

Fences and trees – more queries

R asks what act of Parliament or local bylaw covers taking a neighbour to the Disputes Tribunal about overhanging branches.

The laws around trees and removal of overhanging branches or roots are not covered by legislation.

They have been developed by the courts over many different cases.

The Disputes Tribunal Act 1988 outlines what cases can be taken there. The limit is \$15,000, which can increase to \$20,000 by agreement.

There are bylaws and legislation regarding protected and native trees, though, so you need to be extra careful with those.

W asks if the local council is required to pay half the costs of a fence when the property joins a walkway between two roads.

Usually councils are not required to contribute towards the costs of a boundary fence between council land and a neighbouring property.

This is generally recorded in a fencing agreement or fencing covenant, which will be registered against the title for the property.

This carries forward to all owners of the property.

Check the title to confirm that this is registered on the title.

P asks for advice about repairing a fence blown over in a storm. Who is responsible for the costs and how is this arranged?

Neighbours should share equally in the costs of repairs. Discuss the issue with your neighbour and try to reach agreement.

If no agreement is reached, then get a quote for the repairs and do a fencing notice with the cost of the fence, specifying work to be done, and so on.

If the neighbour still will not agree, you can file a claim in the Disputes Tribunal or court (depending on the cost of repairs).



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blowing in from her neighbour's trees and roots coming across the boundary.

Roots may be cut off at the boundary line and returned to the neighbour's property.

Be careful not to damage any property when placing the roots over the fence on to the neighbouring section. Leaves and seedlings may be returned to the neighbour's property, but it is difficult to prove that the leaves are from the neighbours and not from somewhere else.

Returning piles of leaves may create more problems than it is worth.

T asks about a neighbour growing plants (ivy) on the fence between them and whether she can stop this.

Neighbours can grow plants on their side of any fence that is on the boundary. If the plants come through to your side, you can cut them off on your side. If you do not want ivy growing at all (because of the look, the damage caused to the fence or the wasps attracted), speak to your neighbour to try to reach agreement. If no agreement can be reached, you can apply to the Disputes Tribunal to stop damage being done to the fence by the ivy or the ivy coming through on to your side of the fence.

You can remove any plants planted or growing on your land if the fence is on your property and not the boundary.

■ Column courtesy of Rainey Collins Lawyers, phone 0800 733 484. If you have a legal inquiry you would like