

Master Park

 oxted

Park Owned Trees

Tree Management Procedures

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1. Scope

This document addresses the management of all trees under the ownership and/or management of the Park. The ownership of a tree is determined by the owner of the land upon which the tree grows.

The Park is not responsible for trees on highway land (that is, public roads and the pathways, pavements, and verges beside them). The management of those trees is the responsibility of the local highways authority, Surrey County Council, who also have powers under Statute to ensure that the owners of private land next to the roads keep their trees in a safe condition. Trees on private land are the responsibility of the property owner(s).

Details of the following areas concerning the Council's responsibilities

- the making of Tree Preservation Orders.
- the determination of applications for works to trees protected by Tree Preservation Orders or within Conservation Areas.
- the investigation of offences under Tree Preservation Orders and Conservation Area legislation and any associated enforcement action; and
- the investigation of complaints under High Hedges legislation (Anti-social Behaviour Act 2003) and the issue and enforcement of remedial notices.

2. Tree benefits & risks

2.1. The importance of trees

Trees are important features in the landscape and make a major contribution to the attractiveness of the Park and to keeping Tandridge a place where people want to live, work and visit.

In addition to the visual amenity they provide, the tangible benefits of trees are widely acknowledged and include:

- improving air quality filtering airborne dust, smoke, and fumes
- absorbing traffic noise/ noise pollution
- reducing temperature extremes
- reduce risk of flooding
- acting as screens from residential homes and gardens
- counteracting the greenhouse effect by absorbing carbon dioxide and producing oxygen
- providing food and habitat for birds and other wildlife, supporting nature conservation value and biodiversity
- providing psychological and physical health benefits and contributing to general wellbeing.

2.2. Risks from trees

Research by the Centre for Decision Analysis and Risk Management (DARM) on behalf of the National Tree Safety Group has demonstrated that the overall risk to the public from falling trees is extremely low, representing about a one in 10 million chance of an individual being killed by a falling tree (or part of a tree) in any given year.

The research also shows that there is limited societal concern about risks of this type (although there may be adverse publicity in the immediate aftermath of an individual incident).

The Health & Safety Executive has identified that an individual risk of death of one in one million per year for both workers and the public, corresponds to a very low level of risk, and it points out that this level of risk is extremely small when compared with the general background level of risk which people face and engage with voluntarily.

3. Legislative background

Under both Common Law and Statute, the owner of the land on which a tree stands has responsibilities for the health and safety of those on or near the land and has potential liabilities arising from the falling of a tree (or part of a tree).

A detailed analysis of the relevant legal provisions is beyond the scope of this document, but it is appropriate to summarise the key implications:

- the person who has control of a tree's management has a Common Law duty to take reasonable care for the safety of those who may come within the vicinity of the tree. The standard of care is that of a reasonable and prudent landowner.
- an occupier of land owes a statutory duty to make sure roots from trees on their land do not damage third party property. Having them regularly inspected will assess any potential damage to third party property from roots causing damage to foundations and also diseased or dead trees from falling onto and damaging third party property.
- an occupier of land owes a statutory duty to a visitor to the land to take such care as is in all the circumstances of the case reasonable to see that the visitor will be reasonably safe (Occupiers' Liability Acts 1957 & 1984)
- an occupier of land has a duty to ensure, so far as is reasonably practicable, that employees and members of the public are not put at risk in the course of their undertaking (Health & Safety at Work Act 1974).

Against this background, the Park should establish a proportionate approach to practical tree management for the reasonable safety of its tenants, residents, and visitors to its Park. Such an approach must strike a balance between preserving the benefits trees provide to the Community and the risks posed and enable the Park to demonstrate it is taking reasonable care to avoid acts or omissions which cause a reasonably foreseeable risk of injury to persons or property.

4. Inspection regime

4.1. Form of Inspection

Inspections are required in order to assess routine maintenance to be undertaken and to identify, assess and instruct remediation of obvious defects.

Inspections are to be carried out by an appropriately competent and qualified person and will comprise an initial visual tree assessment from ground level. Further investigation of identified defects will be undertaken where necessary; if visual tree assessment identifies the need, a further climbing inspection will be instructed.

Records of inspections are to be maintained; whilst it is not necessary to record every tree inspected, records will be kept of trees presenting a serious risk and requiring remedial works.

Ad hoc inspections will be undertaken in response to issues of concern identified by members of the public and/or Park Trustees.

4.2. Tree Works

Arboricultural works will be undertaken by appropriately competent and qualified contractors

4.3. Prioritisation of works

Tree works identified as necessary, as a result of routine site inspections or otherwise, will be prioritised as follows:

- **Category 1:** works urgently required for safety e.g., snapped, windblown, large hanging branch(es) etc
- **Category 2:** priority works e.g., to abate an agreed nuisance, preventative action to avoid possible damage
- **Category 3:** routine works

5. Request for works to Park owned trees

The Park does respond to all concerns that are reported and an inspection will be undertaken and where defects are noted which give rise to safety concerns or constitute a foreseeable risk of harm or of damage to property, appropriate remedial works will be instructed (including, if appropriate, removal of the tree).

Beyond such safety concerns, works above and beyond the scheduled maintenance regime are unlikely to be justified. Requests for works will be considered against the specific circumstances of each case, but in the normal course the Park's position in respect of frequently cited tree related concerns will be as below.

5.1. Overhanging limbs

A tree owner is not legally obliged to cut back overhanging branches, but under Common Law the person whose property is overhung has the right to cut back any part of a tree which encroaches their boundary, as far as the boundary line. It should be noted that:

- The parts cut off remain the property of the tree's owner and should be offered back before being disposed of (although they cannot be returned to the owner's land without their consent)
- Reasonable care must be exercised when undertaking works to ensure that the long-term physiology and structure of the tree is not unduly compromised and that the tree is not left in an unsafe or dangerous state
- The law of trespass applies, so pruning can only be carried out from your side of the boundary unless permission is obtained from the landowner; and
- Where the tree is protected by a Tree Preservation Order the prior consent of the Council is required.

5.2. Leaf litter, fruit, blossom, small tree debris etc

The shedding of leaves, blossom, fruit, and small tree debris are natural seasonal physiological occurrences unlikely to be resolved by pruning. There is no legal obligation on the Park, or any tree owner for that matter, to remove fallen leaves, fruit, flowers etc from private properties into which they fall.

Whilst an inconvenience, bird droppings and insect frass are not considered a sufficient reason to prune or remove a tree.

5.3. Trees too big

Of itself, the size of a tree does not mean that the tree is hazardous, either currently, or in the future. Provided the trees are removed when they eventually die, or necessary management works are undertaken as any defects requiring action are identified, any potential risk should remain within tolerable limits. This is the case with many hundreds of large trees that coexist with dwellings without major safety problems throughout the District.

Related impacts might include:

- **Light/ Privacy** - there is no absolute right to light in respect of trees and there is no legal obligation on a tree owner to ensure that light enters neighbouring land uninterrupted (other than in those particular circumstances which might give rise to a High Hedges complaint). Similarly, there is no legal duty to maintain privacy afforded by trees situated on Park owned land.

- **TV/ Satellite reception** - there is no legal right to reception of television or satellite signals and there is no legal obligation on a tree owner to ensure that reception is maintained. Your service provider may be able to provide an alternative solution by means of boosting the signal or relocating the receiving equipment.

5.4. Trees and anti-social behaviour

Where a Park owned tree is associated with criminal and/or anti-social behaviour pruning and or removal/ replacement will be considered in order to reduce the problem.

6. Vandalism to Park owned trees

Newly planted trees will be protected with stakes, and, in higher risk areas, tree guards will be considered.

Any reports of damage to, or removal of, trees under the ownership/ management of the Park, will be investigated. The Park will try to remediate damage where possible in order to ensure the safe retention of any damaged tree. Where possible, legal remedies against those responsible will be pursued.

7. Dangerous Trees on the Park

Where the Park receives notification of a dangerous tree:

- it will inspect the tree
- if satisfied that the tree constitutes a danger within the meaning of the Act, it will take steps to make the tree safe

8. Contacts

Queries or concerns relating to trees on Master Park should be reported by phone [07980 014525](tel:07980014525) or e-mail hello@masterparkoxted.org

