

# Neighbours at war

**I seem to have endless problems with my neighbour over his trees. What are my rights and obligations?**

Whether it is trees blocking your sun or your neighbour's trees damaging your garage, the likelihood of problems arising when people live in close proximity to each other is high.

Often the dispute arises when trees are starting to block a neighbour's view.

A landowner has the right to the ordinary use and enjoyment of land as long as it does not unreasonably interfere with neighbours.

There is normally no legal right to a view, so a neighbour allowing trees to block your view is probably not acting unreasonably. You would be unlikely to be able to have the trees removed or topped.

However, you might be able to have the trees trimmed because they were blocking the sun. If the shading was serious enough, it could very likely amount to an unreasonable interference with your enjoyment of your property.

Another common cause of concern is that a neighbour's



## LEGAL MATTERS

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tree seems like it might fall onto, and damage, your property.

Again you are likely to be able to have it removed. It is likely that it amounts to what legally constitutes a nuisance.

You are entitled to prune branches that overhang your property and to cut overhanging branches and roots back to the boundary.

However, in some cases trees are protected under district plans, so you should check with your local council first.

Your neighbour owns the cuttings, and you are entitled to ask for them to be removed.

You are also entitled to put them back on to the neighbour's property, but if you do this you should be careful not

to cause any damage.

Having a discussion with your neighbour beforehand is always best if it is practicable.

The issue of overhanging fruit is a different case.

All fruit remains the property of the tree owner, even if it naturally falls on your land.

In practice, however, it is common for neighbours to be fairly lenient about this.

Without agreement otherwise, you will have to pay for cutting back branches on your side.

Where a tree on your neighbour's property actually damages your property, the neighbour should pay for making good the damage.

Usually some civilised and reasonable discussions between you should result in a solution or compromise, but it pays to know what your rights are before you agree to anything.

■ Column courtesy of Rainey Collins Lawyers. Phone 0800 733 484. If you have a legal inquiry you would like discussed in this column, email [aknowsley@raineycollins.co.nz](mailto:aknowsley@raineycollins.co.nz).