

## Who owns the tree?

A tree belongs to the person who owns the land on which it grows. However, if you're the owner/occupier of land over which the branches of a tree overhang, you are generally entitled to cut back the branches to the boundary line. You don't need to get the owner of the tree's permission before removing overhanging branches, although if you do intend to do this, it's a good idea to inform the owner before doing so – they're less likely to complain about your actions if you discuss the matter with them beforehand.

## If you are not sure who the owner of a property is

If it is not immediately apparent who owns the tree, it may be that a local authority such as the Parish Council, District Council, County Council or Unitary Authority may own it. That would not affect your entitlement to cut back to your boundary line but as with any other owner it would be a good idea to inform the authority before you do.

The majority of land in England and Wales is registered at HM Land Registry. Land Registry documents reveal the boundaries showing the extent of the land. These include a 'Title Plan' of a property which shows either the general boundaries of the property, or the exact boundaries if the Land Registry has that information. It also holds 'Office Copies' of the legal title to property which gives information about the property and its ownership. If the Land Registry are not able to help, take legal advice.

## Before you proceed

If you do intend to remove overhanging branches, however, there are certain matters you should bear in mind.

- The possibility that you may commit a trespass.
- The possibility that you may damage the tree.
- The possibility that you will damage property or injure someone by removing the overhanging branches.
- The possibility that the tree may be the subject of a tree preservation order.
- The possibility that you may commit theft or flytipping.

The owner of the land on which the tree grows remains the owner of any branches, together with any fruit that may be on them – even after the branches have been removed. If you remove overhanging branches, therefore, you should return them, together with any fruit that is growing on them, to the owner of the tree. Otherwise you should obtain their consent to dispose of them. If you fail to do so, your action will amount to theft. If you

simply throw them back into their garden, this could be deemed as flytipping. If you're not able to speak to the owner of the tree, write to them explaining that you intend to dispose of the overhanging branches and any fruit within, for example, seven days of their removal (or perhaps a longer period if your neighbour is on holiday, or otherwise unavailable, at the time).

## Trees blocking out light to a garden - do property owners have a 'right to light'?

A property owner does not have an automatic right to light. This can pose a problem where a neighbouring property, or trees and hedges are blocking light from your own land and property.

High hedges and trees can cause a particular problem for adjoining property owners where they block light from the neighbouring land. Under the Anti-Social Behaviour Act 2003 and the High Hedges Regulations 2005, there is a statutory means of redress through the local authority where a hedge or tree is more than 2 metres high.

## If the tree presents a danger to people or property

If you think the tree could be dangerous to your property or people on it – if it looks like it's rotting for example – you should discuss the matter with the neighbour. If they won't do anything about it or allow you to act, contact your local council.

## Obligations in relation to trees which overhang a highway

Landowners have an obligation not to allow their trees to obstruct an adjoining highway.

*(This advice is only what is freely available on the www and should not be considered to be definitive legal advice. If in doubt, before proceeding consult a solicitor.)*