



# Engage MAT

## Tree Management Policy

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### **Tree Safety Management Policy Statement**

The Engage Trust, as a tree owner, has a direct responsibility to ensure that its trees do not pose a danger to the public or property. To address this risk, the Engage Trust has produced this Tree Safety Management Policy.

The Policy will ensure:

- An overall assessment of risk is completed to identify high, medium and low risk tree zones
- A system of tree inspections is in operation in relation to risk
- A record of trees and inspections is retained
- Systems and processes are identified that control and mitigate risks as identified from inspections
- Staff who carry out inspections are competent to do so

Operation of this Policy will enable the Engage Trust to mitigate tree risks to as low a level as is reasonably practicable.

### Introduction

Trees by their nature are dynamic living systems. They have evolved to cope with losing limbs, breaking apart and being wounded and they grow adaptively in response to the environment around them. Trees and woodlands can make a significant contribution to quality of life, the local economy and the environment. However, where trees and people co-exist, there is a need to ensure that a tree's natural processes do not pose a risk to the people and property around them.

Owners of trees have a legal duty of care and are obliged to take all reasonable care to ensure that any foreseeable hazards can be identified and made safe. Although it is not possible to completely eliminate the risk of a tree failing, there are often indications that a tree may be in decline, have structural faults or be suffering from decay or pests and diseases. Many of these signs can be recognised by trained inspectors who can then instigate further investigations by a qualified arboriculturist. Tree failure – failure can be defined as a decline in strength or effectiveness – in the case of trees this would be as a result of the breakage or splitting of the whole or part of a tree.

The safe and appropriate management of its trees is important to the Engage Trust who want to ensure that a balance is maintained between public safety and sustaining a healthy tree population with the benefits it provides.

Some examples of the many aesthetic, social, economic and health benefits of trees are listed below:

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- Trees play a vital role in urban and rural ecosystems by helping to support a great variety of wildlife
- Studies of patients in hospital found that they recovered more quickly with a view of trees and nature from their windows (Ulrich 1984). Two reports, sponsored by RSPB, published in 2004 and 2007 outlined the benefits to physical and mental health arising from contact with the natural environment. These included the reductions in obesity, heart disease, diabetes, cancer, stress, ADHD, aggression and criminal activity, amongst others
- A large beech tree can provide enough oxygen for the daily requirements of ten people
- Property in tree lined streets is worth 18% more than in similar streets without trees
- Trees intercept water, store some of it and reduce storm runoff and the possibility of flooding; a 5% increase in tree cover can reduce runoff by 2%
- Trees help to lock up the carbon emissions that contribute to global warming. For example, 1 hectare of woodland grown to maturity and looked after forever would absorb the carbon emissions of 100 average family cars driven for one year (Climate Care/Trees for Cities estimate)
- Trees have a positive impact on the incidence of asthma, skin cancer and stress-related illness by filtering out polluted air, reducing smog formation, shading out solar radiation and by providing an attractive, calming setting for recreation
- Trees can save up to 10% of energy consumption through their moderation of the local climate

The importance of trees has been emphasised by a number of Government reports including a national survey of England's urban trees and their management in 2008 entitled Trees in Towns II. In December 2011, the National Tree Safety Group released its guidance on how tree owners should approach tree safety management

### **National Tree Safety Group**

The National Tree Safety Group (NTSG) comprises representatives from 20 organisations. These range from tree specialists such as the Arboricultural Association and the Institute of Chartered Foresters, to tree owners and managers such as the Country Land and Business Association, National Farmers Union and the Forestry

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Commission, to conservation organisations such as the National Trust, Woodland Trust and Ancient Tree Forum.

The aim of the NTSG is to develop a nationally recognised approach to tree safety management and to provide guidance that is proportionate to the actual risks from trees. Its national guidance document entitled Common Sense Risk Management of Trees was released in December 2011.

The NTSG guidance is underpinned by 5 key principals:

- Trees provide a wide variety of benefits to society
- Trees are living organisms that naturally lose branches or fail
- The overall risk to human safety is extremely low
- Tree owners have a legal duty of care
- Tree owners should take a balanced and proportionate approach to tree safety management

The NTSG has produced three documents:

1. Common sense risk management of trees (The main guidance document)
2. A Landowner Summary (for estates and smallholdings)
3. Managing Trees for Safety (for the domestic tree owner)

These are downloadable free from the Forestry Commission's Publications website.

**The Engage Trust's Tree Safety Management Policy conforms to, and does not exceed the guidance recommended by the NTSG.**

### The Engage Trust Estate

**1.1** This Tree Safety Management Policy outlines the base level inspection regime required for trees in Engage Trust ownership.

**1.2 1.3** The inspection of privately owned trees within falling distance of Engage Trust property is referred to in Appendix 4.

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**1.4** The Engage Trust's estate will cover all school establishments

**1.5** The Engage Trust will have a designated responsible officer whose duty will be to ensure that the correct procedures are followed to fulfil the policy requirements.

**1.** The documents demonstrate how the inspection regime will be achieved for the land The Engage Trust is responsible for.

**1.7** Adequate records of tree inspections will be retained and there will be an adequate budget available for ongoing tree maintenance as a result of the inspections.

### **2. 1 Planned tree inspections**

Planned tree inspections will be carried out by a suitably qualified arboricultural consultant (LANTRA Professional Tree Inspector) every two and a half years.

LANTRA Professional Tree Inspection – is an advanced level of tree assessment by a proficient and experienced Arboriculturalist. They should have a detailed knowledge of tree biology, mechanical weaknesses, pathology, legislation and remedy options to reduce the risk.

Inspection will take place using Visual Tree Assessment (VTA) which is a formal method of tree diagnosis that is in common use worldwide and legally accepted. It is a systematic process for assessing trees for defects, predicting the likelihood of failure and prescribing risk mitigation. It is a methodical process of inspecting trees, identifying defects such as structural faults, fungal decay or physiological decline. VTA interprets the external 'body language' of a tree and relates this to potential internal defects and to the trees own repair mechanisms. Trees strive to maintain uniform stress distribution over their outer surface. If this uniform stress is disturbed by locally high loading, due to factors such as abnormal growth, structural fault, cavity or decay, then the tree will lay down thicker annual rings at these weakened locations. Conversely, if it is locally under loaded, it will make less incremental growth. Consequently, the structure and form of a tree is a record of its loading history or a 'biography' in wood. Trees cannot remove wood once it has been formed and cannot erase its past. The art of effectively interpreting the 'body language' of trees requires good observation skills, experience and specific training.

Among the things the inspector will look for are:

- Fungal fruiting bodies (at the base or on the trunk and branches)

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- Dieback of the crown – i.e. foliage not dense, foliage not the right colour or size
- Dead branches
- Dead trees
- Detached branches, hanging branches or branches lodged within the canopy
- Compression forks
- Cracks and splits
- Major or numerous cavities
- Dead bark
- Significant bulges
- Evidence of root damage or severance
- Presence of ivy and its significance
- “Bleeding” areas and fluxes

### 2.2 Reactive Tree Inspections

In addition to the planned inspections detailed above, there are situations where reactive Tree Inspections will be carried out. These could be routine inspections as a result of complaints, concerns and enquiries or as a result of damage to a tree or its root system from accidental or environmental causes. Please refer to Appendices 1 and 2 that detail the Council’s policies on pruning and felling trees, wildlife and legal constraints.

### 2.3 Emergency tree inspections and High Winds

Each Engage Trust area must have a procedure in place to respond to emergency situations such as gale force winds. It will be necessary for sites to be inspected after high winds for windblown or potentially hazardous trees, particularly if the sites are not being regularly visited by officers for other reasons. Please refer to the high winds guide on [www.schools.norfolk.gov.uk/view/NCC097317](http://www.schools.norfolk.gov.uk/view/NCC097317) and the school’s website for more information.

## 3. MANAGING RISK AT AN ACCEPTABLE LEVEL

### Keeping records

The Engage Trust will keep records, including tree reports, schedules, and maps, that provide the basis for most tree safety management systems. In the rare event of an accident, these records can demonstrate that the Engage Trust has met a key

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component of their duty of care. Other useful ways of demonstrating reasonable assessment and management of trees include recording work schedules and when the tree work has been carried out.

The planned tree inspections will identify:

**a) Immediate risks**

Immediate risk of serious harm, is a risk of such immediacy and consequence that urgent action is required. In most cases, immediate risks are likely to be clearly identified in the course of informal observation or formal inspection and must be dealt with immediately, whether by means of tree work, eg felling or pruning or through site management. For example, where a large tree is found with an obviously lifting root plate within falling distance of a busy road, the response may involve initially stopping or diverting traffic, then felling.

**b) Non-immediate risks**

Risk of serious harm in the near future is non-immediate and can be reasonably managed at an acceptable level by a planned, cost-effective response. Once a defect has been identified, the mitigation response may involve prioritised treatment of the tree or site to manage the risk within the near future, or further specialist assessment is required to clarify the extent of risk and prescribe treatment.

**c) Risks not requiring a response in the near future**

Where trees are identified as not posing a risk in the near future, there is no specific requirement for additional management. Some none risk abatement recommendations (general maintenance) may be given to improve the overall condition of the trees. Existing informal or formal inspection procedures should continue.

**d) Special Trees**

Important trees that the Engage Trust want to retain, e.g. for heritage, habitat or visual amenity, which present a notable risk, are likely to require more specialist, detailed inspection and specialised treatment to manage the risk without serious loss of the benefits that the tree provides.

#### **4. TREE DEFECTS**

A tree's shape and form is governed by the laws of mechanics, as with any structure. However, trees are also dynamic and lay down tension and compression wood to compensate for weight and wind loading. They also produce reaction wood in response to decay or structural weaknesses. In fact, trees have evolved to have excessive mechanical safety factors in order to cope with extreme weather conditions.

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Trees are also naturally shedding organisms and regularly drop twigs, branches and occasionally larger limbs as part of the natural growing process. A tree's structural integrity can also be compromised by defects, for example, structural faults or biological factors such as fungi, bacteria and viruses which all influence wood strength at a cellular level. Trees can also be impacted by environmental influences such as wind, flooding, pollution, compaction and physical damage. They are particularly susceptible to sudden changes in their local environment, particularly, during site development and construction work.

### 5. HAZARD AND RISK

**Hazard** – A hazard is something that can cause adverse effects. With regard to trees, a hazard is the tree part(s) which have been identified as a likely source of harm.

**Risk** – Risk is the likelihood of an event happening in relation to the severity of the potential consequences. In the context of trees, it is the likelihood of an identified hazard impacting on a target and causing harm. Harm is the consequences of the impact and can be personal injury, property damage or disruption to activities. The categorisation of the level of risk is based upon the tree inspector's knowledge, experience and training. Risk is based upon the likelihood of hazard failing within a specified period of time. The time period should be from the day of assessment until the prescribed time for re-assessment.

### 6. TREE RISK ASSESSMENT METHOD

This Tree Risk Assessment method employed by the tree inspectors for the Engage Trust comprises of four separate elements which are initially considered independently. An evaluation and comparison of these elements is then used to aid the decision-making process and standardise the risk assessment process. These elements comprise of the.

- **Hazard** - Part of the tree considered most likely to fail or influence a situation and cause harm.
- **Risk** - Likelihood of an event happening and the severity of the potential consequences.
- **Size of Hazard** - Size of the part of the tree likely to impact on a target.

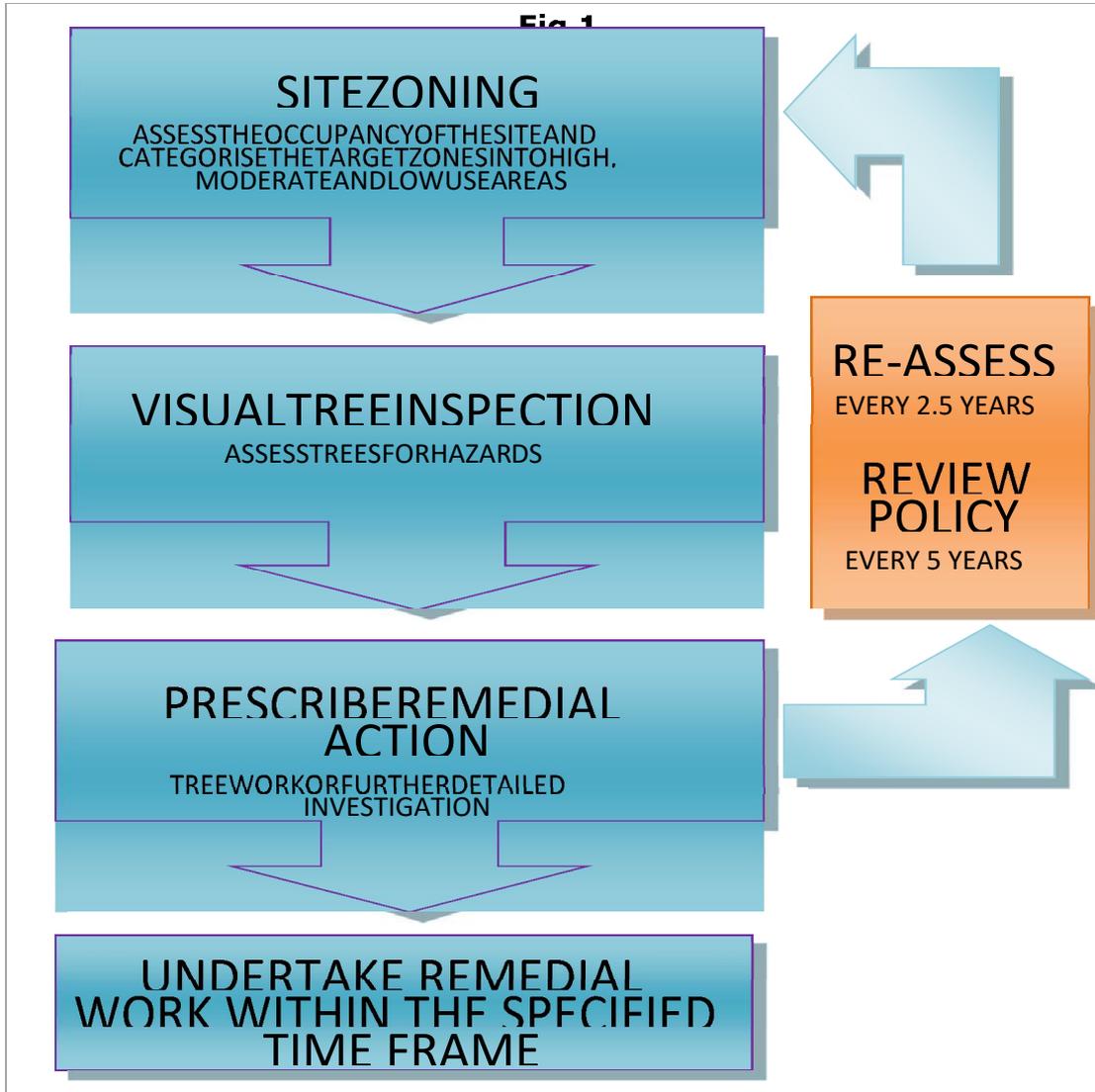
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- **Target Zone** - The area that could be affected by a tree failure and the perceived occupancy rate of that area. Targets include people or property that could be harmed or disrupted by a tree failure.

These four elements are equated to calculate the Priority Code for remedial action to abate the risk.

7. DIAGRAM OF TREE ASSESSMENT



**PROCESS**

8. DIAGRAM OF TREE HAZARD RISK ASSESSMENT METHOD



**Appendix 1**  
**Engage Trust's Tree Management Guidelines**  
**Tree Management Objectives**

The Engage Trust will: -

- Protect, maintain and enhance Norfolk's tree population as part of the wider green infrastructure, for the benefits it provides to residents and visitors.
- Increase awareness of the values of trees
- Encourage best industry practice through planning legislation and adherence to the relevant British Standards and National Guidelines
- Support real jobs in local businesses by promoting local tree surgery companies

**1. Felling**

No live tree is to be cut down without seeking agreement with the Premises Team. The Engage Trust will retain trees for as long as possible where it is safe to do so and will avoid felling trees unless it is absolutely necessary. Each case will be carefully judged on its merits. Tree felling will not be permitted for individual healthy trees of amenity value unless there is very clear justification for the work.

Felling is unlikely to be recommended in the following circumstances

- i. To improve television or internet signals
- ii. To improve the energy capture of solar panels
- iii. To allow more light into properties
- iv. Due to nuisance caused by honeydew from aphids
- v. Due to nuisance caused by falling leaves, flowers or fruit
- vi. Due to nuisance caused by pollen
- vii. Due to nuisance caused by bird droppings
- viii. Due to minor structural damage to non-supporting structures such as garden walls
- ix. Where tree roots have entered sewers (tree roots rarely break drains, but roots will enter a broken or damaged drain)
- x. To allow the construction of a new access or driveway to a property
- xi. If the tree is considered by a member of the public to be too big or too tall

The following are situations where felling **may** be recommended:

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- xii. A dead, dying or dangerous tree that is a danger to public safety
- xiii. A tree causing an obstruction to a public highway, public right of way, access to property or footpath, where the obstruction cannot be overcome by pruning the tree or other reasonable measures
- xiv. A tree causing a legal nuisance to an adjoining property, where pruning would not address the problem. A “legal nuisance” is one that is actionable in law and a tree cannot be a “legal nuisance” to its owner. Felling is acceptable only when the nuisance is severe and where pruning would not remedy the problem
- v. A tree which is shown to be a major contributor to soil shrinkage and serious structural damage to buildings, where pruning alone would not provide a solution. Damage to walls or paving is generally relatively minor and removal of the tree would not necessarily be acceptable. Structural problems must always be carefully investigated, particularly where there is the possibility of a potential claim against the Council. Private owners who consider that Council owned trees are causing damage to their property will be expected to provide an independent Structural Engineer’s Report that demonstrates that a particular tree is causing damage
- xvi. A tree which is clearly of a size and species inappropriate to its location

### **2. Replanting**

- i. Any tree that is felled must be replaced with one or more new trees of an appropriate species. The number of replacements will be at the discretion of the Engage Trust but would generally follow the rule of a 1 for 1 replacement of young and semi-mature trees, 2 for 1 for medium sized trees and 3 or more replacements for mature trees. The species and location are to be agreed with the Trust PHS Committee. The new tree or trees do not have to be replaced in exactly the same site as the original. This will depend on the site characteristics and usage and the presence of services above and below ground.
- ii. The replacement tree will receive at least 3 years’ establishment maintenance to include formative pruning, stake and tie adjustment, weeding and at least 2 years watering.
- iii. iv. All tree planting and young tree maintenance will be specified in accordance with the British Standard BS8545 (2014) Trees: from nursery to independence in the landscape
- v. Where the removal of trees or hedges has been approved to facilitate a development, the developer will be expected to provide a landscape plan showing adequate mitigation

planting and a 5 year planting and maintenance specification in agreement with the Premises Team

vi. The Engage Trust encourages planting of native trees and trees of local provenance where appropriate, particularly in rural areas and on designated sites. However, resilience to climate change and pests and diseases will be an increasing consideration when selecting planting stock. It will be important to diversify the number of genera within tree populations to ensure that new diseases that attack a particular species or genus (such as *Chalara fraxinea* - Ash Dieback) do not decimate a whole area. Reference tools are available to help landowners make their tree populations more resilient such as the Forestry Commissions Ecological Site Classification Decision Support System (ESC-DSS). These tools can be used by the County Council to assist in species choice

### **3. Tree pruning**

Pruning trees will not be carried out if it is not necessary, since any cutting can weaken the tree and allow decay organisms to enter exposed and vulnerable tissue. Over-pruning of a healthy tree will usually cause it to respond by producing vigorous new growth. In certain species the harder the pruning, the more vigorous will be the re-growth. Older trees do not tolerate pruning as well as younger ones and substantial pruning can be very damaging particularly in species which are not naturally tolerant of cutting.

Tree pruning will not be permitted where the tree is of high amenity value and there is no justification for the work. Work will also be resisted if the tree has been pruned during the previous 2 years, unless there are special circumstances. As with felling, each case will be carefully judged on its merits.

The following are situations where pruning works are likely to be recommended:

- i. Where tree branches are causing an obstruction to or growing low over a public highway, public right of way, footpath, access to a property, over gardens or open spaces where the public have access. Generally, a minimum clearance of 2.4 metres will be maintained over pedestrian accesses and 5 metres over the highway
- ii. Where trees are causing an actionable nuisance to an adjoining property (e.g. physically in contact with buildings, roofs, walls and fences)
- iii. Where it is proven that trees are contributing to soil shrinkage and structural damage to adjacent buildings or other built features, where it is felt that pruning is appropriate to restrict the size and moisture demand of the tree

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- iv. Where trees restrict repairs and maintenance of property, or authorised construction work
- v. Where trees give rise to justifiable fears about the risk of crime or where trees have provided access and/or cover for criminal acts, vandalism and harassment of local residents
- vi. Trees growing close to and likely to obstruct or interfere with street lighting and other services equipment
- vii. Where trees obstruct highway and other signage or are likely to do so
- viii. Where trees obscure sight lines at road junctions and accesses
- ix. Where trees obstruct essential police or council-monitored CCTV surveillance cameras or are likely to do so
- x. Where trees need formative pruning to ensure the desired form and to correct structural faults
- xi. Where trees require removal of diseased material and removal or stabilization of dead wood
  
- xii. Where trees require pruning to remedy storm damage, mutilation or vandalism to make them safe and encourage a good crown structure
- xiii. Where coppicing or similar silvicultural operations are required to maintain or develop woodland or groups of trees in accordance with an agreed management plan

### **3.1 Standard of Pruning**

All pruning of the Engage Trust's trees will be specified and must be carried out in accordance with British Standard BS3998:2010 Tree Work Recommendations.

### **3.2 Timing of pruning**

Research has shown that it is better to avoid pruning at times when trees are expending the most energy at bud burst and leaf fall. Due to the number of trees that will require pruning in a year, and taking account of wildlife legislation (Appendix 5), this may not always be achievable for all of the Engage Trust's trees. However, where trees are particularly vulnerable, the timeframe for pruning can be adjusted. Certain species such as maples and birch bleed when they are pruned in late winter to early spring. Although bleeding is not thought to be immediately detrimental to the health of a tree, repeated bleeding may reduce vigour, so pruning at this time should be avoided. Walnuts also have a tendency to bleed profusely when pruned and are best pruned in summer when they are in full leaf. Trees in the Rosacea family, particularly cherries and plums, are

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susceptible to a fungal disease called Silver leaf (*Chondostereum purpureum*) that can cause death of branches and often the whole tree. Infection is via fungal spores landing on pruning wounds. These trees are therefore best pruned in the summer when spore numbers will be at their lowest.

### **3.3 Height Reductions and Topping**

The Engage Trust will not specify height reductions of trees unless required to ensure the structural stability of a tree that has sustained damage or has root or branch decay that would lead to failure. “Topping” to reduce the height of trees is considered bad practice as it creates large diameter wounds that decay down into the main branch structure. Many species such as beech and birch do not tolerate such heavy pruning and are likely to fall into serious decline or die as a result. If trees survive topping, they tend to produce a large amount of re-growth to restore their energy production through the leaves. The re-growth is often crowded and has weak attachment points and tends to break when it is windy. This increases the risk posed by the tree and increases the amount that has to be spent on maintenance into the future.

The International Society of Arboriculture has produced the guideline entitled ‘Why Topping Hurts Trees’

### **3.4 Pollarding**

This is the practice of removing branches at a set height above ground level (often 4 to 6 metres) to promote a dense head of foliage. In the past, the re-growth was used either as animal fodder or wood, depending on the length of time between cutting. The height of cutting prevented grazing damage of the new growth. True pollarding is a practice that has to be carried out to trees from an early age; however, similar growth forms can be created by cutting or topping older trees, but can lead to decay as stated above.

## **4. Root pruning**

- i. No root pruning is to be carried out without full consultation and agreement with the Premises Team. Cutting tree roots is highly undesirable and root pruning will only be agreed if all other alternative options have been considered and that pruning will not compromise the health and structural integrity of a tree. Pruning of buttress and main supporting roots can make a tree unstable. Severance of more than 30% of a tree’s root system is likely to cause slow dieback and eventual death of a mature tree
- ii. Where a tree root is causing damage to a footway and repairs are necessary, the path level should be raised to accommodate the tree roots. Where repair cannot be carried

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out by building up the footpath to remove the trip hazard, the Premises Team must be consulted so that a solution can be achieved that will not compromise the tree's structural integrity

iii. If agreed with the Premises Team, root pruning must be carried out by a tree surgeon

iv. Although removal of roots less than 25mm in diameter is acceptable, removal of a substantial area of these roots around a tree will adversely affect its ability to take up sufficient water and nutrients to maintain its health. Therefore, under these circumstances, guidance must be sought from the Premises Team

### **5. Tree Contractors**

i. It will be stipulated on all tree works orders that the tree pruning must be carried out in accordance with BS 3998:2010 Tree Work - Recommendations.

In rare cases where this is not achievable, the Premises Team will specify how the pruning should be carried out

ii.

### **6. Wildlife and Biodiversity**

i. Veteran trees on Engage Trust owned land will be identified by the Tree Inspection officer. Details will be sent to Norfolk Biodiversity Information Service (NBIS).

ii. Dead trees – where the risk posed is low, dead trunks that are upright and stable will be reduced and retained as wildlife habitats to promote biodiversity.

iii. Where feasible, felled trunks will be left in situ on the ground

iv. The removal of dead wood from a tree will be specified when essential for health and safety reasons. Where possible it will be recommended that dead branches are stabilised by shortening them to a point where they no longer pose a risk so that they can be retained as a wildlife habitat

v. Where site conditions allow, deadwood should be left on site below the tree

vi. Where possible branch wood will be retained on site and left stacked or in habitat piles for wildlife

vii. Pruning cuts to benefit wildlife will be specified where appropriate, for example in woodlands and natural areas. Contractors will be asked to carry out coronet cuts or allow natural tears to branches and standing stumps to encourage decay

viii. Cable bracing may be specified to reduce the risk of harm where a tree may have the potential to fail due to compression forks or decay. Non-invasive cabling techniques will be recommended in the majority of cases. Cable bracing is an expensive option that

does not remove the risk of tree failure and will usually only be recommended where a tree merits retention due to its cultural, wildlife or landscape value

ix. Ivy is beneficial for wildlife and biodiversity but obscures potential structural defects. Therefore, when it is growing on trees that need to be inspected its removal will be recommended.

### **7. Biosecurity and New Pests and Diseases**

The threat to our forest and woodland health from pests has never been greater. Trees and plants can be susceptible to a range of pests and diseases and only a small proportion of these are controlled under plant health legislation. Pest outbreaks can have serious implications for the impact on tree cover and ecosystem services provided by trees. In addition, there are cost implications for tree owners in terms of inspection, containment, control and eradication procedures.

Pests can be transported in material like soil or plant material or even casing or packaging. Some microscopic organisms are dispersed in water so the risk that these may be transmitted increases when conditions are wet. Fungal spores can be carried long distances in wind currents.

When a major pest or disease outbreak occurs it is likely to impact on everyone involved. For example, movement around the countryside may be restricted, operations and inspections could be stopped or extra work required responding to the crisis.

The Engage Trust currently has no contingency procedure in place for a major pest and disease outbreak; however, advice should be taken from National Guidance issued and from Defra and the Forestry Commission.

The biosecurity measures recommended by the Forestry Commission will be adhered to

## **Appendix 2**

### **Wildlife Legislation relating to trees**

- i. Before any tree work is carried out, an assessment will be made to determine whether a tree is likely to support European Protected Species (EPS), designated under the Conservation of Habitat and Species Regulations 2010 (referred to as the 'Habitat Regulations'), or protected under British law. The assessment to check for signs of protected species will be made by the Tree Inspection Officer. This will be based on current advice and training from Natural England, the Bat Conservation Trust (BCT) and the Forestry Commission
- ii. All 17 species of British bats are European Protected Species (EPS), of these 14 species are present in Norfolk and most can roost in trees. They are protected under Section 9 of the Wildlife and Countryside Act 1981 and Regulation 41 of the Habitats Regulations 2010. Guidance from Natural England on bats can be found at <https://www.gov.uk/guidance/bats-protection-surveys-and-licences>
- iii. The Habitats Regulations 2010 make it an offence to capture, kill or disturb an EPS, or to damage or destroy their breeding site or resting place, either deliberately or accidentally. According to the law, people carrying out pruning or felling of trees should be aware of the possibility of the presence of EPS and any disturbance or harm caused will be an offence. Note that bat roosting sites are protected even when no bats are present
- iv. Other species listed as EPS that could potentially use woodlands and trees in Norfolk are great crested newt and otter
- v. All wild birds in the UK, including their nests and eggs, are protected under the Wildlife and Countryside Act 1981. Some species have additional protection when nesting, for example barn owls. More information about the legislation can be found on the RSPB website
- vi. The British Standard BS8596:2015 Surveying for Bats in Trees and Woodland gives up to date best practice guidelines. Practical guidance has also been developed by the Forestry Commission, the Bat Conservation Trust and Natural England for woodland managers and operators on how to conserve EPS and how to modify operations to reduce the risk of anyone committing offences under the wildlife legislation. If activities cannot be modified, an EPS licence can be obtained from Natural England to carry out woodland operations that fall outside the Good Practice Guidance

### **Best Practice Guidance for Engage Trust**

vii. Data sets of EPS in Norfolk can be obtained from the Norfolk Biodiversity Information Service – email enquiries.nbis@norfolk.gov.uk Website www.nbis.org.uk.

viii. If possible, medium and low priority tree work should be done outside of the bird nesting season. The main nesting season is between 1 March and 31 July. If nests are known to be present, work should be delayed until the chicks have fledged. Where a tree is imminently dangerous, interim remedial works to make a tree safe or fencing a site or tree off may be acceptable to reduce the risk until fledging has occurred

ix. The optimum time to carry out tree work to avoid nesting birds and to avoid periods when bats are vulnerable is between September and November

x. Tree Inspection Officer will assess potential for bat roosts in trees and will refer to current records held by NBIS and BS8596:2015

xi. All tree surgeons will also be aware of the signs to look for to determine if bats are using a tree. However, bats may offer little or no evidence of their occupation

xii. The following statement must be attached to any emergency work order

**“Before any work is carried out, The Engage Trust requires that an assessment is made by the tree contractor as to whether there is the potential for the tree or the part of the tree affected to be used by nesting birds or a European Protected Species, particularly bats.**

**If birds are nesting, work must cease until the chicks have fledged.**

**If bats are found, or if there is evidence of a roost (e.g. the presence of urine staining), the Emergency Bat Helpline number must be called immediately – 0345 1300 228. The Engage Trust Premises Team must also be notified so that agreement can be reached on how to deal with the situation.**

**Where a tree is imminently dangerous, interim remedial works to make a tree safe or fencing a site off may be acceptable to reduce the risk temporarily.”**

### **Appendix 3**

#### **Guidance on other legislation relating to trees**

Before any work is carried out to a tree, it must be ascertained whether the tree is covered by a Tree Preservation Order (TPO), is within a Conservation Area or has conditions associated with a planning application. This information is available from the District Councils, although Norfolk County Council's mapping browser shows the locations of Conservation Areas. In addition, the presence of protected species using a tree must be considered. If trees are to be felled it needs to be determined whether a felling licence will be required (See Section 5 below). All of this information will be checked as a matter of course by the Arboricultural and Woodland Officers when a Professional Tree Inspection is undertaken.

#### **1. Tree Preservation Orders (TPOs)**

A TPO is an order made by a Local Planning Authority (LPA). In Norfolk TPO and Conservation Area legislation are administered by the District Councils. A TPO makes it an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy a tree without the LPA's permission. It is designed to protect trees which make a significant impact on their local surroundings. The law on TPOs is in Part VIII of the Town and Country Planning Act 1990, the Town and Country Planning (Trees) Regulations 1999 and the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008. The Act must be read in conjunction with section 23 of the Planning and Compensation Act 1991 which amended some of the TPO provisions in the 1990 Act and added four new sections.

#### **Trees in Conservation Areas**

Trees in Conservation Areas which are already protected by a TPO are subject to the normal TPO controls. But the Town and Country Planning Act 1990 also makes special provision for trees in Conservation Areas which are not the subject of a TPO. Under section 211 anyone proposing to cut down or carry out work on a tree in a conservation area is required to give the LPA six weeks' prior notice (a 'section 211 notice'). The

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purpose of this requirement is to give the LPA an opportunity to consider whether a TPO should be made in respect of the tree.

### **Useful links**

More information on TPOs and trees in Conservation Areas is available on the Communities and local government website <http://www.communities.gov.uk>.

The leaflet 'Protected trees: a guide to tree preservation procedures' can be downloaded from

<http://www.communities.gov.uk/publications/planningandbuilding/protectedtreesguide>

The book "Tree Preservation Orders: A Guide to the Law and Good Practice" (2000) provides ministerial guidance on TPOs and can be downloaded from

<http://www.communities.gov.uk/publications/planningandbuilding/tposguideaddendum>

## **2. Hedgerows Regulations 1997**

Hedgerows provide connectivity in the wider landscape, acting as wildlife corridors and are a valuable source of food, shelter and nesting sites. The Natural Environment Team provides advice to ensure hedges are managed to conserve their conservation value. Hedge cutting is carried out outside the bird nesting season and to leave seed and berries as a winter food source.

The Hedgerows Regulations protect important countryside hedgerows from being removed or destroyed. The Regulations stipulate the criteria that allow a local authority to determine whether or not a hedge is deemed to be "Important." Garden hedges are exempt from the Regulations. In Norfolk the Hedgerow Regulations are administered by the District Councils.

## **3. High Hedges**

In 2005, High Hedges legislation (Part 8 of the Anti-Social Behaviour Act 2003) came into effect that requires everyone with an evergreen or semi-evergreen hedge to consider the affect that the height of such a hedge will have on their neighbours. High hedges covered by the Act have to:

- Consist of a line of 2 or more trees or shrubs
- Be made up mostly of evergreen or semi-evergreen trees or shrubs
- Be more than 2 metres high
- Block out light or access to a residential property

In Norfolk, it is the District Councils who deal with complaints about high hedges.

## **4. Felling Licences**

It is unlikely that a Level 1 tree inspector will need to have detailed knowledge of felling licence legislation. It is sufficient to know that you only need a felling licence if you want to cut down trees containing more than five cubic metres of wood in any calendar quarter. There are exceptions to this rule which are set out in the Forestry Act 1967 and Regulations made under that Act. For example, you do not need a licence for felling trees in gardens. For more information, contact the Council's Arboricultural and Woodland Officers or the Forestry Commission

## **5. The Natural Environment and Rural Communities Act (2006)**

The Natural Environment and Rural Communities (NERC) Act 2006 places a duty on local authorities to have regard to the conservation of biodiversity in exercising their functions. The duty aims to raise the profile and visibility of biodiversity, clarify existing commitments with regard to biodiversity and make it a natural and integral part of policy

and decision making. The duty extends beyond just conserving what is already there to carrying out, supporting and requiring actions that may also restore or enhance biodiversity.

Section 40(1) imposes a duty to conserve biodiversity stating:

*“Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”*

Section 40(3) of the Act explains that

*“Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat”*

The County Council’s commitment to biodiversity is encompassed within the guidance of this Tree Safety Management Policy, particularly within Appendices 4 and 5.

More information on the NERC Act can be found on the Defra website

### **6. Sites of Special Scientific Interest (SSSIs)**

SSSIs are areas of land that are considered to be of special interest for their flora, fauna or geology. Sites are designated and administered in England by Natural England. The designation is intended to protect the particular interest of a SSSI from harm by development, damage or neglect. The Engage Trust would have to apply for permission to carry out any tree work in a SSSI and gain written consent from Natural England before proceeding with the work.

### **Planning Legislation**

#### **7. Planning Conditions**

Trees, hedges and landscaping schemes may be the subject of planning conditions that require a written application for work to be submitted to the administering District Council for consideration.

#### **8. Section 38**

A Section 38 Agreement secures the development of new estate roads on private land owned by a developer. The developer prepares detailed technical drawings which often include tree planting and landscaped areas. Once the tree and landscape details have been approved by the Natural Environment Team, the drawings are added to the completed Section 38 Agreement and used to supervise the construction works. The works are carried out by the developer entirely at their own expense. This is a Legal Agreement so everything has to be well documented and researched. Any anomalies

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encountered, whilst construction is ongoing, require a formal amendment to the plans appended to the Section 38 Agreement. Once the roads and the tree and landscape planting have been completed to the necessary standard, and the compulsory maintenance period successfully completed, the Engage Trust will adopt them.

#### **Appendix 4**

##### **Privately owned trees**

These are trees that are within falling distance of the highway or areas open to the public but are not owned by The Engage Trust. These trees do not fall within the scope of the Engage Trust's Tree Safety Management Policy as this inspection regime relates ONLY to those trees owned or managed by the Engage Trust.

- i. The safety of trees within falling distance of the highway is covered nationally by the Highways Act 1980. The Engage Trust inspector is expected to look for potentially dangerous trees that are within falling distance of the highway when carrying out their routine inspections
- ii. It is advisable for Level 1 Tree Inspectors, when looking at trees on the Engage Trust estate, to take account of neighbouring trees within falling distance of Engage Trust land. They should note any trees that may be of concern to them in the course of their planned inspection.
- iii. Owners are responsible for trees on their property and have a legal duty of care. "*This duty of care is to take reasonable care to avoid acts or omissions that cause a reasonably foreseeable risk of injury to persons or property*" (NTSG 2010). Best practice advice on fulfilling this duty is available from the National Tree Safety Group (NTSG). See page 4 of this Policy for the link to download the guidance documents
- iv. As a responsible land owner, the Engage Trust, through this Tree Safety Management Policy, has set up system of regular inspection and monitoring of its trees. We will encourage other large landowners to do likewise
- v. We will consider whether neighbouring trees are likely to pose any threat to members of the public. If we receive reports that a tree or trees are giving rise to concerns, we will carry out a reactive Level 1 or Professional Tree Inspection
- vi. Owners of any trees that are a potential nuisance or danger to the public or to public property will be asked to carry out remedial work. In the event of failure to carry out work, the Engage Trust can use statutory powers to implement essential works and recharge the costs to the owner
- vii. The Engage Trust has powers under the Highways Act 1980 and common law to ensure that members of the public are not put at risk when using its sites.
- viii. Owners of trees that are a potential nuisance or danger will be offered further advice