

High Hedge Application - Guidance Notes



The High Hedges (Scotland) Act 2013 is in force as of 1st of April 2014. These Guidance Notes have been produced to assist those who wish to apply for a High Hedge Notice.

These notes should be read in conjunction with the Scottish Government guidance for local authorities, which can be found at:

<http://www.scotland.gov.uk/Resource/0044/00445025.pdf>

The Act can be found at:

<http://www.legislation.gov.uk/asp/2013/6/contents>

What is a High Hedge ?

The definition of a “**high hedge**” in accordance with the Act is “*a row of two or more trees or shrubs, rising to a height of more than two metres above ground level, and which forms a barrier to light*”.

It does not apply to single trees, woodlands or forests.

If your neighbour’s hedge does not meet the above criteria, we will not be able to accept an application for a High Hedge Notice.

Who can apply for a High Hedge Notice ?

To be eligible to apply for a notice, you must be the owner or occupier of a residential property whose light is affected by a hedge meeting the above definition. The hedge does not need to be on adjoining land but it does need to form a barrier to light.

When can you apply ?

The legislation makes it clear that applying for a High Hedge Notice should be the **last resort** and not the first stage in the process. Councils **must** dismiss applications where it is considered that the applicant has not first taken all reasonable steps to resolve the dispute or where it is considered the application is ‘*frivolous or vexatious*’. Accordingly, before you can apply, you must be able to demonstrate **with evidence** that you have exhausted all other methods of resolving the matter, including mediation, eg contact Mediation Scotland or Citizens Advice Scotland.

Even if you have previously made contact, you **must** send a letter to the owner of the hedge at least 28 days before you submit your application. Keep a copy and submit it with your application.

What you need to include with your application.

- A completed High Hedge application form.
- A plan (preferably to a recognised metric scale such as 1:1,250 and/or 1:500) clearly identifying the location and extent of the hedge.
- Photos of the hedge.
- Any relevant supporting documents (e.g. correspondence or other evidence of attempts to resolve the dispute).
- The required application fee, currently **£192**.

Please be aware that we have to notify the owner of the land of your application and provide them with a copy of your details, although sensitive personal information (e.g. ‘phone numbers, e-mail addresses and signatures) will be redacted (removed).



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Completed applications should be sent to:

Planning Services
Stirling Council
Municipal Buildings
8-10 Corn Exchange Road
Stirling
FK8 2HU

Telephone: (01786) 233660, e-mail: planning@stirling.gov.uk

What happens after you submit the application ?

If your application is accepted by the Council, it will be acknowledged and an officer will then visit the site to assess whether the hedge impacts adversely on the reasonable enjoyment of your property. The owner of the land will be notified of the application and given a period of **28 days** to submit representations to the Council regarding the application. After considering all the information and evidence, we will notify both yourself and the hedge owner of our decision and the reasons for coming to that decision.

The Council has to make a decision from only two options:

- 1) to serve a notice as it is considered by the authority that it is justified to do so under the terms of the Act: or
- 2) that the effects of the hedge are not considered by the authority to be such as to justify the serving of a notice.

Rights of Appeal

If the Council decides not to serve a High Hedge Notice and you are aggrieved by this decision, you have a right of appeal to the Scottish Ministers:

DPEA
Unit 4
Clallendar Business Park
Falkirk
FK1 1XR

Telephone: (01324) 696400, website: <http://www.dpea.scotland.gov.uk/>

Similarly, hedge owners who receive a High Hedge Notice can appeal to the Scottish Ministers. The decision of the Scottish Ministers is final (subject to the right of any aggrieved person to apply to the Court of Session. However, the Court of Session can only consider points of law and cannot re-examine the merits of the case).

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What a High Hedge Notice requires

A High Hedge Notice must:

- identify the hedge involved;
- state when the notice will come into effect (allowing at least 28 days for the appeal period to expire);
- state what initial action needs to be carried out and the compliance period for this;
- state any preventative action required in order to prevent a recurrence: and
- inform the recipient of the Council's enforcement powers if the notice is not complied with.

Enforcement of High Hedge Notice

Where a notice has either not been appealed or was the subject of an unsuccessful appeal to the Scottish Ministers, if the recipient does not comply with the terms of the notice, the Council can enter the land and carry out the works and then recover any expenses reasonably incurred from the owner of the hedge. Such action would however be a last resort and methods to ensure a more satisfactory outcome to all parties would be attempted first.