

**Highways, Infrastructure Development &  
Waste**

FAO: Parish / Town Council Clerk

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7 February 2020

Dear Parish / Town Council

**Drainage Maintenance Responsibilities**

At our recent Town and Parish Conferences, a great deal of interest was shown in a display identifying who is responsible for maintaining and clearing drainage systems on and around the highway.

The driver for having the display was recognition that, for a number of years, we had been investing significant funds undertaking a programme of ditch clearance works to drain the water from the highway. In the majority of cases, the responsibility for ditch maintenance rests with the adjacent landowner, even if the ditches take water from the highway and local authority funding is being used to undertake works which are, in part, the responsibility of the landowners, reducing the funding available to undertake the works which are our responsibility.

In order to support landowners, and local communities, we are undertaking a programme of communication and education with key stakeholders. Hopefully, as a follow up to the recent display at the Parish and Town Conference you will find the following information and resources useful.

- A factsheet titled Roads and farmers is produced by Devon County Council and is available [here](https://www.devon.gov.uk/roadsandtransport/factsheet/roads-and-farmers/) (https://www.devon.gov.uk/roadsandtransport/factsheet/roads-and-farmers/)

Equally, Landowners and occupiers are required, by law, to trim any hedge next to the public highway where the growth is preventing the passage, or affecting the safety, of the highway user.

- Information regarding overgrown vegetation is available on our website [here](https://www.devon.gov.uk/roadsandtransport/maintaining-roads/trees-and-vegetation/overgrown-vegetation/) (https://www.devon.gov.uk/roadsandtransport/maintaining-roads/trees-and-vegetation/overgrown-vegetation/)

You will also find enclosed a diagram giving an indication of responsibility for the maintenance of drainage and vegetation on and around the highway. We have certainly found this a useful diagram when trying to explain the various issues of responsibility.

I hope you find this information helpful and are able to use it within your communities to support us as we continue to maintain the drainage systems within the highway.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Richards', with a long, wavy horizontal stroke extending to the right.

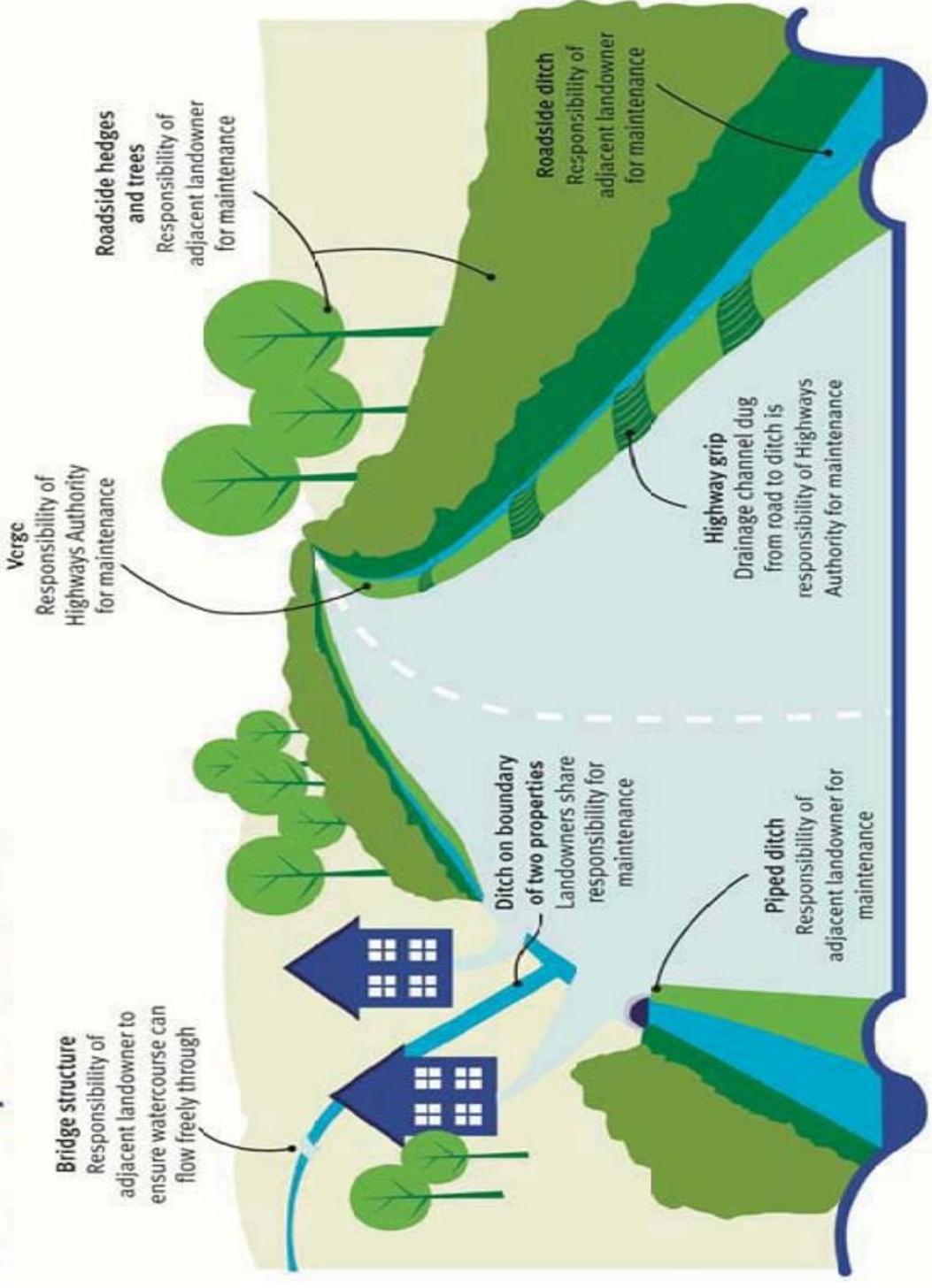
**Robert Richards**

Highways and Traffic Management Group Manager

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# Who is responsible for what?



# Introduction

## Liability

We can take action against landowners or occupiers who create a danger either on or next to the road. Be aware that if you don't take adequate precautions, or fail to comply with highway legislation, then in the event of an accident you may be liable for a substantial compensation claim which might not be covered by your insurance policy.

## Mud on roads

Landowners and occupiers have a duty not to obstruct the public highway, or do anything which could inconvenience or endanger the public. It is an offence under the [Highways Act](#) to allow soil or refuse from land next to a public highway to fall, be washed, or carried on to the road. If we consider mud on the road to be hazardous we will contact you and ask for it to be removed. If it isn't removed in a reasonable time we will arrange for the work to be done and you will be charged for this. In serious cases the police can take action to ensure mud is removed.

You can get advice about reducing soil erosion from [The Farming and Wildlife Advisory Group](#) and [ADAS](#).

## Animals

Clean any mess from animals using the highway as soon as possible. If animals walk on the verge take care to prevent damage to grips and ditches and areas of special wildlife value. Whenever cattle or sheep are moved along or across a road, the person moving the animals has responsibility for safety to the highway users. At regular crossing points where visibility is poor, permanent crossing signs may be permitted. You can request these by phoning us on 0345 155 1004.

Cattle grids can only be installed on the public road after consultation with us, we may also want to provide the design specification for any grids to be installed.

## Agricultural vehicles

Slow farm machines on busy roads can quickly cause long traffic queues. This can result in accidents as drivers become frustrated and take risks.

- Vehicle widths must comply with the latest regulations, and must be suitable for the road they are going on, to avoid damaging verges and hedges.
- Pull into laybys and similar safe spaces to allow following traffic to pass safely.
- Avoid travel on main A roads at peak times between 7.30am to 9am and 5pm to 6.30pm.
- Take care not to overload trailers or muck spreaders, or carry loads that overhang a long way and obstruct other traffic.

#### Farm gates

Gates must always open on to the field and not on to the road or verge. Gates cannot be put up across a public highway.

#### Storage

It is an offence to store or stand anything on the public highway or on the verges. We have legal powers to have items removed if necessary.

# Trees and vegetation

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Our priority is to maintain the safety of the highway by keeping trees and vegetation from:

- causing obstructions to the highway
- threatening the safety of its users

You can [report overgrown vegetation here](#).

You can [report hazardous/dying/diseased trees here](#).

We have a programme to maintain vegetation and trees on Devon County Council-owned and or managed land and properties.

Trees that are maintained at the public expense – trees that can be considered to be owned by Devon County Council – and that may affect the most important roads and areas of our highway network, are inspected once every two years by qualified arboricultural experts.

Trees that are privately owned and may affect the highway do not receive inspections. It is the responsibility of the relevant landowner or occupier to arrange these surveys and to maintain their trees and vegetation.

If you can't find what you're looking for, we recommend using our live chat facility first but if you'd still rather get in touch, please complete [this form](#).

## Find out more

- [Tree maintenance](#)
- [Overgrown vegetation](#)
- [Information for landowners](#)
- [Inspections](#)
- [Grass cutting and weed control](#)

# Verges, trees and ditches

## Weeds and pest control

When using weed and pest control chemicals near a public road: only use pesticides approved by the [Pesticides Safety Directorate](#) employ trained operatives, or ensure that you and any staff have the correct training.

You should always:

- remove harmful weeds from your land in accordance with the [Weeds Act](#)
- phone us on 0345 155 1004 to tell us if any weeds on the highway verges are affecting your farming operations
- phone us on 0345 155 1004 to tell us if any Japanese Knotweed is growing on the highway verge. If Japanese Knotweed is growing on your land it is your responsibility to manage; it should not be flailed or mowed as this will cause it to spread.

## Hedge cutting

Under the [Highways Act](#), roadside hedges are the responsibility of the landowner who has to:

- prevent the hedge from overhanging the highway
- prevent hedges from obscuring street lights and road signs
- clear the road of debris after hedges have been cut
- meet the obligations of the [Wildlife and Countryside Act 1981](#) ensuring that nesting birds, bats and dormice are protected.

If we consider that a hedge interferes with safe use of the highway and you do not take action to cut it we can serve a formal notice asking you to remove it.

We recommend trimming hedges in January and February to ensure that nuts and berries are available for birds and other wildlife. Trimming should not take place during the main bird breeding season of March to July unless it's unavoidable for road safety.

Where possible hedges should be cut on a two or three year (or longer) cycle. If the hedge has to be cut every year for visibility or drainage you should consider only cutting the top of the hedge once every two or three years. The [Natural](#)

[England Environmental Stewardship Scheme](#) provides opportunities for farmers to be rewarded for sensitive hedgerow management.

On major routes we will cut hedges on the inside of bends and at junctions to maintain visibility.

The [Hedgerow Regulations 1997](#) state it is an offence to remove a hedgerow or section of hedgerow without notifying your local planning authority. For more details contact your city, borough or district council, or National Park Authority governing your area.

You can get advice on maintaining hedges from [The Farming and Wildlife Advisory Group](#) and the [Devon Hedge Group](#).

#### Roadside trees

Trees improve the environment and provide an excellent habitat for wildlife. However, landowners have an obligation under the Highways Act to ensure that the trees on their land do not endanger highway users.

- Carry out [regular checks of trees on your land](#) that might fall onto the highway and arrange for any necessary tree surgery work.
- Ensure that trees overhanging the highway don't cause an obstruction to the normal passage of vehicles.
- Plant trees in hedgerows where they won't be a danger to road users.
- Remember that you might need permission to lop a tree covered by a tree preservation order.

#### Highway verges

It is an offence to deposit objects on highway verges which could cause an obstruction or hazard.

- Don't leave farm materials on highway verges.
- Don't place stones on the verge to prevent parking.
- Don't drive on the verges as this may damage easements, ditches and grips.
- Driving on verges may harm wildlife and bring mud onto the road.
- Park all machinery off highway verges and away from sight lines.
- Find out if any verges alongside your land are protected for their special wildlife value.

### Ditches and drains

Ditches on land near the highway which take water from the road are your responsibility. We may sometimes have to take measures to drain the water from the highway on to adjacent land. If this affects you we may be able to pay compensation for any damage caused by the work.

- Regularly clean the waterways on your land in areas where they drain the highway.
- Check headwalls and grills regularly.

# Information for landowners

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All hedge cutting and tree works on the highway should be done safely and by those qualified to work in accordance with the recommendations in [Chapter 8 of the Traffic Signs Manual](#).

When working on the highway the person responsible for the work, or their contractor, must have Public Liability Insurance cover for working on the highway for a value of £5 million.

Vegetation should be cut back to maintain the minimum required clearances for roads and footways:

- 5.2m height clearance for vegetation overhanging roads
- 2.1m height clearance for vegetation overhanging footpaths
- 2.5m height clearance for vegetation overhanging cycleways.

## Working on hedges

Hedges must be maintained to ensure that the highway remains accessible and safe. Appropriate hedge management can also be of great benefit to Devon's biodiversity. For more information about managing and protecting the hedgerows on your land see [Hedgeline](#).

Older hedgerows are important features of the landscape and their conservation is vital; this may involve specialist maintenance techniques such as hedge laying. For more information and advice contact [The Devon Hedge Group](#).

## Working on trees

If you need to carry out work on trees you should talk to [your local city or district council](#) before pruning or tree felling as their consent may be needed if the tree has a [preservation order or is in a conservation area](#).

[The Forestry Commission](#) can give you advice if you need to fell a large number of trees. You would need to obtain a licence from them if the volume of timber to be felled exceeds five cubic metres. [The Arboricultural Association](#) has a directory of qualified tree surgeons who can safely undertake work on trees.

[The National Tree Safety Group](#) and [The Forestry Commission](#) provide further information about safely managing your trees.

## Disturbing wildlife and nesting birds and the law

If tree works are likely to disturb wildlife you may need to apply for [a wildlife licence](#).

We may request that works are carried out on trees covered by Preservation Orders when they present an urgent and serious safety risk. The Department for Communities and Local Government provides [guidance to landowners with protected trees](#). Please contact your local planning authority for information.

The RSPB provides advice on the best time of year to carry out any trimming to avoid [the nesting season](#).

The [Wildlife and Countryside Act 1981](#) prohibits damaging the nests of wild birds in use (or under construction) and their eggs. However, there are notable exceptions to this. We only request that landowners work on hedgerows during nesting season when works are necessary to ensure public health and safety.

## Work near sites of historical significance

If work may affect a scheduled Ancient Monument contact [English Heritage for further advice](#).

# Overgrown hedges

Many hedges grow on the edge of the highway and mark its boundary with private property. It is the responsibility of the adjacent landowner or occupier to properly maintain them and any trees or other vegetation the hedge contains.

Landowners and occupiers are required by law to trim any hedge next to the public highway where the growth is preventing the passage, or affecting the safety, of the highway user.

Check hedges on your land bordering the highway regularly and cut them back if they're obstructing visibility or the passage of vehicles or pedestrians. Also check vegetation is not obscuring signs or streetlights.

The RSPB provides advice on the best time of year to carry out any trimming to avoid [the nesting season](#).

[Read our information for landowners](#) before carrying out work on hedges adjacent to the highway.

# Overgrown vegetation letter

We encourage owners and occupiers to cut hedges, and work closely with parish councils to identify occupiers who neglect this. If we identify an obstructive hedge or potentially dangerous tree on your land we will send a letter saying what work you need to carry out to make the vegetation safe as stated in The Highways Act 1980. If you don't deal with the obstruction we may do the work and claim back the cost from you.

# Tree maintenance

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A tree becomes a hazard when it has a structural defect that may cause the tree, or a portion of the tree, to fall and injure people or damage property.

We inspect and maintain any trees within the highway.

As a landowner or occupier you need to regularly inspect and maintain any trees on your land which are adjacent to, or within falling distance of, the highway. This includes trees in hedgerows and banks on private land.



We can't take any action on trees which don't pose a safety risk to the highway. Where there is a threat to private property, but not the highway, we will only take action if we own the tree.

Things to look out for in an unsafe tree

Damage

- Splits or cracks in the trunk or branches.
- Branches that are broken or hanging.
- Sections of bark damaged or stripped to show the wood beneath – some trees such as Plane or Eucalyptus naturally shed their bark.
- Soil movement around the base of the tree in strong winds.

[Ill health or disease](#)

- Sections showing signs of rotting.

- Growth of fungi on the bark, wood or around the base of the tree.
- Foliage dying back or going brown for no apparent reason on evergreen trees, or out of season for deciduous trees.

[Report an unsafe tree adjacent to the highway or a fallen tree or branch on the highway.](#)

#### Dangerous tree letter or markings

If you've been sent a letter and report about a dangerous tree on your land return the reply slip to us in the envelope provided.

If your tree has been marked with a cross or circle, you will need to phone the number on the notice attached to the tree. If no notice is attached, phone 0345 155 1004.

- A circle means that remedial work is needed, such as removing a branch.
- A cross means that the tree has been marked to be felled.
- Two circles means that remedial work is needed immediately.
- Two crosses means that the tree has been identified as imminently dangerous and needs to be felled immediately.

#### Carrying out work on your tree

It is good practice to employ [a specialist qualified contractor](#) to carry out the work. Work on the highway should be carried out safely and by surgeons qualified to work in accordance with the recommendations in [Chapter 8 of the Traffic Signs Manual](#). The person responsible for the work, or their contractor, should have Public Liability Insurance cover for working on the highway for a value of £5 million. [Read our information for landowners for more detail.](#)

#### Trees overhanging your property

It is your common law right to cut back any branches which are overhanging and interfering with your property, as long as your actions don't affect the health of the tree as a whole. You must check with the [planning department of your district or city council](#) before carrying out any work, in case the tree is covered by [a tree preservation order](#) or is in a conservation area.

#### Trees preventing light from entering a room

As a resident, in common law you don't have a legal right to light that may be blocked by a Devon County Council tree and we aren't required to cut back or

remove the tree. We only take any action on trees which pose a safety risk to the highway.

Trees growing into wires

Contact [BT](#) or [Western Power](#) about the tree. If the tree is damaging their equipment they will take steps to prevent further damage.

Birds causing a mess on cars

Although bird droppings are an inconvenience, they are not recognised as a legal nuisance and are not justification for the removal or pruning of a tree.

Devon County Council tree roots damaging property

If you suspect that the roots of a Devon County Council tree are causing damage to your property, for example the foundations or private drainage, you must get evidence from both [a professional tree surveyor](#) and a structural surveyor to verify this. You should then phone our customer service centre on 0345 155 1015.