**High Hedges**

**High Hedges (Scotland) Act 2013**

**Guidance on Pre-application Requirements**

The High Hedges (Scotland) Act 2013 came into force on 1 April 2014 and Government

Guidance has been recently updated by The High Hedges (Scotland) Act 2013: Revised

Guidance 2019. The legislation is intended to provide a solution to the problem of

high hedges where the height affects the enjoyment of a neighbour’s residential

property which an occupant could reasonably expect to have.

Before making an application you should read the guidance set out in the Scottish Government’s guidance, which can be [viewed here](https://www.gov.scot/publications/high-hedges-scotland-act-2013-revised-guidance-local-authorities-2019/):

**Actions to take before applying for a notice**

Making an application for a High Hedge notice is a last resort. You should take all reasonable steps to resolve the issue yourself first. If you decide to apply, you will need to demonstrate that you have done this.

You need to bring the issue to your neighbour's attention and discuss it with them. If you are not able to communicate with them, you should contact the Safer Communities Team on 01620 829902 who work closely with a mediation service and they will attempt to resolve the issue on your behalf. If this fails, you can apply for a High Hedge notice.

**Application fee**

The fee for making an application is £691. It covers the cost of considering an application and investigating the matter.

You need to pay the appropriate fee when you submit your application otherwise we can't process it.

You can pay online using [Planning Applications](https://www.eastlothian.gov.uk/info/210547/planning_and_building_standards/12273/pay_for_applications)

**How to apply**

You can apply for a High Hedge notice [here](https://www.eastlothian.gov.uk/downloads/file/31051/high_hedge_notice_application_form).

**Frequently Asked Questions**

**What kind of vegetation does the High Hedges (Scotland) Act 2013 apply to?**

The Act only applies to hedges; for trees and shrubs to be considered as a ‘high hedge’, they must first be considered to form a hedge in the normal usage of the word. Groups of trees and woodlands are not hedges and are therefore not covered by the Act.

**What is a “high hedge”?**

The High Hedges Act applies in relation to any hedge which:

a. is formed wholly or mainly by a row of 2 or more trees or shrubs,

b. rises to a height of more than 2 metres above ground level, and

c. forms a barrier to light.

A hedge is not to be regarded as forming a barrier to light if it has gaps which significantly reduce its overall effect as a barrier at heights of more than 2 metres.

In applying the Act in relation to a high hedge, no account is to be taken of the roots of a high hedge.

**I’ve heard that only hedges made up of certain types of trees will be covered, is this true?**

No. All types of hedge, whether they are made up of evergreen, semi-evergreen or deciduous trees or shrubs, are covered by the Act. However, the hedge must be over

2 metres tall when measured from ground level before it can begin to be considered to be a high hedge.

**I live in a property which suffers from lack of light due to a high hedge, but the hedge is not on land immediately adjoining my property. Can I still make an application?**

Yes. The hedge does not have to be on land immediately neighbouring the property of the person making the application. It just needs to meet the definition of a ‘High

Hedge’.

**I have tried to reach an agreement with my neighbour, but haven’t been able to. What do I do next?**

The Act emphasises that all reasonable steps between the parties themselves to resolve the issues of the high hedge must be fully exhausted. The Council must only be contacted as a last resort where disputes have not been able to be resolved. In the first instance, before submitting an application, you should contact the Safer Communities Team on 01620 829902 who work closely with a mediation service and they will attempt to resolve the issue on your behalf. If no resolution is found they will ensure that you have carried out all the necessary pre-requisites prior to submitting an application.

Records should be kept of all attempts to resolve the issue and these should be submitted with any application to the Council. Records can include a diary detailing conversations, mediation, and copies of letters sent by you to your neighbour (which should include proof of postage). The Council considers it reasonable for the applicant to provide proof of at least 2 attempts at resolution within the previous 6 month period before an application is made. One such attempt should be a letter from the complainant sent to the hedge owner at least 28 days prior to the date of the application, advising the hedge owner of their intention to make an application for a High Hedge Notice.

This is in order to allow the hedge owner the opportunity to take action prior to an application being submitted.

**Do I need to do anything before I make an application to the Council?**

Yes. Before making an application, you must be able to demonstrate to the Council that you have tried to reach a solution with the hedge owner following the guidance above regarding recording evidence.

If you’ve been unable to reach an agreement with your neighbour regarding the hedge, at that point you will be able to submit a High Hedge application to the Council. A fee will be payable by you. This is in order to ensure that the Council can cover the costs of investigating the complaint.

Involving the Council should be a last resort if you really can’t agree a solution.

The Council can refuse to intervene if they think you haven’t done everything you reasonably could to settle your dispute.

**How do I lodge my High Hedge application?**

When you are ready to lodge your High Hedge application please complete the High

Hedge application form and submit it with the relevant fee to the Council. This is your

opportunity to set out your case so it is important that you provide full information on the form. Explain as clearly as you can the problems that you experience in your house and garden because the hedge is too tall.

Please bear in mind that this information will be shared with the hedge owner, but personal details such as email addresses and signatures will be removed in accordance with the Data Protection Act.

**The Council has said that the hedge is not a high hedge, but I disagree. What**

**can I do next?**

An application for a high hedge notice can only be made under the Act for a hedge which is a high hedge. If the Council do not consider the vegetation shown in your application to be hedge, or to meet the definition of a high hedge, then it will inform the person submitting the ‘application’ that it does not meet the requirements of the Act and so cannot be considered as an application under the Act. The Council will therefore return the application and the application fee. The Council will also explain, briefly, why they have reached that view. There is no right of appeal against this decision

**What happens after I’ve paid the fee and the application is registered?**

The Council will notify the hedge owner that an application has been made. The information contained within the application will be sent to everyone with an interest in the hedge who will then have 28 days to respond and set out their case.

After the 28 day period an officer from the Council will go out to the property to

assess the hedge, and its impact on your property.

Once the officer has all the necessary information to assess the application they will

decide whether the height of the hedge adversely affects the reasonable enjoyment

of your home and garden and what, if any, action should be taken. Both parties will

be notified of the decision.

**The Council has determined that the hedge is having an adverse impact on the**

**reasonable enjoyment of my property. What happens next?**

If the Council decides that action is necessary a formal High Hedge Notice will be

served on the hedge owner and they will be given a deadline by which to meet the

terms of the notice. If they fail to take the remedial action on the hedge in that time,

the Council will arrange for the work to be carried out. The Council has the power to

recover the cost of any work carried out from the hedge owner.

**I am the hedge owner. The Council has said my hedge needs to be reduced in**

**height but I disagree - can I appeal?**

Yes. Both sides have a right of appeal to Scottish Government ministers. Both

parties can only appeal once.

**Will the Hedge have to be cut down to 2m?**

Not necessarily. The Act does not require all hedges to be reduced to 2m in height. An assessment will be made taking into consideration any unreasonable loss of daylight and/or enjoyment of the property or garden and this will determine by how much the hedge will need to be reduced.

**What is there to make sure my neighbour keeps the hedge at its new height?**

As well as reducing the height of the hedge, the High Hedge Notice can ensure your

neighbour maintains the hedge at a reduced height. So you shouldn’t need to go

through this process again.

**How long will I have to wait for the Council to determine my application?**

There is no set deadline for the Council to determine the application. Please bear in

mind that it will take time to get a statement from the hedge owner, to arrange a site

visit, and to weigh up all the information provided.