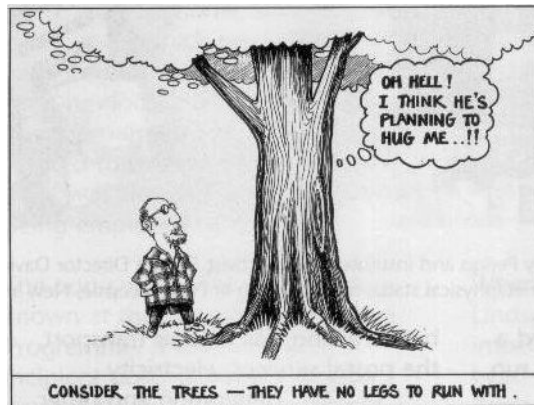


Trick or Tree't

We are often asked about the problems associated with trees and boundaries, the following is some useful information that should assist most general questions:



Trees, no matter how magnificent or apparently insignificant, can cause nuisance to a neighbour when they start encroaching *over the fence*...

Problems associated with trees typically typically relate to falling debris, damage to property, blocking of light, interference with views, blocking gutters and drains with falling leaves to attracting and harbouring pests...

Establishing Ownership

A tree legally belongs to the person upon whose land it originally grew. Even if branches or roots have begun to encroach over into a neighbour's property, it belongs to the landowner where it grew (in cases of larger trees the position should be defined as the centre of the trunk in its' original position). If the tree bears fruit on branches which overhang into neighbouring land, it is an offence under the Theft Act (1968) to keep them or to take cuttings of flowers.

Most owners will not tend to worry about this too much but should they, for example, see a neighbour collecting apples from the tree even though the branches have grown over the boundary, they can, by law, demand that the fruit be returned to them!

What Can You Do About Overhanging Branches

If the branches of an owner's tree start to grow over a boundary, the neighbour has every right to cut them

back to the boundary between the properties as long as the tree is not under a tree preservation order. If it is, you'll need to seek further clarification (why not call us!). However, the branches and any fruit on them still belong to the tree owner - so they *can*, again, demand that the neighbour returns them.

Alternatively, once the owners branches have been trimmed - the neighbour has every right to return them and ask the owner to dispose of them. What might seem a bit of a strange, however, is that even though leaves from the owner's tree fall onto the neighbouring property, the neighbour has no right to ask the owner to sweep them up.

However, should the leaves blow into any of the neighbours gutters / block drains, the neighbour can ask the tree owner to pay to have them cleared or to pay for the cost of any damage they have caused. If the owner refuses to do so, the neighbour can legally sue the owner and force them into paying.

If the neighbour decides to lop off any branches from the tree owner side of the boundary or the neighbour climbs over the fence to cut off more, the neighbour is actually trespassing - for which they *could* be prosecuted. (Please note that trespass in itself is not a punishable offence - however criminal damage, while trespassing, is. For further clarification please contact us, or your solicitor for advice)

Tree Roots

The neighbour is entitled to dig up and remove any roots that have encroached across a boundary to their land. Roots *can* cause a lot of problems - if they're deep and/or causing damage to drains, subsidence or any other form of mechanical or physical damage, it is advisable to instruct a surveyor to assist.

Common sense and a neighbourly disposition should always prevail where possible - it is recommended and preferable to discuss boundary and tree matters with all parties first but, if you do require expert assistance, it's the owner's responsibility to foot the bill (most house insurance policies will cover this type of claim).

Before taking any matters into your own hands - especially if you believe that there may be structural or damaging factors involved we always recommend taking specialist advice before sharpening your tools...

For general enquiries, boundary and / or dispute resolution matters please contact:

Ian Firth - 0781 321 4535 / 01823 666223

For structural and building damage issues please contact:

Keith Farmer - 07919 050 812 / 01823 666223

Source URL: <http://www.keithfarmer.co.uk/other-services/trick-or-treet>

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