

Guidance Note for Tree Officers

This internal advice note sets out the powers and use of powers to deal with dangerous trees under the Local Government (Miscellaneous Provisions) Act 1976.

- Under Section 23 of the act the Council has discretionary powers to deal with dangerous trees:
 - That are on the complainants land and there is imminent danger of them causing damage to persons or property.
 - That are on land not owned by the complainant but threatening the complainant or their property.
 - That are on land not owned by the Council and in such a condition that they are likely to cause damage to persons or property on other land in that area which is owned or occupied by the council.

(An imminent danger is one that is almost certain to happen very soon. The difference between an imminent danger and an perceived danger must be drawn. An imminent dangerous tree is in a dangerous condition at the present time. For example, a large broken hanging branch, or severed roots allowing an entire tree to rock at soil level.

- Under Section 24 the Council has the power to authorise in writing a person or persons to enter land to ascertain the condition of the tree or to make it safe. Follow up as part of warrant card. (Authority) Tree Officers have powers to enter private property ONLY where access is being refused and tree/s are believed to pose imminent danger. This is carried out with the use of warrant cards and 2 tree officers must be present.
- These powers are discretionary and are intended to be used as a last resort or in emergency situations. This note primarily relates to the use of these powers to resolve issues that relate to trees which stand within and affect primarily private residential property.
- The Council will only consider action under these powers:
 - In an emergency (e.g. severe storms or severe failure of a tree or part of a tree) and the landowner is unable to arrange for the danger to be adequately controlled.
 - Where there is a high probability of a tree causing significant damage or injury to persons or property and the landowner/occupier has failed and is unwilling or unable to take reasonable action to manage the risks or the responsibility for the trees cannot be established.
 - Where there is a significant risk of harm to persons or property on Council controlled land.