

Briefing Note

Title: Management of Trees in the City

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Prepared by: Steve Woodward/Richard Johnson

Job Title: Head of Environmental
Services, Arboriculture
Manager

**Intended
Audience:**

Internal

Partner organisation

Public

Confidential

1. Purpose

To provide the Scrutiny Panel, with an update on current arrangements for the management of the city's tree stocks.

To provide an update on the request from the Sustainability Advisory Group to produce a Trees and Woods Strategy for the City of Wolverhampton.

2 Background and context

2.1 Trees in the City of Wolverhampton are managed in a variety of ways, dependent upon the land on which they stand and the risk they present. This is summarised in the table below:

Position	Responsibility	Management Regime	Comments
Highways Land	Environmental Services	Trees close to the adopted highway (approx. 12,000, one third of highways trees) are subject to a four-yearly inspection and maintenance regime (inspection, pruning, reduction etc.). Other trees are dealt with on a reactive basis when they have been reported as potentially in a dangerous condition (e.g. by a member of the public)	Regime has been in place since 1986 and has an established programme and budget. Works are carried out by in-house teams and external contractors. Trees close to the highway are assessed as higher risk and inspection/maintenance works undertaken; this acts as a reasonable defence against claims
Parks open spaces & Cemeteries	Environmental Services (following	Reactive regime only. A budget of £40,000, which was transferred from the Parks	Trees in these areas represent a lower risk though where they are close

	disaggregation of Parks Service)	Service, allows for works on trees considered a danger to public or property only. The trees numbers that would fall under this category are in the region 350,000 to 400,000 trees	to the highway/high footfall they should be considered high risk (currently trees on these sites are not included on a 4-year inspection/maintenance programme) and there is only limited defence against insurance claims
Education land	Schools	Schools are responsible for their own tree maintenance regimes. Where schools have an SLA with Environmental Services the service is reactive; though some schools have been encouraged to include an annual tree inspection into their SLA with Environmental Services	
Corporate landlord sites	Corporate Landlord	Corporate landlord commission reactive maintenance works through Environmental Services	
Canal towpaths and railway lines	Canal & River Trust and Network Rail	Risk based safety maintenance regime; maintained by Canal & and River Trust and Network Rail	Trees and vegetation only managed for safety concerns – does not cover light/ TV reception issues
Private Land	Landowner	All maintenance and safety issues are the responsibility of the owner	Issues of complaints / safety / pests etc. are dealt with by Regulatory Services enforcement

2.2 Environmental Services, Arboriculture maintenance budget is utilised to support works on Highways, Parks and Open Spaces; primarily those trees that are deemed a danger to people or property. The present budget constraint means that tree planting operations city wide have been suspended. User groups are committed to planting trees at no cost to the authority at East Park, Bantock Park, West Park, Penk Rise, Bradmore Rec. and Coppice Wood through external funding (Woodland Trust).

2.3 Any fallen tree that is affecting the adopted highway such as blocking a road or footpath (irrespective of ownership), will be dealt with by our Arboriculture emergency response team. In some instances, the debris from private trees is moved on to the land owner's property.

2.4 Environmental Services responds to issues raised by the public, businesses or other council services on a priority basis as identified below:

- Emergency issues - We will respond to the following types of enquiry immediately:
 - a report that someone is felling or pruning a highway/park tree
 - a report that a highway/park tree is dangerous and has or is about to fall onto public land, the highway or adjoining private property
- Priority issues - An inspection will be carried out within 5 working days and work programmed for completion if needed
 - a report that a highway/park tree is touching a building or causing non-life-threatening damage
 - a report that a highway/park tree is obscuring a traffic light or warning sign
- Routine issues - An inspection will be carried out within 4 weeks and work programmed for completion if needed.
 - a request to prune an overgrown highway/park tree
 - a request to remove low branches from a highway/park tree
 - a report that a highway/park tree is touching telephone wires or overhanging a building, blocking a street light or obscuring a street sign

2.5 Customers with issues concerning tree roots affecting land, buildings and services are referred to the council's Risk Management & Insurance team. Residents are advised to contact their home insurance company and arrange a survey. This will determine whether there are grounds to make a claim against the City Council. Where roots are affecting the adopted highway, footpaths and roads, Reactive Response Highway Maintenance teams carry out inspections and instigate repairs when tree roots have, lifted tarmac or represent a hazard to pedestrians and road users.

2.6 Environmental Services are responsible for maintaining the tree stock in the City Wolverhampton (adopted Highway/Parks/Open Spaces) and does not respond to every request to fell and prune trees at the detriment to the tree. Resources are allocated to manage fallen/dangerous trees and trees that are deemed a hazard to people and buildings because of damage and disease. In common with other authorities and public bodies (e.g. Network Rail, National Trust etc.) the Council is not responsible for addressing the following:

- Loss of natural light - A home owner's requirement for shade or natural light is a subjective and a personal matter. Whilst some people prefer shade others desire sunlight. You may be aware of the ancient and prescriptive 'right-to-light' but this only relates to loss of light over a considerable period of time and in certain specific circumstances. Where trees are concerned there is no 'right-to-light'. The council is not required or obliged in respect of any law to prune a tree for the benefit of someone's level of light.
- Poor satellite/TV reception - There is no legal requirement for the council to remove trees or even prune them for the benefit of a television reception. The

council does however have a duty to protect trees and maintain them appropriately for future generations to enjoy.

- Tree debris/honey dew/bird excrement/blossom - Every year trees shed their blossom, fruit, cones and leaves. And trees also sway in the wind and shed twigs and small branches when the wind is particularly strong. There is very little the council can do about this, it is a natural process and not recognised as a 'legal nuisance'.

2.7 The Council currently operates a risk-based approach with only those high-risk trees inspected and maintained. Analysis of insurance claims over the past three years shows that the average repudiation rate on claims made is 85%, in line with the average for all claims, and that settlements over this period. In order to undertake a regular inspection of all trees on Council property an additional budget of circa £50,000.00 per annum would be required. As this is likely to identify issues to be addressed a further budget of circa £50,000.00 would be required for the necessary action. Note that this work would not be programmed regular maintenance but reactive works only on the basis of regular inspections. The council does not currently have the resources to undertake this work which would be subject to a tender via the usual procurement process or recruitment of additional arborist's

2.8 Prior to considering the requirement for a fuller inspection regime a full risk-based assessment should be undertaken covering:

- Financial risks
- Reputational risks
- Risk of injury to persons
- Regulatory Risks

2.9 It is not recommended that the council's activities be further expanded to include actions for loss of light / poor TV reception or similar claims by residents. These are not the subject of "rights" and action may damage and harm trees. Our current policy is in line with that typically adopted by other public body land owners.

3.0 Trees and Woods Strategy

3.1 The Woodland Trust is the UK's largest woodland conservation charity which protects and campaigns on behalf of the country's woods, plants trees and restores ancient woodland. The Tree Charter was initiated by the Woodland Trust in response to the issues facing trees and woods in the UK. It involved working with a range of bodies to highlight the importance of woods and trees and was launched in November 2017, on the 800th anniversary of the 1217 Charter of the Forest. It has been signed by a range of organisations which have pledged to support its aims. City of Wolverhampton Council has been involved with Birmingham and Black Country Wildlife Trust in particular tree planting with our established friends groups.

3.2 A representative from the Woodland Trust has attended the Sustainability Advisory Group and discussed with Councillors the Trust's work and the many benefits of trees

and woods. As a result, Councillors have requested that employees investigate what activities the Council could undertake to support the Woodland Trust's agenda.

3.3 Discussions between employees and at the Future City Board have produced a number of proposals around the compilation of a policy for trees and woods, delivery of the Council's regulatory functions and services and the maintenance of existing trees. It is therefore proposed to produce a cross-directorate Trees and Woods Strategy containing the following:

- Outline Vision for Trees and Woods in the City
- The importance of trees to Wolverhampton's community, place and heritage
- The role of trees in sustainability, addressing climate change and promoting biodiversity
- Protecting and managing the trees we have on Council land (see above)
- Planning policy for trees in new development and protected trees on private land
- The potential to increase the number of trees in the city and improve their management
- An Action Plan and monitoring framework

3.4 The lead on producing this document will be Ric Bravery, Strategic Health Lead (City Planning).

4.0 Financial implications

4.1 Due to recent changes in Legislation and Civil Law, Environmental Services have been advised by Insurance and Risk Management that the tree inspection/maintenance regime should be increased from the current 4-year programme to a 2-year programme.

4.2 Based on guidance from Insurance and Risk Management regarding changes in Legislation (in respect of Tree Failures and Corporate Manslaughter) and considering expected budget restrictions the Authority will no longer be able to provide the current level of tree maintenance unless there is a significant increase in budgets.

4.3 Insurance & Risk Management have also advised that recent Court of Appeal Cases have removed any defence we could put forward if we cannot demonstrate a risk-based approach to the management of trees. They have recommended resources are directed at identifying those trees where there is a high risk in terms of potential exposure and an inspection regime implemented following the guidance in this case.

4.4 In order to undertake a full and regular inspection regime and the resulting maintenance activity an estimated additional budget of circa £100,00.00 would be required.

4.5 The current budget for the Highway Maintenance Programme (majority of trees inspected every four years and responding to emergencies is £294,813.00; for Parks, Open Spaces and Cemeteries the budgets is £40,201.00.

5.0 Environmental implications

- 5.1** Trees have a significant part to play in improving the environment, health and wellbeing of the City, the UK Government is committed to improving the management, conservation and encouraging the expansion of the UK's tree cover.

- 5.3** The maintenance and improvement of the Authorities tree stock is crucial in the control of flood management and has a role to play as part of the Authorities commitment to reducing its carbon foot print; by acting as a carbon sink.

- 5.4** The City of Wolverhampton is predominantly viewed as an industrial city, trees make a significant contribution to offsetting this conception by providing a rural appearance; this in turn is a contributing factor to attracting new investment/businesses.