PERTH AND KINROSS COUNCIL

Environment Committee

26 March 2014

TREE MANAGEMENT POLICY

Report by the Executive Director (Environment)

This report seeks approval for the policy for tree management on Council owned or managed land. The policy addresses all commonly reported tree related issues and explains circumstances where the Council will or will not be able to take action.

1. BACKGROUND / MAIN ISSUES

1.1 Perthshire has some of the most remarkable trees and woodlands anywhere in Europe and is celebrated as 'Big Tree Country'. It is an area widely acknowledged for its natural beauty and diverse landscapes and trees are a very important part of that landscape. This is not only an attractive environment in which to live and work, but visitors and businesses are also attracted to invest in our local economy.

1.2 The Council is committed to protecting, improving and developing the tree cover on publicly owned land where appropriate. This will be achieved in two main ways:

(a) through the adoption of a continuous programme of tree inspection and maintenance; and

(b) through seeking a continuous improvement in the quality of trees on publicly owned land. A range of species will be selected for new and replacement planting, taking into account their suitability to each site.

1.3 Legislation relating to tree management places duties on the Council to safeguard the public from harm which may arise from trees and also provides for ways to protect particular trees and associated wildlife. The priority in managing trees belonging to the Council is first and foremost public safety. Where a tree constitutes a demonstrable hazard to people or property, appropriate works will be carried out to render the tree safe. The Council is also committed to maintaining the health and longevity of trees through appropriate management with works being undertaken on unhealthy trees where they are threatened by disease or instability. In addition, trees on Council land will be encouraged to develop the natural form characteristic of their particular species, wherever this is appropriate. This is achieved by works on trees being carried out to the highest standards of arboricultural practice, in accordance with all relevant health and safety legislation and to the British Standard BS 3998, 2010 standards.

1.4 Whilst the benefits of trees are well accepted they also are the source of approximately 750 enquiries a year. These relate to trees on both Council and private land. The majority of enquiries relate to complaints regarding trees near property in terms of blocked light, overhanging branches or poor television reception. The general expectation is for the Council to remove or reduce the size of the tree to resolve these issues. The Council has a common law duty of care to minimise the risk of personal injury or damage to property resulting from any tree in its ownership. There is, however, no legal obligation for the Council to prune overhanging branches on trees in its ownership to address issues to neighbours caused by the trees. The affected property owners do have a common law right for those affected by overhanging branches to prune to their boundary.

1.5 In terms of privately owned trees, the Council has no authority to undertake or enforce any work on them. The exception would be in circumstances where privately owned trees are in a dangerous state or are obstructing public passage, generally in relation to public roads and streets.

2. PROPOSALS

2.1 In line with reductions in public spending, the tree service provided by the Council has seen a reduction in funding since 2011/12. In order to match the resources to the funding available, a clear policy is required to set out the Council's position on what activities it will do in relation to the management of trees on Council owned or managed land (See Appendix 1). This will help to ensure that all essential activities are undertaken on a consistent, equitable and prioritised basis across the area. It will also help to manage public expectations and provide advice where the Council are unable to assist.

2.2 The primary focus for the Council is very much on responding to trees which pose the highest risk or most inconvenience for the public through proactive tree management. High risk trees in major parks and other areas of frequently visited public open space will be identified through a programme of inspection. In addition, overhanging busy roadside and other frequently used paths will be pruned to maintain clearances. As a consequence, there is significantly less capacity to deal with discretionary activities both in officer and contractor time, particularly where relatively few people are affected.

2.3 The policy clearly sets out what the Council can and cannot do and what the customer can do themselves. Useful information and advice on a variety of tree related issues is given to the customer within the policy and guidance on how to report a tree related enquiry is also given. The information will be on the Council website. It will provide clarity for the customer service centre and the public and ensure that only enquiries relating to Council owned trees where actions are likely to be required will reach the designated officers.

2.4 Where sufficient information is provided by the customer service centre, or can be obtained from desk top surveys, remedial work will be instructed within the appropriate timescale. If required, the relevant Council officers will undertake an on-site inspection prior to instructing any work. This Policy will provide the Council with more efficient and forward looking methods of managing its trees and woodlands. It should also result in fewer customer complaints arising from misperceptions of responsibilities for trees.

3. CONCLUSION AND RECOMMENDATION(S)

3.1 This policy will help to reduce the number of tree related enquiries the Council receives on issues which the Council are not obliged to take action on. It will help to ensure that all enquiries are dealt with by the most appropriate service and officer. This more focussed strategic approach to service delivery will ensure the most efficient and effective future management of the Council's trees and woodlands to meet the essential duties within the resources available.

3.2 The Committee is asked to approve the Tree Management Policy as shown within appendix 1.

Author(s)

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Approved

Name	Designation	Date
Barbara Renton	Depute Director (Environment)	17 March 2014

If you or someone you know would like a copy of this document in another language or format, (On occasion only, a summary of the document will be provided in translation), this can be arranged by contacting Richard Brough on 01738 475282

ANNEX

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	**Yes / None**
Community Plan / Single Outcome Agreement	**Yes**
Corporate Plan	**Yes**
Resource Implications	**None**
Financial	**None**
Workforce	**None**
Asset Management (land, property, IST)	**None**
Assessments	**Yes**
Equality Impact Assessment	**None**
Strategic Environmental Assessment	**None**
Sustainability (community, economic, environmental)	**None**
Legal and Governance	**Yes**
Risk	**Yes**
Consultation	**Yes**
Internal	**Yes**
External	**Yes**
Communication	**Yes**
Communications Plan	**Yes**

1. Strategic Implications

Community Plan / Single Outcome Agreement

1.1 This section should set out how the proposals relate to the delivery of the Perth and Kinross Community Plan / Single Outcome Agreement in terms of the following priorities:

(i) Giving every child the best start in life
(ii) Developing educated, responsible and informed citizens
(iii) Promoting a prosperous, inclusive and sustainable economy
(iv) Supporting people to lead independent, healthy and active lives
(v) Creating a safe and sustainable place for future generations

1.2 The policy relates to the Perth and Kinross Community Plan / Single Outcome Agreement by helping to develop educated, responsible and informed citizens through providing advice on actions the public can take to resolve tree related nuisance.

Corporate Plan

1.3 The Council's Corporate Plan 2013-2018 lays out five outcome focussed strategic objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. They are as follows:

(i) Giving every child the best start in life;
(ii) Developing educated, responsible and informed citizens;
(iii) Promoting a prosperous, inclusive and sustainable economy;
(iv) Supporting people to lead independent, healthy and active lives; and
(v) Creating a safe and sustainable place for future generations.

1.4 This report supports objective (ii).

2. Resource Implications

Financial

2.1 There are no resource implications arising directly from the recommendations in this report.

Workforce

2.2 There are no workforce implications arising directly from the recommendations in this report**.**

Asset Management (land, property, IT)

2.3 There are no direct asset management issues with this report although the identification of the extent of council land is relevant to the policy.
There are no information technology implications arising from this report.

3. Assessments

Equality Impact Assessment

3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.

3.2 The policy presented in this report was considered under the Corporate Equalities Impact Assessment process (EqIA) and was assessed as not relevant for the purposes of EqIA.

Strategic Environmental Assessment

3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals. Pre-screening has identified that the PPS will have no or minimal environmental effects, it is therefore exempt and the SEA Gateway has been notified. The reasons for concluding that the PPS is unlikely to have significant environmental effects is that tree works will only be undertaken where the trees are clearly dangerous and posing a threat to health and safety or causing an obstruction over a path or road and that provision has been made within the policies for protected species where tree works are to be undertaken.

Sustainability

3.4 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.

3.5 There are no direct impacts on sustainable development as a result of these proposals but developing strategies for the long term management of trees and woodlands will contribute to the economic, social and environmental wellbeing of the area.

Legal and Governance

3.6 The Head of Legal Services has been consulted on the legal standing of the common law rights of third parties to take action to reduce nuisance from trees referred to within the policy.

Risk

3.7 This policy will reduce the risk of complaints from the public arising from lack of clarity regarding the extent of council responsibility and reasonable actions in relation to tree related enquiries.

4. Consultation

Internal

4.1 The Head of Legal Services and the Head of Planning and Regeneration have been consulted on the content of this report.

External

4.2 This development of this policy has been informed by the issues raised by external enquiries although no external consultation exercise has been carried out.

5. Communication

5.1 The Policy will be displayed on the Council website for public information and for the use of the Customer Service Centre while dealing with enquiries. Officers will also refer the public to the policy while explaining the extent of Council responsibility.

2. BACKGROUND PAPERS

There were no background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (and not containing confidential or exempt information) were relied on to a material extent in preparing the above Report;

3. APPENDICES

Appendix 1 – Perth and Kinross Council Tree Management Policy

PERTH & KINROSS COUNCIL
The Environment Service

Perth & Kinross Council
Tree Management Policy



March 2014

Community Greenspace
Contact: Richard Brough

Introduction

Trees on Council Owned Land

Perthshire has some of the most remarkable trees and woodlands anywhere in Europe. We are fortunately situated in an area of outstanding natural beauty and diverse landscapes where trees have long been recognised as an important part of that landscape. Not only does this mean that we have an attractive environment in which to live and work but visitors and businesses are also attracted to invest in our local economy.



The Council is committed to protecting, improving and developing the tree cover on publicly owned land where appropriate. This will be achieved in two main ways:

a. through the adoption of a continuous programme of tree inspection and maintenance; and

b. through seeking a continuous improvement in the quality of trees on publicly owned land. A range of species will be selected for new and replacement planting taking into account their suitability to each site.



The policy covered by this report relate principally to trees bounding with residential areas and related infrastructure including roads. The general management policy for woodland areas will be covered by the Perth and Kinross Forest Plan and individual site management plans where they exist.

The policy is guided by the legal requirements relating to tree management which are detailed within appendix 1. Responsibilities are placed on land owners to safeguard the public and employees from danger through the Occupiers Liability (Scotland) Act 1960 and the Health and Safety at Work Act 1974. Powers are given to Councils under the Roads (Scotland) Act 1984 to ensure that road users are safeguarded from danger from roadside trees even when these are on private land. Legislation also provides ways of safeguarding particular trees from harm through the use of tree preservation orders made under the Town & Country Planning (Scotland) Act 1997 which is also able to protect trees in conservation areas. Council duties under the Nature Conservation (Scotland) Act 2004 to improve provisions for wildlife are also reflected within this policy.

The priority in managing trees belonging to the Council is, first and foremost, public safety. Where a tree constitutes a demonstrable hazard to people or property, then the appropriate works will be carried out as a matter of urgency to render the tree safe. The Council is also committed to maintaining the health and longevity of trees through appropriate management and works will be undertaken on unhealthy trees where they are threatened by disease or instability. In addition, trees on Council land will be encouraged to develop a natural form, characteristic of their particular species wherever this is appropriate. To achieve this, any works on trees will be carried out to the highest standards of Arboricultural practice, in accordance with all relevant health and safety legislation and to the British Standard BS 3998, 2010 standards.

Whilst resources are focussed on delivering the priorities and standards set out above, there are many issues which the public expect or would like the Council to address regarding trees on Council owned land, which cannot be resolved . This policy therefore sets out the Council's position on dealing with these issues and additional advice which will assist members of the public, Councillors and officers alike. The advice provided is for general guidance purposes only and individuals should seek their own legal advice in specific cases.

1. Dangerous trees



Policy: If a Council owned tree is in such a condition that it poses a 'high' risk to people or property, and is considered to be an emergency situation, the Council will make the tree safe as soon as possible. The Council has no authority to intervene where a privately owned tree affects the occupiers of neighbouring property. Owners of trees on private land should check to see if the tree is within a Conservation Area or is the subject of a Tree Preservation Order before carrying out any work. If the tree is imminently dangerous and posing a serious risk the work can be undertaken without formal consent. However, proof of this would need to be provided to ensure there are no breaches of TPO or Conservation Area regulations.
If a Council owned tree is identified as dangerous, but the risk to the public is not high, then the tree will be made safe depending on the degree of risk identified at the time of inspection. Trees may be made safe by pruning or felling and the most cost effective approach will be taken. For certain High Value trees other options would be considered to reduce risk of the tree failing or people being close to the tree if it did fail. Options such as physically supporting the tree or creating a fenced area around the tree may be considered.

Customer Advice: An emergency is defined as a tree that is in immediate danger, as outlined below:

High Risk (Emergency) - If a tree poses an immediate and present danger of collapse, or is causing an obstruction requiring urgent attention, it will be made safe immediately or as quickly as possible. Signs to look for which may mean that a tree is in such condition to warrant immediate attention include:

a) Snapped or blown over
b) Rocking at the base – roots are damaged
c) Uprooted but held up by another tree or building
d) Large branch has broken off or is hanging off the tree
e) Blocking road, footpath, access to property
f) Fallen onto a property or vehicle

Medium or Low Risk (Non- emergency)
If the level of risk is lower the tree will be made safe within 6-months (Medium Risk) or 12-months (Low Risk). Signs to look out for which may mean that a tree is a risk to people or property but does not require an emergency response include a tree which is:

g) Dead
h) Dying - few leaves in summer or dieback in the crown
i) Bark is loose and falling off
j) Mushrooms or fungi growing on or near the tree
k) Old splits and cracks in the trunk or large branches
l) Smaller branches falling from the tree

The public can report a dangerous tree by contacting the Customer Service Centre 01738 475000 or by email to enquiries@pkc.gov.uk with details of nature of hazard, location and a photograph if possible.

2. Tree Inspection



Policy: Whilst the Law does not regard trees in themselves as dangerous, the Council has a common law duty of care to take reasonable steps to prevent or minimise the risk of personal injury, or damage to property, arising from the presence of any of its trees on a site. Council owned trees are inspected on a regular basis to ensure they do not pose any unnecessary risks from being in poor condition. The following inspection frequencies are based on **the consequences of damage or obstruction and the level of site use:**

High; Inspected twice a year
Low; Inspected once a year
Reactive; Only inspected on notification of an issue or if an officer is on site for another purpose. These would be for trees which are in remoter sites or locations which are infrequently used and there would be no damage to structures or surfacing.

Note: The above policy on tree inspection applies to trees managed in general parks and open spaces. Trees situated on land managed by Education and Children's Services and Housing and Community Care are subject to their own inspection and maintenance regimes.

3. Vandalism



Policy: Vandalism to Council owned trees will be treated as a criminal act and will be reported to the police. The damage will be inspected and appropriate action taken within the resources available. The Council generally plants large trees that are less susceptible to vandalism and actively promotes tree planting by local residents. This encourages people to care for the trees in their neighbourhood which keeps problems of vandalism to generally low levels.

Customer Advice:
The Council encourages local communities to report incidence of vandalism to trees owned by the Council by contacting the Customer Service Centre on 01738 475000 or by email to enquiries@pkc.gov.uk.

4. Roadside Trees

4.1 Public Carriageway & Pavement Obstruction due to Trees



Policy: The Council will undertake work to a tree in Council ownership to maintain a minimum 5.5 metres height clearance over the public road and 2.5m over a roadside public pavement/footpath where reasonably practical. Most roadside trees are in private ownership and the owner of the tree has a responsibility for ensuring they do not cause an obstruction or danger to a public road or footpath. Powers exist under the Roads (Scotland) Act 1984 to instruct the owner of the tree to remove the obstruction. If they do not, the Council may do this work and recharge the owner.

Customer Advice:
If a tree is in immediate danger of collapse or is causing an obstruction requiring urgent attention, it will be treated as an emergency situation and the Council will attend the site as soon as possible to make the situation safe.

If the tree is not causing an emergency situation, a site inspection will be undertaken within 21 working days of receipt and the customer notified of what action is considered appropriate. The owner of the tree will be informed of what works they are responsible for to make the situation safe. If it is necessary that the Council undertake this work then the owner will be charged in full for the Council's costs.

Trees that are clearly a danger to, or are obstructing a public road and/or pavement/ footpath should be reported to the Council's Customer Service Centre on 01738 475000 or by emailing enquiries@pkc.gov.uk with details of the nature of hazard, location and a photograph if possible.

4.2 Roadside Trees – Sight-lines, Traffic Signal, Street/Road Sign, Street Lights and Trip Hazards

Policy: The Council will undertake work to a tree in Council ownership to maintain clear sight lines (where reasonably feasible) at junctions and access points (associated with a street, road or highway), and cut back trees where they encroach on and obscure traffic signals, road signs or street lights, and undertake measures to make safe an unacceptable trip hazard caused by tree roots. Standards for visibility vary according to the class of road and speed limit in force. If a privately owned tree is causing an obstruction to the visibility at a road junction (sight line) or a trip hazard in a roadside pavement, powers exist under the Roads (Scotland) Act 1984 to instruct the owner of the tree remove the obstruction. If they do not, the Council will do the work and recharge the owner.

Customer Advice:
Members of the public can report a tree that is clearly causing an obstruction at junctions or is obscuring traffic signals, a road sign or street light (associated with a street, road or highway) or report a trip hazard caused by tree roots by contacting the Customer Service Centre 01738 475000 or by emailing enquiries@pkc.gov.uk with details of nature of hazard, location and a photograph if possible.

5. Nuisance to third parties/neighbouring trees

5.1 Common Law Right to cut back overhanging branches and roots



Policy: Anyone has a Common Law right to remove (abate) the nuisance associated with trees encroaching onto their property. The Council will not prune back trees where they encroach onto a neighbouring property whether this is a tree on Council land or private land.

Customer Advice: The following advice is given in relation to Common Law rights on encroaching trees:

a) only the parts of the tree which cross the boundary of the property can be removed. There is no legal right to cut or remove any other part of that tree;
b) a professional tree surgeon should be asked for guidance on how best to prune back encroaching trees, unless the works are very minor and could be done with hand secateurs or similar;
c) Before any works to a tree / trees are considered they must be checked to see if they are protected by a Tree Preservation Order or are within a Conservation Area. If the trees are protected, consent for any works will need to be gained by making an application or giving notice to the Council. This can be done by contacting the Customer Service Centre 01738 475000 enquiries@pkc.gov.uk The location of Tree Preservation Orders and Conservation Areas can also be viewed on the Council's Web site at http://www.perthshire.com/article/3557/Main-Map
d) any intention to prune encroaching branches or roots should be discussed with the owner first and any cuttings offered to them as legal owner. If the encroachment is from a Council owned tree, any cuttings must be disposed of appropriately and not returned to Council land.
e) root encroachment affecting buildings is very uncommon in Perth and Kinross due to the nature of the soils in this area. Any concerns about this should be referred to the owner's insurance company for further specialist investigation.

5.2 Blocked Light or View



Policy: Council owned trees will not be pruned or felled to improve natural light in a property or to open up a view. The Council has no authority to intervene where a privately owned tree affects the occupiers of neighbouring property and will therefore not get involved. The exception to this would be where the pruning of the trees could reasonably enforced under the High Hedges (Scotland) Act 2013 (see below).

Customer Advice: In law there is no general right to light or a view. Any right to light would need to be established via a specific grant (rare) or by prescription, which can only occur where the right has been enjoyed without interruption for a minimum of 20 years. Following this, a legal right to light can only be enjoyed in relation to a specific opening (such as a window) in a building; there is no right to light in connection with open land, such as a garden. Further, if these conditions are met then an owner of the building is entitled to such access of light as will leave his premises adequately lit for all purposes for which they may reasonably expect to be used. If natural light is being blocked by the growth of a hedge then action may be taken to reduce the problem under the High Hedges (Scotland) Act 2013. This Act expressly requires the Council to take account of the effect of the high hedge on the amenity of the area and whether the high hedge is of cultural or historical significance.

5.3 Leaves, Berries, Sap, Fruit, Bird Droppings & Wild Animal or Insect Pests



Policy: Council owned trees will not be pruned or felled to remove or reduce leaf fall, berries, sap and fruit, reduce bird droppings or the incidence of perceived pests such as bees, wasps, or wild animals.

Customer Advice: The loss of leaves, berries and fruit from trees in the autumn is part of the natural cycle and cannot be avoided by pruning. The maintenance of gutters is the responsibility of the landowner / householder and the Council is not obliged to remove leaves etc. that may have fallen from Council owned trees. Where gutters are regularly blocked by fallen leaves gutter guards may be fitted to provide a low maintenance solution. The Council sweeps streets to clear leaves which may cause a hazard. Leaves are generally sent for composting.
Bird droppings may be a nuisance, but the problem is not considered a sufficient reason to prune or remove a tree. Nesting birds are protected under the Wildlife and Countryside Act (and other related wildlife law). Warm soapy water will usually be sufficient to remove the bird droppings.
Honeydew is caused by greenfly (aphids) feeding on the tree, which excrete a sugary sap. Often the honeydew is colonised by a mould, which causes it to go black. Unfortunately, there is little that can be done to remove the aphid which causes the problem and pruning the tree may only offer temporary relief and any re-growth is often more likely to be colonised by greenfly thereby potentially increasing the problem. Some trees, such as limes, are more prone to attack by greenfly and in some years greenfly are more common especially following a mild winter. Honeydew is a natural and seasonal problem. Where new trees are planted, trees are chosen that are less likely to cause this problem. Where honeydew affects cars, warm soapy water will remove the substance, particularly if the car is washed as soon as possible. **Bees** are protected species and advice should be taken before considering their removal. Residents may be able to dispose of individual wasps using an aerosol insect-repellent spray, but this will not control or eliminate the nest itself. Ideally the whole nest should be destroyed. This can be achieved with great caution but it is far safer to use pest control experts. **Bats** - All bats are protected under the Wildlife and Countryside Act (Schedule 5) and the EU Directive Conservation of Habitats and Species Regulations 2010. These make it illegal to intentionally or deliberately kill, injure or capture bats; deliberately disturb bats, whether in a roost or not; or to damage, destroy or obstruct a bat roost. Given that trees can be significant hosts to bat roosts inspections will precede works where bat roosts are suspected. Where necessary the Council will seek expert advice. **Red Squirrels** are also protected and it is an offence to intentionally or recklessly damage or destroy any structure or place a red squirrel uses for shelter or protection or disturb a red squirrel while it is occupying such a place. Given that trees are significant hosts inspections will precede works where Red Squirrel drays are suspected. Where necessary the Council will seek expert advice.

5.4 Drains

Policy: Council owned trees will not be felled or pruned (including the roots) to prevent tree roots entering a drain that is already broken or damaged. The Council has no authority to intervene where roots from a privately owned tree affect a neighbouring privately owned property.

Customer Advice: Tree roots found in a drain are often symptomatic of an underlying problem requiring repair of the broken pipe. If residents are concerned about the condition of their drains they are advised to contact their water and sewerage company.

5.5 Nuisance to third parties – private tree



Policy: the Council has no authority to intervene in a dispute concerning trees between neighbours. However, if the problem is due to a 'high hedge' guidance may be found on the Council's Planning web page.

Customer Advice: Residents and other property owners/occupiers may benefit from approaching a mediation service if they cannot amicably resolve a dispute between themselves and a neighbour. SACRO provide a Community Mediation Service and can be contacted on 01738 445753 or email info@perthcm.sacro.org.uk.

6. Memorial trees



Policy: The Council recognises that people often like to be able to plant trees in woods, gardens and parks as long-lasting memorials to celebrate and commemorate friends, relatives and loved ones. The Council will accommodate memorial trees wherever possible. In some locations however there may not be sufficient space to do this. If anyone is interested in planting a commemorative tree in one of the Councils parks or open spaces they can contact the Customer Service Centre 01738 475000 enquiries@pkc.gov.uk An officer will contact them to discuss their specific request.

Conclusion

This policy for the management of trees on Council owned land covers most of the common issues arising from this area of work. The Council is committed to managing its trees and woodlands so that they make a positive contribution to the locality and are maintained to be as safe as can be reasonably expected. Resources will be allocated on the priorities set out in this policy and a number of discretionary activities previously carried out will cease. The policy does provide clear advice as to when the Council will and will not take action and guidance on what actions can be taken by others. The information set out in this policy and guidance should not be treated as legal advice for any particular situation and individuals are advised to seek their own legal advice in relation to their own rights and responsibilities.

Appendix 1 Summary of Relevant Legislation and Guidance Relating to Tree Management

Occupiers' Liability (Scotland) Act 1960 and Health & Safety at Work Act 1974
Under the Health and Safety at Work etc. Act 1974, all occupiers have responsibilities to ensure the safety of those not in their employment. "Occupier" is generally taken to mean any person occupying or having control of premises, in this case land.
Thus there are clear legal responsibilities to assess risks that arise from trees and take suitable and sufficient steps to control such risks. In addition, occupiers have duties under the Occupiers Liability Act 1984. This states (s2) that the occupier owes a "common law duty of care" to visitors and those who enter his land or premises.

Roads (Scotland) Act 1984
The Health and Safety Executive (HSE) have highlighted the role and responsibility of local authorities with regard to the safety of trees. The HSE has confirmed that councils have a duty of care to people using the roads. In addition the Council has potential liabilities if it was deemed to be not effectively using its powers under the Roads (Scotland) Act 1984 Section 91 to prevent danger from trees in the vicinity of a road but which are in private ownership.

Town & Country Planning (Scotland) Act 1997
Covers legislation for Tree Preservation Orders (TPOs) & Trees in Conservation Areas. TPOs are used to protect selected trees from threats such as felling, pruning or uprooting. Anyone wishing to carry out such works to a tree protected by a TPO must apply in writing to the Local Planning Authority. Most trees within Conservation Areas have protection and anyone wishing to carry out work to a tree must provide written notice of the proposed work to the Local Planning Authority six weeks in advance.

The European Habitats Directive
This is the main piece of EU legislation that identifies habitats and species of EU community importance requiring protection and conservation.

Nature Conservation Scotland Act 2004
Places duties on public bodies to improve provisions for wildlife in their policies, operations and within their properties.

Wildlife and Countryside Act 1981 as amended
This UK legislation sets out the protection of species identified in appendices which are updated regularly.

High Hedges (Scotland) Act 2013
Legislation dealing with problems associated with high hedges in Scotland.

Common Sense Risk Management of Trees
The Forestry Commission - December 2011
Guidance on trees and public safety in the UK for owners, managers and advisers
www.ntsg.org.uk

Further information is available on Perth & Kinross Councils Web Site
http://www.perthshire.com/article/2126/Trees-and-the-Law