

**Report of Director of Environment and Housing**

**Report to Executive Board**

**Date: 22<sup>nd</sup> June 2016**

**Subject: Meeting the Cost of Non-Urgent Tree Works**

Are specific electoral wards affected? If relevant, name(s) of ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. The overall budget for the Council wide tree service is around £900k, which is used to prioritise trees identified as posing a risk to public safety.
2. There are circumstances whereby non-urgent tree works on Council land with no allocated budget are a concern for private residents, local businesses or other organisations. There are also trees affected by development requiring landlord consent which may be deemed appropriate to fell.
3. It is clear that trees posing a risk to public safety should continue to be prioritised; however, there is an opportunity to resolve the issue where the complainant is prepared to meet the cost of non-urgent work on Council trees.
4. Work on non-urgent trees would only be considered where they meet criteria stated in the report and following consultation with others affected, in order to protect the environment.
5. The interested party would be given the option of financing the non-urgent work. This includes a quotation covering all costs associated with payment required before any work is commissioned. The work will either be undertaken in house by the Council's forestry staff or by a Council approved contractor engaged by the forestry section.

## **Recommendations**

6. It is recommended that Executive Board approve the following:

- That the full cost of non-urgent works on Council trees can be met by an interested party subject to the criteria set out in paragraphs 3.8 and 3.9 with specified works in line with best arboricultural practice (BS 3998) to a Council approved contractor.
- That where a Council tree affected by development is deemed appropriate to be removed, then this work is undertaken by a Council approved contractor where the private landowner is prepared to meet the full cost.
- That the Chief Officer Parks and Countryside will be responsible for implementing these recommendations with immediate effect.

## 1 Purpose of this report

- 1.1 This report considers the issue of non-urgent tree works on Council owned or managed land in circumstances where a resident or organisation might agree to pay for work.

## 2 Background information

- 2.1 The Council Parks and Countryside service provides professional tree services which can be summarised as follows:

- **Inspection and risk assessment:** using a tree hazard assessment system that identifies hazards and prioritises work within prescribed timescales according to a 5-scale category assignment.
- **Tree operations:** for trees on the highway or around Housing Leeds properties including tenant gardens, in addition to works carried out in parks and woodland.
- **Emergency tree works:** the provision of a 24/7 standby and call out service usually as a result of adverse weather requiring urgent response.

- 2.2 The overall budget for the council wide tree service is around £900k, which includes work carried out in tenant gardens, on land adjacent to the highway and in parks and cemeteries.

- 2.3 The Council operates a robust tree risk management system to ensure the health and wellbeing of the public as well as to meet statutory obligations regarding the management of its tree assets. The Council has adopted an inspection and risk assessment approach based on allocating a category to each tree assessed which defines the timescale that work needs to be carried out. This in turn enables priorities to be determined in allocating resources to address issues identified via inspection. Each category is summarised in the following table:

Category	Designation	Description
1	Emergency	Complete within 24 Hours
2	Urgent	Complete within 7 Working Days
3A	Developing risk	Complete within 6 Months
3B	Developing risk	Complete within 18 Months
4	No unreasonable risks	No mitigation required
4A	Extreme shade	Housing Leeds only
4B	Unresolved interference with TV/satellite signal	Housing Leeds only
Replant	1:1 replacement	Replant with appropriate species in most appropriate location

- 2.4 Category 4A, 4B and 'Replant' were introduced following a decision (D41028) taken by the Director of Environment and Housing in March 2014. This was in response to concerns raised by Council housing tenants that some trees in their gardens which caused extreme shade or interference with TV/satellite signal,

could pose a risk to health, wellbeing and quality of life. A decision was therefore taken to allocate £160k from the housing revenue account to address these issues under specified circumstances. During the 2014/15 year following the introduction of this approach 670 Housing tree inspections were completed, of which 290 were assigned the non-risk category 4A work program. Experience has shown that this has been a successful initiative in address housing residents' concerns.

- 2.5 It is important to note that with the exception of the £160k identified above, the budget is used to prioritise trees identified as posing a risk. Category 4 'no unreasonable risk' trees may well benefit from some work but as they do not pose a risk there is no budget available to carry this work out.

### **3 Main issues**

#### **3.1 Trees Affecting Health, Wellbeing and Quality of Life**

- 3.2 There are circumstances whereby non-urgent category 4A or 4B trees on Council land (not managed by Housing Leeds) are a concern for private residents, local businesses or other organisations. This could apply to any Council owned trees (whether protected or not) such as in a local park, green space or on the highway that are adjacent to the property owner. Members of the public and private contractors cannot, in law, access a tree owner's property to undertake work without permission.
- 3.3 At any given time there are a considerable number of outstanding non-urgent category 4 tree enquiries which do not pose a risk and for which the Council would not normally act to address. Complainants do however have a genuine desire for the issue to be addressed and often continue to raise concerns via the customer enquiry process or involve local ward members who in turn seek a resolution on behalf of their constituent. This can result in frustration as the Council does not have the resources to act or the mechanism to carry out work to resolve the complaint.
- 3.4 It is clear that emergency work, urgent work or developing risks (category 1, 2, 3A and 3B) should continue to be financed by the Council. However, there are circumstances in which the cost of any non-urgent (category 4A and 4B) tree works could be met by the complainant, if they are prepared to meet all costs associated with commissioning, consulting and carrying out the work. The description applicable to Category 4A and 4B would therefore apply to either 'Housing Leeds or at interested party's expense'.
- 3.5 Following initial investigation of an enquiry the interested party would be given the option of financing the non-urgent work. They will be provided with a full quotation which covers the cost of inspection, specification, consultation, undertaking the work and quality control. Based on the experience of adopting a similar approach with Housing Leeds trees, the likely cost of work will range from around £240 for a tree up to 10 metres tall to £500 for a larger tree up to 20 metres. It should be noted that trees on the highway causing a problem are likely to be more mature and therefore incur a cost at the higher range. Although unlikely that this would be required, the average cost to replant a tree (including utility checks, 3 metre

tree, planting and initial watering) is £265. Payment will be required before any work is commissioned. The work will either be undertaken in house by the Council's forestry staff or by a Council approved contractor engaged by the forestry section. Regular benchmarking would be undertaken by requesting and comparing quotes from alternative approved contractors to ensure value for money. Where the removal or other significant work on trees could affect other residents, then consultation would be undertaken before any work commences.

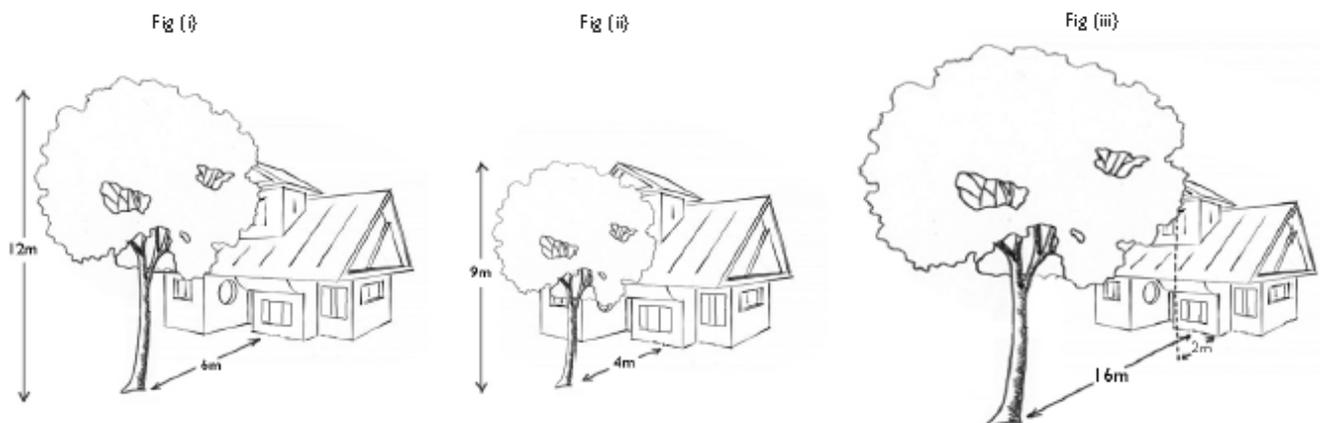
3.6 Implementing a charge in this way is consistent with recommendations following the Scrutiny Board (Strategy and Resources) inquiry into fees and charges published in December 2015. Introducing a charge for non-urgent tree work is consistent with the inquiry terms of reference for 'improving services' and 'managing demand for services'.

3.7 In order to provide a consistent approach it is proposed that the same criteria are applied to Council trees affecting private residents and organisations as with trees on land managed by Housing Leeds. These are described in the following sections for category 4A and 4B trees.

### 3.8 4A - Trees affecting health and well being

3.8.1 **Daylight loss** – please refer to the following pictorial guide illustrated below. This applies as follows for figures (i) to (iii):

- **Fig (i):** where the distance between a tree and window of the nearest habitable room is less than 6m for trees over 12m high
- **Fig (ii):** where the distance between a tree and a window of the nearest habitable room is less than half the height of the tree for smaller trees
- **Fig (iii):** where the distance between the edge of the tree canopy and the vertical line through the window is less than 2m for trees greater than 12m in height.



3.8.2 'Habitable room' in this context means a dining room, lounge, kitchen, study or bedroom, and excludes toilets, bathrooms, utility rooms, landings and hallways.

3.8.3 Each case would be prioritised according to proximity and account taken of the orientation of the affected window. A decision to authorise action would also be subject to consultation with other residents and may need to be reviewed in the light of feedback received.

### **3.9 4B - Trees affecting Quality of Life**

3.9.1 **TV/satellite signal** - there is no legal right to a TV reception or satellite signal, and service providers can often find an alternative engineering solution where trees could be causing poor reception/signal. The Council would only consider pruning a tree to improve reception/signal where the following applies:

- Efforts have been made to provide an engineering solution, but have proved unsuccessful.
- Work required is in line with best arboricultural practice (BS3998) and does not affect the health of the tree.

3.9.2 In all cases where a tree has to be felled and removed, replacement planting would take place, on a 1 for 1 basis and be included in the overall cost. This would take place at the most appropriate site close by and using appropriate tree species.

### **3.10 Trees Affected by Development Requiring Landlord Consent**

3.10.1 There are circumstances which do not apply to Housing Leeds tenants which nevertheless may require action relating to trees on Council land. A private landowner may seek to carry out a development that requires planning permission and a tree on Council land may impact on the development. Such permission may well be granted (following due planning process) subject to the tree owner agreeing to remove the tree. If it was deemed appropriate to remove the tree then this could be arranged subject to the conditions set out in paragraph 3.5 above. If this did occur then it should be noted that given that the tree is not likely to be causing any health, safety or wellbeing issues to people involved, there would be a requirement for a minimum of 3 trees to be replanted at the interested party's expense to compensate for the loss of amenity.

## **4 Corporate considerations**

### **4.11 Consultation and engagement**

4.11.1 There are a considerable number of category 4 – non urgent jobs that have been referred through to Parks and Countryside via the public or elected members and it is anticipated that this will continue to rise. It is clear that there are examples where this is affecting the health and wellbeing of residents, and this is reflected in the action sought to seek a resolution. Where the removal or other significant work on trees could affect other residents, then consultation would be undertaken before any work commences.

#### **4.12 Equality and diversity / cohesion and integration**

- 4.12.1 An equality, diversity, cohesion and integration screening has been undertaken in relation to the proposals set out in this report. The screening acknowledges that the proposal would provide a mechanism to reduce conflict with the Council relating to the impact that Council trees have on third party land. An action is identified to promote awareness of the option to pay for tree works on Council land when an enquiry is received.

#### **4.13 Council policies and best council plan**

- 4.13.1 The recommendations in this report support everyone to enjoy happy, healthy, active lives. They also support the idea of a 'social contract' as set out in the Best Council Plan 2015-20; in particular empowering people to influence decisions where they live, and create the conditions that encourage people to make positive decisions about their own lives.

#### **4.14 Resources and value for money**

- 4.14.1 The impact of proposals in this report on resources is minimal, with any professional and technical costs met and operational resources only deployed to meet costs if there is capacity available.

#### **4.15 Legal Implications, access to information and call in**

- 4.15.1 If planning or conservation regulations apply then proposals to take action on any trees would only take place in line with these regulations and following due process. This report does not contain exempt or confidential information. This is a key decision and subject to call in.

#### **4.16 Risk management**

- 4.16.1 There are no significant risks associated with recommendations in this report. Any decision to authorise action would be subject to consultation with other residents and may need to be reviewed in the light of feedback received.

### **5 Conclusions**

- 5.1 There are circumstances where trees on Council land can impact on private residents, local businesses or other organisations. This invariably relates to trees that do not pose a risk to public safety and therefore it is unlikely that work would be carried out in a timeframe to suit the complainant, if at all. To compound this, there is no mechanism whereby the complainant can pay for tree works on Council land. In order to provide an option for resolution to these issues it is proposed that the complainant can choose to pay for work on Council trees subject to approval, following consultation and in line with best arboricultural practice. In addition, where a Council tree affected by development is deemed appropriate to be removed, then this work could be undertaken by a Council approved contractor where the private landowner is prepared to meet the full cost.

## **6 Recommendations**

6.1 It is recommended that Executive Board approve the following:

- That the full cost of non-urgent works on Council trees can be met by an interested party subject to the criteria set out in paragraphs 3.8 and 3.9 with specified works in line with best arboricultural practice (BS 3998) to a Council approved contractor.
- That where a Council tree affected by development is deemed appropriate to be removed, then this work is undertaken by a Council approved contractor where the private landowner is prepared to meet the full cost.
- That the Chief Officer Parks and Countryside will be responsible for implementing these recommendations with immediate effect.

## **7 Background documents<sup>1</sup>**

7.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.