

# Tree policy

## 1. Purpose & scope

This policy sets out Selwood Housing's approach to the management and maintenance of trees on and around land owned by Selwood Housing.

The policy covers:

- how we will manage our tree stock so that it is safe and healthy and that risks are reasonably controlled
- when we will and will not prune or fell our trees

## 2. Underpinning principles

Selwood Housing recognises the benefit of trees within its communities. They make places more attractive to live, bring wildlife into our communities and reduce pollution and noise. We want these trees to grow and continue to be healthy to bring enjoyment to all.

Our policy will therefore be to protect our existing trees wherever possible so that works are only carried out to trees if they are dead, dying, diseased or dangerous or if they are likely to cause damage to property in the future or are inappropriately located. This means resisting the removal or pruning of our trees that are healthy, unless a complaint has a clear legal basis and no alternative ways of dealing with the complaint, which represent value for money, can be found.

Where we have to remove a tree, Selwood will plant another tree to replace it in an appropriate location.

We also recognise that trees can be seen as an inconvenience. Trees can sometimes pose a risk to people or property, and because they grow, trees can sometimes affect our neighbours in negative ways.

Selwood Housing has a legal 'duty of care' to ensure that residents, users and neighbours of our land are reasonably safe. We must also ensure that the risks to our employees and contractors are reduced as far as is 'reasonably practicable'. However, there can be pressure to remove trees because people perceive the risk from trees to be greater than it actually is. We will consider, on a case-by-case basis, the risk posed by our trees, and have policies and procedures in place to ensure we meet our legal duties around tree safety.

### **3. Policy details**

#### **3.1. Management of trees**

Selwood Housing's priority for tree management is safety, we will therefore carry out regular risk assessments of trees that we own and trees that may affect property that we own.

We will maintain a database of all our trees and regularly inspect them using qualified inspectors to assess their condition and identify any risks associated with them. This will be done using the Quantified Tree Risk Assessment (QTRA) method which assesses two criteria:

- the potential for failure of the tree or parts of it; and
- the potential for injury or damage to result from that failure

The frequency of inspection will be determined by the size, location and condition of each tree but all mature trees will be inspected at least every 3 years.

Information collected on all our trees will be held in our grounds maintenance database and regularly updated. (For more information on inspections and the QTRA see Supporting documents.)

We will deal with trees that are in a hazardous condition as a priority. We will also focus on any legal nuisance issues such as branches that obstruct footpaths or roads or are touching or damaging buildings.

There are some types of tree work that we will not normally undertake because we don't legally have to, and because we want to balance the needs of individuals with our wider objective to protect and improve the environment for all (e.g. pruning trees because they are casting shade on a property or dropping debris in a car park.)

### **3.2. Felling and pruning of trees**

In deciding our response to a complaint or concern about our trees, we will always seek to strike a balance between the issues raised by the individual and the interests of the community.

When we have to fell a tree, Selwood will plant another tree to replace it. This tree will be placed in an appropriate location and therefore may not always be in the same location as the felled tree.

#### **3.2.1. Trees in tenants' gardens**

When a tenant rents a property from us they are responsible for maintaining the garden and the trees within it. We will only consider carrying out essential tree works if it has been established by the Neighbourhood team that the tenant is not able to do the work themselves because:

- They are physically unable to do it
- They don't have any family or friends who can help them
- They don't have the financial means to pay privately to have the work completed

When making this decision consideration will be given to the condition of the tree when the tenant moved into the property. We will make sure the tree was in a manageable condition when the property is let to a new tenant.

Work will be deemed essential if there is a significant safety risk from a tree or trees.

We may also intervene when it is necessary to resolve a tree-related nuisance or when we agree that a tree is interfering with somebody else's reasonable enjoyment of their property. We will recharge the cost of this work to the tenant if we find that the safety risk or nuisance was a result of actions or omissions by the tenant. A payment arrangement can be made with the tenant if they are on a low income and this will be arranged by the neighbourhood manager.

If you are concerned about a tree in your garden Selwood will inspect the tree for you. Initially a surveyor will visit the property and if there are any concerns about the condition or safety of the tree Selwood will arrange for a qualified inspector to check the tree. If you need to carry out work to any trees in your

garden it is recommended that you use suitably qualified contractors with appropriate levels of insurance. See supporting documents for help with finding a contractor.

Before you plant a tree in your garden, let us know the type of tree and where you would like to plant it. We will check that the tree and its location are safe.

### **3.2.2. Trees in empty homes**

We will inspect all trees in empty homes and carry out any works that are deemed necessary to bring them to a manageable condition. New tenants will be expected to continue to maintain them in a manageable condition.

### **3.2.3. Third party land**

Selwood Housing cannot provide opinion or advice on trees which we do not own or manage, such as those growing on neighbouring land. However, third party trees causing concern or potential concern may be identified during the survey/inspection process or notified to us by neighbours. In such cases these will be investigated by Selwood Housing staff.

### **3.2.4. Overhanging branches**

The law says that neighbours have the right to deal with branches that overhang into their property by cutting back to their boundary, except for statutorily protected trees. For this reason we will not take action where parts of trees under our management overhang adjacent land or gardens, unless the overhanging parts are causing an 'actionable' nuisance, such as actual damage.

Where trees under our management obstruct free passage along the highway, including its footpath, we will seek to address this. If we receive a complaint about such an obstruction we will assess the situation and, if necessary, act upon it promptly.

### **3.2.5. View, shading and daylight loss**

In the UK no one has a legal right to a view, or an automatic right to light. Selwood Housing will not generally carry out works due to light or shade or to improve views. Any tree works carried out are normally instructed due to other reasons, for instance the condition of the tree, to reduce the potential for damage to adjacent structures, etc. which may have the associated benefit of reducing the specific light / shade concerns of the individual. (See supporting documents for further guidance on factors to be considered in relation to pruning for light)

### **3.2.6. Obstruction of street lights and road signs**

We will do our best to ensure that trees that we manage do not obscure road signs or prevent street lamps from adequately illuminating the highway. However, where a light does adequately illuminate the highway, we will not carry out tree work to improve the level of illumination further.

### **3.2.7. Litter from trees such as leaves, seeds, twigs and fruit**

Trees naturally shed debris throughout the year, and in some years and for some species the fall of debris can be greater than usual. These are natural occurrences that are outside of our control. Residents and neighbours are

reasonably expected to carry out routine seasonal maintenance such as clearing leaves from paths and weeding of set seeds. We will not prune or fell trees under our management to reduce the fall of debris unless our own risk assessment indicates that that we should do so. We will never collect leaves.

### **3.2.8. Honeydew**

Honeydew is the sticky substance from aphids living on leaves. The sugary substance can sometimes turn black. We cannot control this natural occurrence and we will not consider pruning as a way to reduce the problem. Selwood is not responsible for the cleaning of affected surfaces (e.g. cars parked under trees).

### **3.2.9. Transmitted signals**

There is no legal right in the UK to good TV or radio reception. We will not prune our trees to try to identify the cause of a problem, nor if trees have been identified as the cause. In many cases an engineering solution can resolve the issue.

### **3.2.10. Direct damage by roots**

Complaints about direct root damage will be considered but must be accompanied by adequate evidence. As a minimum this would include evidence of the presence of a root in situ at or near the point of damage.

### **3.2.11. Drain blockage**

Tree roots cannot break into an adequately designed and installed drain but will grow into an existing crack or inadequate joint. However, we do not see tree removal as a sustainable way to rectify a drain problem. Instead the starting point should be to repair a drain to ensure it is properly watertight.

There are methods of repairing an existing drain, such as re-lining existing pipes with modern materials, without the need to fell a tree. Therefore, we will not normally act in response to complaints that roots from our trees have blocked drains, or fears that they might in the future. We will however consider removal if repairs to the drain doesn't resolve issue.

### **3.2.12. Solar panels**

While solar panels may bring environmental benefits, not all properties are suitable for them. Trees and their growth are only one factor that affects the efficiency of solar panels.

The house owner should consider existing and future shading by trees before installing solar panels and cannot assume that we will prune our trees in the future to prevent shading. When a solar panel owner offers to cover the cost of pruning our trees we will consider the request on its merits but will not permit the work if it will have a negative impact on the health and longevity of a tree or on amenity for the wider community.

### **3.2.13. Subsidence**

We will consider complaints of building subsidence caused by our trees. However, we will always require evidence to support the complaint which as a minimum should include adequate assessment and monitoring by a qualified

assessor. The evidence must demonstrate that our tree(s) are the primary cause of the damage.

We will not prune or remove our trees because of fear of such damage in the future.

#### **3.2.14. Development sites**

We will agree guidance notes for appropriate planting for our own sites and guidance notes for developer led schemes

### **3.3. Responsibility**

It is the responsibility of all staff to ensure this policy is adhered to.

It is the responsibility of Heads of service and team managers to monitor their staffs' understanding of the policy and to ensure that members of the public receive the same high level of service as our tenants.

### **3.4. Equality & diversity**

We will adhere to our Equality and Diversity policy in all our dealings with members of the public.

## **Signposting**

- Void policy
- Lettings policy
- Estate management policy



## Decision-making Record

Date	Meeting / Minute Reference	Version / Amendment
28 May 2019	Exec group – policy in agreed in principle, some revisions requested. Also consult with tenant group	4 <sup>th</sup> draft

# **SELWOOD HOUSING TREE POLICY SUPPORTING DOCUMENTS**

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## 1. Legal duties with regards to tree management

Selwood Housing has a legal 'duty of care' to ensure that residents, users and neighbours of our land are reasonably safe. We must also ensure that the risks to our employees and contractors are reduced as far as is 'reasonably practicable'.

The National Tree Safety Group (NTSG) has produced key guidance on the legal duties of tree owners and the management of risk from trees. Its publication 'Common Sense Risk Management of Trees' (2011) is available at: <http://www.ntsug.org.uk/>

The NTSG's overall approach is that the evaluation of what is reasonable should be based on a balance between benefits and risks from trees. This position is underpinned by a set of five key principles:

- Trees provide a wide variety of benefits to society
- Trees are living organisms that naturally lose branches or fall
- The overall risk to human safety is extremely low
- Tree owners have a legal duty of care
- Tree owners should take a balanced and proportionate approach to tree safety management.

The NTSG's guidance states that tree owners should take a balanced and proportionate approach to tree management that forms the basis of a tree safety strategy which covers three essential aspects:

- **Zoning** - Appreciating tree stock in relation to people or property
- **Tree Inspection** - Assessing obvious tree defects
- **Managing Risk at an Acceptable Level** - Identifying, prioritising and undertaking safety work according to level of risk.

The NTSG's guidance requires that areas of land are defined according to levels of use, prioritising the most used areas. High use zones are areas used by many people every day, such as busy roads, other well-used routes, car parks and children's playgrounds, or where property may be

affected. Trees in areas of high public use require an inspection regime. Trees in areas with low public use require less frequent inspection. The risk of death or serious injury from trees in infrequently-used areas is so low that it is reasonable that these should receive no formal inspection or visual check. However, owners may need to respond to any reports of problems.

If reasonably carried out, the strategy should meet the duty of care required by law. In the event of an accident, documents will provide supporting evidence that reasonable care has been taken.

The Health and Safety Executive concludes that the risk of being struck and killed by a tree is 'extremely low'. Risk from trees is an extremely small proportion of the risks we commonly accept in our everyday lives. The management and removal of trees by tree owners contributes to keeping the risk at a very low level. However, we cannot completely remove the risk from trees, because to do so would mean an unacceptable loss of trees and the benefits they provide.

## **2. Quantified tree risk assessment**

For a tree hazard to exist, two criteria must be fulfilled:

- there must be the potential for failure of the tree or parts thereof, and
- the potential for injury or damage to result from that failure.

The QTRA methodology allows us to assess and quantify the level of risk from our trees. It allows us to meet the guidance of the NTSG because it incorporates within it the 'Tolerability of Risk' framework that has been developed by the Health and Safety Executive (HSE).

The method moves the management of tree safety away from labelling trees as either 'safe' or 'unsafe' and requiring definitive statements of tree safety from either tree surveyors or tree managers. Instead, QTRA quantifies the risk of harm from tree failure in a way that enables tree

managers to account for the various costs and benefits of risk reduction and operate to pre-determined risk thresholds.

Using a traffic light system of colour coding the risk from trees simplifies the decision-making process for tree owners and tree managers.

Green	Broadly Acceptable	Do nothing.
Yellow	Tolerable	Do nothing, unless you expect the risk to increase significantly before the next assessment. The benefits conferred by the tree will usually outweigh the risk.
Amber	Tolerable	Reduce the risk unless there is broad stakeholder agreement to retain it.
Red	Unacceptable	Reduce the risk.

### 3. Frequency of inspection

The guidance of the National Tree Safety Group (NTSG) is that in meeting our duty of care we should consider the risks posed by our trees, and for frequently visited zones we should proactively and periodically inspect them. We should then identify, prioritise and undertake tree safety work according to the level of risk.

The frequency of inspections has not been defined in English Law. Following an initial comprehensive survey, the period between inspections will be informed by the size, location and condition of each tree. The following guidance will be used by the tree inspector:

Tree Description	Inspection Frequency
<p>Tree worthy of retention but which has a significant fungal infection or defect liable to worsen unpredictably or quickly.</p> <p>Tree growing in a very high target zone.</p> <p>Tree pre-disposed to breakage or damage in severe weather because of its species or exposed location.</p>	<p>6 months</p> <p>With one inspection each year carried out in late September, when fungal fruiting bodies are more commonly seen.</p>
<p>Tree of an old age (and usually a large size, such as Veteran trees) that is naturally accompanied by multiple defects that are fairly predictable in their progression, but which need to be monitored.</p> <p>Elm tree prone to Dutch Elm Disease and in a moderate to high target zone.</p>	<p>1 year</p> <p>Elm inspected in summer to assess leaf health.</p>
<p>Tree that might cause a problem with nearby structure within two to three years.</p> <p>Tree in a lower target zone and with a defect that is less serious.</p>	<p>2-3 years</p>
<p>Young or small tree.</p> <p>Tree with no significant defect.</p> <p>Any tree in a very low target zone.</p>	<p>5 years</p>

The arboriculture industry uses the term 'target' to mean any person or property that might be struck by a falling tree or branch. The most used sites that might be affected by our trees are transport routes. Assessment will be made according to traffic volume.

This is followed by trees next to schools and their forecourts, and children's play areas, because the community expects children and

vulnerable adults to be a safety priority. Children have a lower ability to assess and control the risks from trees that they are exposed to.

At the same time our busiest open spaces and communal gardens will be surveyed. Resident's private gardens will be assessed on an individual basis.

Our sites are so geographically dispersed and their targets are so varied that it is not reasonably practicable to carry out a detailed target appraisal for each property in advance or to prioritise inspections purely by target value. Instead sites will be surveyed on the most practicable route and on the basis that all trees will be inspected in the first year.

#### **4. Right to light**

##### **Gardens**

There is no legal 'right to light' or guidance upon the amount of sunlight or skylight for gardens.

##### **Property**

The 1832 Prescription Act and British Standard 8206: Part 2: 2008 – Code of Practice for Day Lighting (BS8206 as updated) both relate to the amount of sunlight and daylight appropriate for a building and its use. These are best summarised as follows:

- An opening into a building (for example a window) acquires a 'right to light' if it has had uninterrupted enjoyment of a given amount of skylight for a period of at least twenty years. However, this takes into consideration trees as the 1832 Act excludes trees and vegetation germinating or growing within this period. In essence this protects a householder from persons erecting a structure such as a wall directly in front of their window thus blocking light.

- The British Standard states the amount of sunlight and daylight that is appropriate for a building and its use. The calculations within this standard are very complex and are best summarised by the following quote from The Royal Institute of Chartered Surveyors:

BS8206 is effectively *'In your home, just over half the room should be lit by natural light. Broadly speaking, the minimum standard is equivalent to the light from one candle, one foot away.'*

Factors that will be considered in relation to pruning for light are:

- Condition – the tree's overall health, potential lifespan and general crown structure as other works may be necessary, and which may also assist with increased light.
- Species – for instance broadleaves allow dappled light through the canopy in winter when not 'with leaf'; certain species have smaller and less frequent leaves, for instance Birch which allows dappled shade in summer.
- Impact – the potential impact any such works would have upon the condition of the tree and the amenity that it (they) provides.
- Location – the position of the tree(s) has a bearing upon when shade may occur, for instance trees to the East of a property will cast shade in the morning whereas trees to the West will cast shade in the afternoon. The closer a tree is to the area the greater the amount of shade is likely to be cast.
- Character of the locality – whether an area has a 'woodland' or 'wooded' nature or if the tree is a specific feature in the locality.
- Relative ages of the trees and property – it may be unreasonable to prune trees that were present at the time of construction of a property. The tree landscape evolves over time and the growth of trees is a natural feature that needs consideration when making the decision to occupy a property or not.

## **5. Finding a contractor to carry out work on trees**

The arboricultural association provides a list of approved contractors who are able to carry out tree works. These contractors have been assessed for:

- Their understanding and practical application of current arboricultural practice
- Their compliance with legislative requirements of arboricultural contracting
- Their compliance with health and safety requirements of arboricultural contracting
- Suitable insurance (at the time of the assessment)

Details can be found at:

<https://www.trees.org.uk/Find-a-professional>