The law on trees

Trees can be an emotive issue, but try to keep things in perspective. These Which? Legal Service guidelines will help to minimise difficulties.

Q What’s the best way to deal with tree problems? A Don’t let the problem fester. Contact your neighbour for a chat as soon as possible and do your best to keep the discussion cordial. Be reasonable, stick to the point at issue and know the legal position, just in case.

Q My neighbour’s tree overhangs my garden. Can I cut it back? A Generally, yes, you can cut back any part of a tree (or any other plant), including the roots, which encroaches on your boundary as far as the boundary line. Obviously, it is preferable to do this in agreement with the neighbour and in a way which causes the least damage or disturbance to the plant. The cut-off branches of an apple tree overhanging any garden? A Legally, all the fruit on the tree belongs to the tree’s owner. However, it would be a reasonable compensation for the owner of the tree to let you pick the fruit in return for allowing the branches to overhang. If the fruit falls off, it is legally regarded as abandoned, so you may keep it.

Q My electricity company has already occurred, take photographs and contact the same people. Q I’m worried my neighbour’s tree could fall on my house in a storm. What can I do? A A tree is the responsibility of the owner of the land they grow on, regardless of who planted them. If a tree causes damage, the owner may be liable. However, your chance of making a claim would usually depend on demonstrating that the owner had been negligent, if the tree was obviously unsafe through disease or damage, for example. You should write (keep a copy) to your neighbour expressing your concern and ask them to have the tree’s health checked by an arboriculturist. As a last resort, it may be possible to get a court injunction requiring an owner to deal with a dangerous tree, or the local authority may take action, especially if there is a danger to the public. Where property is rented, the landlord may require the tenants to maintain any trees, this would be stated in the lease. If in doubt, contact both landlord and tenant.

Q My electricity company has refused to pay out for repairs to yours or a neighbouring property. The best solution is to ask the advice of a qualified arboriculturist, and get them to prepare a report to help convince the insurance company.

Q My neighbour complains about leaves from my tree blocking his gutter. Am I liable? A If fallen leaves are uncontrollable and fall seasonally, you are extremely unlikely to be held responsible by the law.

Q What’s the best way to contact your neighbour for a chat as soon as possible and do your best to keep the discussion cordial. Be reasonable, stick to the point at issue and know the legal position, just in case.

Q Be prepared to compromise or share things in perspective. These Which? Legal Service legal advice gives quick and comprehensive expert advice on potential problems.

Further information

1 For help finding a qualified arboriculturist, ask your local council’s tree officer, or contact the Arboricultural Association (01242 522152; www.trees.org.uk).
2 The Tree Advice Trust (01420 822202; www.treecouncil.org.uk) prints a leaflet called ‘Trees in dispute’ (£8, inc p&p), and you can call its Tree Helpline on 0906 516 1147 (calls cost £1.50 a minute) to talk through your problem with an expert.
3 Communities & Local Government (0303 444 0000; www.communities.gov.uk) offers, along with other information, a publication called Tree preservation orders: a guide to the law and good practice (£8, inc p&p), and you can call its Tree Preservation Orders (TPOs) hotline on 0303 444 0000. The Tree Advice Trust (01420 822202; www.treecouncil.org.uk) prints a leaflet called ‘Trees in dispute’ (£8, inc p&p), and you can call its Tree Helpline on 0906 516 1147 (calls cost £1.50 a minute) to talk through your problem with an expert.
4 Our Which? Gardening factsheet, ‘How to deal with boundary disputes’, also offers information.

For the full selection of Which? Gardening factsheets, see www.which.co.uk/wgfactsheets

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