supporting Documents

To help the Local Authority understand your situation, please provide any photographs, maps, plans or sketches of where the hedge is growing and the property it is affecting. Supporting documents should be clearly marked and attached to the application form.

Have you enclosed any photos/plans/sketches? Yes No

Have you enclosed copies of any correspondence? Yes No

Have you enclosed any other documents (please list below)? Yes No

Have you enclosed the appropriate fee? Yes No

DECLARATION

PLEASE NOTE: The role of the Local Authority is not to mediate between the parties but to act as an impartial decision maker.

I understand what the role of the Local Authority is and will not attempt to influence the Local Authority representatives to act in an improper manner.

Signature: Name: Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

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ADDITIONAL HEDGE OWNERS

1. Additional Owner's Details		2. Additional Owner's Details	
Title	<input type="text"/>	Title	<input type="text"/>
Forename	<input type="text"/>	Forename	<input type="text"/>
Surname	<input type="text"/>	Surname	<input type="text"/>
Company Name	<input type="text"/>	Company Name	<input type="text"/>
Building No./Name	<input type="text"/>	Building No./Name	<input type="text"/>
Address Line 1	<input type="text"/>	Address Line 1	<input type="text"/>
Address Line 2	<input type="text"/>	Address Line 2	<input type="text"/>
Town/City	<input type="text"/>	Town/City	<input type="text"/>
Postcode	<input type="text"/>	Postcode	<input type="text"/>
Telephone	<input type="text"/>	Telephone	<input type="text"/>
Mobile	<input type="text"/>	Mobile	<input type="text"/>
Email	<input type="text"/>	Email	<input type="text"/>
3. Additional Owner's Details		4. Additional Owner's Details	
Title	<input type="text"/>	Title	<input type="text"/>
Forename	<input type="text"/>	Forename	<input type="text"/>
Surname	<input type="text"/>	Surname	<input type="text"/>
Company Name	<input type="text"/>	Company Name	<input type="text"/>
Building No./Name	<input type="text"/>	Building No./Name	<input type="text"/>
Address Line 1	<input type="text"/>	Address Line 1	<input type="text"/>
Address Line 2	<input type="text"/>	Address Line 2	<input type="text"/>
Town/City	<input type="text"/>	Town/City	<input type="text"/>
Postcode	<input type="text"/>	Postcode	<input type="text"/>
Telephone	<input type="text"/>	Telephone	<input type="text"/>
Mobile	<input type="text"/>	Mobile	<input type="text"/>
Email	<input type="text"/>	Email	<input type="text"/>

Guidance notes for High Hedge Notice form

Relevant legislation:

- High Hedges (Scotland) Act 2013
- Lighting for Buildings: Code of Practice for daylighting (BS8206-2: 2008)

Introduction

1. The High Hedge Notice Form allows you to apply for a high hedge notice from the relevant local authority.
2. These guidance notes provide more information to help you complete each section of the form.

What should be done before making an application?

3. First and foremost, you must have made efforts to resolve the issue with your neighbour before an application is made; any application that a local authority receives where there is no evidence of this having been attempted will be rejected.
4. What steps you should have taken before approaching the local authority will vary from case to case depending on the circumstances. However, it is not sufficient to simply claim that the neighbour is unapproachable.

Discussion with neighbour

5. The first step that you should make is to discuss the issue with the neighbour in an attempt to resolve the problem amicably.
6. Records should be kept of all attempts to resolve the issue and should be included with your application. You may use several different methods to keep track of attempts, for example a diary of conversations held or a series of receipts of postage.
7. The attempts should show a reasonable effort has been made in a reasonable timescale before applying for a notice.
8. For long-standing hedge problems, that date back to well before the Act came into operation, you may have made several attempts to settle the matter through negotiation and been repeatedly rebuffed.

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Nevertheless, the local authority may expect that a fresh approach should be made to the person living where the hedge is situated, now that the Act is in place, before a formal application is made.

Mediation

9. Another potential option for resolving high hedge disputes without recourse to local authority intervention is mediation.
10. Mediation can be carried out in many different ways, from a member of the local community playing the part of the mediator to a professional mediator fulfilling the role. [The Scottish Mediation Network](#) provides low cost access to mediators in many parts of the country who can provide a mediation service which may help to deal with the issue.
11. While mediation can be an effective way to resolve disputes, it is not required for a case to be considered; an application can be made that shows an effort has been made to solve the high hedge issue amicably, without resorting to mediation, and whether or not this evidence proves sufficient is a decision for a local authority to make.
12. If a hedge owner refuses to participate in a mediation process, you could use this refusal as evidence of a reasonable attempt to resolve the matter, although the cost and availability of mediation may be considered by the local authority as to whether this is a truly reasonable attempt.

Land where ownership is not known

13. In the case of vacant land, you should make every effort to identify the owner of the land. Information on who land is registered to can be requested from [Registers of Scotland](#). [Companies House](#) may be able to provide information on land owned by a business. In exceptional circumstances, ownerless property, under common law, passes to the [Queen's and the Lord Treasurer's Remembrancer](#).

Affected property

14. You can submit an application for a high hedge notice only if it is domestic property which is adversely affected by a high hedge. Section 34 of the Act defines domestic property as “any part of a building in Scotland which is occupied, or intended to be occupied, as a separate dwelling”, and “a yard, garden, garage or outhouse in Scotland which belongs to such a building or is usually enjoyed with it”. This would therefore include a flat used as a dwelling even if it formed part of a tenement that contained a

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mix of domestic and commercial uses but would exclude properties that might be in a residential area but wholly occupied for a commercial use, for example, a dental practice or a doctor's surgery.

Location of a hedge

15. As part of the application, you will normally be expected to provide a map showing all the main features such as the location of the high hedge, the boundaries of gardens and location of buildings. In some circumstances, a detailed written description of the situation may be sufficient.
16. Although the Act uses the term “neighbouring land” to describe where the hedge is growing, there is no requirement that the hedge is next door to your property. This means that a hedge on “neighbouring land” could be several gardens down the road or across the street – so long as the application can show that it adversely affects the enjoyment of your domestic property.
17. A hedge does not have to be wholly on a single property for a high hedge notice to be sought. It could extend over several properties. Neither does the high hedge have to be growing in a garden. It could, for example, be on parkland that backs onto a garden or yard, or on commercial premises.
18. The Act applies to Crown land. This means applications can be made for high hedges on land owned by the Crown. For example, a hedge on land owned by a Government Department.
19. The Act does not deal with overhanging branches or the width of the hedge. Common law already provides the right to cut back overhanging branches (but not to reduce the height without the owner's permission), provided that the cuttings are offered to the owner. Overhanging branches or the width of a hedge may be a relevant consideration for what is required by a high hedge order.
20. The act does not deal with areas of woodland adjacent to residential properties.

Meaning of ‘High Hedge’

21. Section 1 of the Act defines a high hedge as:
 - formed wholly or mainly by a row of two or more trees or shrubs;
 - rises to a height of more than 2 metres above ground level; and
 - forms a barrier to light (unless gaps significantly mitigate its overall effect as a barrier at heights of more than 2 metres above ground level).

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It is not necessary for the whole of a hedge to fall within the definition. If parts of a hedge qualify, the hedge will be eligible for an application for a high hedge notice.

22. An application cannot be made under the Act regarding single trees or shrubs, whatever their size. Two or more trees or shrubs do not have to form a precisely straight line; as long as they are roughly in line they may be considered.
23. A tree or shrub that has multiple stems, all growing from the same trunk or root plate, remains a single tree or shrub and falls outside the scope of the Act. This is the position even though the multiple stems might result in a considerable spread.

Defining the hedge to be considered in notice

24. You are not be required to provide a precise measurement of a hedge in order to make an application about a high hedge. The legislation does not give you the power to enter a neighbour's land to take any measurements. It should be sufficient for you to estimate the height of the hedge when determining if the hedge falls under the scope of the Act.

Upon successful application for a high hedge notice

25. You will receive a letter of acknowledgement from the local authority giving the name and contact details of the officer dealing with the case. The letter will explain briefly the procedure that the local authority will follow.
26. It should be noted that the owner(s) of the high hedge will be provided with a copy of the High Hedge notice application form. Your personal email address, phone number and signature will be removed prior to the copy of the application form being provided.
27. The letter will explain the procedure that the local authority will follow to make a decision on an application for a high hedge notice. The letter will also:
 - invite the owner and occupier of the land where the hedge is situated to comment on the points raised by the applicant and to provide any additional information that they wish the local authority to consider;
 - inform them that they have 28 days to exercise their right to make such representations;
 - make clear that the local authority is obliged to send copies of the representations to the applicant; and

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- notify them of the local authority's powers of entry to the land where the hedge is situated and the criminal penalties for preventing or obstructing such entry.

Application fee

28. There will be a fee associated with submitting a High Hedges Notice application. Please contact your local planning authority to discuss the associated fees.

Withdrawing an application

29. You may withdraw your application at any time before the local authority makes its decision on a high hedge notice. Discussion and negotiation between the people involved in the dispute can continue while the local authority is considering a formal application. If you and your neighbour(s) can agree a way forward, the application should be withdrawn.

Duration of a high hedge notice

30. The high hedge notice remains in force until it is formally withdrawn. It would have no practical effect, however, if the hedge was removed or there was some other change in circumstances. An example would be if the property affected by the hedge ceased to be used for domestic purposes.

Varying or withdrawing a high hedge notice

31. Section 10 of the Act enables a local authority to vary or withdraw a high hedge notice. Where it decides to vary or withdraw a high hedge notice, the local authority will notify every owner and occupier of both the property affected and the land where the high hedge is located. The reasons for the decision, a copy of the amended notice and advice of the right to appeal will also be provided.
32. A party can approach a local authority at any time to outline a change in circumstances and request that the local authority consider varying or withdrawing a high hedge notice.

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Appeals

33. An appeal regarding a high hedge can be made against a decision or high hedge notice issued by a local authority in response to a formal application about that high hedge.
34. Section 12 of the Act provides that appeals may be made to Scottish Ministers and section 15 of the Act provides that appeals may be determined by persons appointed by Scottish Ministers. The Government have decided that the administration of appeals will be dealt with by the Directorate for Planning and Environmental Appeals (DPEA). In practice, it is expected that appeals will be decided by a reporter from DPEA.

How to appeal

35. The appeal must be made by completing a high hedges appeal form, obtainable from the [DPEA website](#), by phoning 01324 696400 or by writing to:

DPEA
Unit 4
Callendar Business Park
Falkirk
FK1 1XR

The appeal form must be accompanied by a copy of the local authority's decision and, where they have issued one, a copy of the high hedge notice.

36. The appeal must be made within 28 days beginning with the date when the local authority notified parties of its decision.
37. You must give a full explanation of the reasons why you disagree with the local authority's decision. It is not sufficient to state that you do not agree with or accept the decision.
38. The appeal form and the explanation it contains will be treated as the statement of case in the appeal and it may not be possible to add to the explanation later. However, the reporter dealing with the appeal may require further information.
39. You can withdraw an appeal at any time prior to the issue of the decision on the appeal by advising DPEA in writing. If an appeal is withdrawn, a suspended high hedge notice will take effect from the date of withdrawal.
40. There is no charge for making an appeal, but you will have to bear your own costs (including those of any professional advisor, if you decide to employ one to help with your appeal).