



## Estate Services

# Tree Policy

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| <b>Regulation and Legislation</b>  | <p>This policy links to, Health and Safety at Work Act 1974 and the Occupiers Liability Acts 1957 and 1984. RSH Neighbourhood &amp; Community Consumer Standard 1.1 (Neighbourhood Management); Homes Community Standard 1.2 &amp; 2.2.1 re repairs &amp; maintenance</p> <p>Orbit as tree owners and the duty holder have a statutory duty of care under this guidance and legislation, Environment Act 2021, Forest Research, Defra, Forestry, Industry Safety Accord (FISA), industry Code of Practice 'Tree Work at Height', The Plant Health (Forestry) (Amendment) Order 2012 Biosecurity, BS 5837, BS3936, Town and country planning act 1990, The Wildlife &amp; Countryside Act 1981, British Waterways Act 1995 Railways Act 2005, The Highways Act 1980, Criminal Damage Act 1971</p> |
| <b>Supporting documents</b>  | <ul style="list-style-type: none"><li>• Design Standards Strategy</li><li>• Environmental Policy</li><li>• Estate Inspection Procedure</li><li>• Estate Services Procedure</li><li>• New Build Residential Policy, Procedure and Standards</li><li>• Orbit Earth Environmental Programme</li><li>• Sustainability Strategy</li><li>• Tree Management Procedure</li><li>• Urban Design &amp; Placemaking Policy, Procedure and Standards</li><li>• Validation, and application list</li></ul>   |
| <b>Scope</b>   | <p>How Orbit will manage trees located on Orbit owned, open, communal land as well as those trees in individual gardens, or private owned gardens. This policy also applies to all new developments.</p> <p>The contents of this policy may be subject to revision from time to time.</p>  |
| Reference to "Orbit" means Orbit Group which consists of Orbit Group Limited, Orbit Housing Association Limited, Orbit Homes (2020) Limited, Orbit Treasury Limited and Orbit Capital Plc. |  |

## 1. Introduction

- 1.1 The overall aims of the Tree Policy are to ensure the health and safety of the trees managed by Orbit, and to encourage biodiversity; maintain and improve landscape quality; and through these elements, improve the quality of life for residents and visitors to neighbourhoods managed by Orbit now and in the future.

- 1.2 Orbit is committed to providing and maintaining a high-quality environment for its residents; this includes the provision of a healthy and abundant tree stock. In line with Orbit's Urban Design and Placemaking Policy, ecology and biodiversity are integral to public realm, green infrastructure, and open space design of any development. Urban greening contributes to residents' well-being and if well thought-out can contribute to creation of habitat for wildlife. Orbit's aim is to increase tree cover on new development sites and throughout its estates in line with Orbit Earth's 30/30 approach.
- 1.3 Orbit recognizes its trees as an asset. However, in the wrong place, trees can be a nuisance, and if they become diseased or decayed can sometimes pose a risk to safety. A careful balance must be struck between maintaining enough trees in the right places to provide the benefits that trees offer; minimizing the risk of harm and avoiding the damage or nuisance that they can pose.

## 2. Policy Statement

- 2.1 Orbit will comply with Tree Preservation Orders (TPOs), felling license requirements, legislation, best practice and health and safety guidance in relation to the management and checking of all 'green' spaces and trees that are its responsibility. Orbit will not fell or cut trees unless they pose health and safety risks.
- 2.2 Delivered as part of the Environment Act 2021, changes to the Forestry Act 1967 will deliver more proportionate, impactful, and enduring enforcement options. The key changes are:
  - Felling trees without a felling license, where one was required, will carry the penalty of an unlimited fine – up from the current limit of £2,500 or twice the value of the trees felled.
  - Failure to comply with a Forestry Commission Enforcement Notice and a subsequent court-ordered Restocking Order (meaning any trees felled must be replanted) will put offenders at risk of imprisonment, in addition to an unlimited fine.
  - Restocking Notices and Enforcement Notices will be listed on the Local Land Charges Register, making them visible to prospective buyers of the land – potentially reducing the land's value.
- 2.3 Orbit will hold data of communal trees and those reported to us that are in the boundary of homes owned by us. We will ensure this is maintained detailing dates surveys and inspections that have been and are due to be carried out. To enable this, a new Tree Management System is to be procured imminently.
- 2.4 Surveys and all inspections and works will be carried out by qualified and accredited arboriculture specialists

### 2.5 Emergency work to dead or dangerous trees

- Orbit will undertake emergency work to make trees safe, (where there is an imminent danger of damage being caused to persons or property). For the purposes of this policy, an imminent danger is where a tree or a substantial part of a tree is about to fail at any moment. Such situations might include one or more of the following:
  - Root plate moving

- Extensive trunk decay with buckling evidence
- Extensive root decay with signs of fracture
- Catastrophic root damage
- Failure of a major fork (split trunk or major limb)
- Crack or cavity in a major branch (above 150mm in diameter) with insufficient safety reserves to prevent the branch from failing

## 2.6 Desired tree work and pruning back to boundaries

- An application for any work to be carried out to Orbit's trees is formally required. This applies to customers, staff and members of the public. Requests can be submitted via Orbit's website or staff can access the application via the internal intranet. The Tree team will review all applications received.
- Under Common Law, landowners have the right to prune branches or encroaching roots that overgrow their boundary line. Landowners do not require the tree owner's permission to do this unless the trees are protected by Conservation Area status or a Tree Preservation Order.
- Those exercising their Common Law right, should provide an application to Orbit's tree team to seek professional Arboricultural advice to ensure no trees become disfigured or unsafe. Failure to comply with this process will be seen as vandalism with risk of prosecution.
- In some cases, Orbit may give permission for neighboring landowners or residents to prune their trees. However, the works must be agreed in advance with Orbit's tree team, who will issue written permission, as part of the application process.
- Works should be carried out by a reputable tree surgeon to "British Standard (BS3998) 2010 Tree works – recommendations".
- Any safety related issue, regardless of the tree's location will be the responsibility of the tree owner known as the duty holder.
- Desired work will be service chargeable and at the discretion of the tree officer based upon each application's individual merits.

### Orbit may receive requests to prune or fell trees due to nuisance issues. This can include:

- The shading of gardens
- dropping of leaves/twigs/seeds
- branches over hanging boundaries
- bird mess on cars and patios
- and interference of TV or radio reception.
- Permission will not normally be given to remove trees because of these reasons. However, Orbit recognises that there may be occasions where the relationship of a tree to a property causes excessive problems significantly affecting quality of life. In such exceptional circumstances, where Orbit's customer or neighbour's right to reasonably enjoy their property is significantly affected, permission may be given to remove a tree.

- **High Target areas** - Identifying high target areas and green infrastructure is the first stage of evaluation, an initial base line survey is required. Most of Orbit's trees are in high target areas, next to buildings, roads, or public areas. Very few trees are in low target areas. An Initial safety inspection is required to identify all high target area trees followed by zoning.

### **Identifying high target areas - consider:**

- Any building or outbuilding
- Roads, Footpaths, or desire lines
- Any property, vehicles, or bikes
- Boundaries, walls, fences
- Utilities, underground and over ground service

### **Inspection stages:**

- **Zoning:** evaluating tree stock in relation to proximity to people or property
- **Tree inspection:** assessing obvious tree defects
- **Managing risk at an acceptable level:** identifying, prioritising, and undertaking safety work according to level of risk.

The main aim of the inspection is to identify trees which pose a risk to people or property, but other management issues are also identified such as obstruction to paths, roads street signs, street lighting and where branches physically touch fences and buildings. The tree survey records the works required and when they need to be carried out according to the priority.

## **2.6 Trees and New Developments**

- Orbit is committed to continuously improve the way that tree, biodiversity, and landscape issues are considered in relation to new developments.
- In line with Orbit's Design Strategy and supporting policies and procedures, full consideration is given to both the retention of existing trees and the planting of new ones. Orbit will consider the ultimate mature size of the tree, available space and the relationship to buildings when designing layouts to avoid causing future relationship issues.
- Orbit will continue to provide planning applications that consider the advice and guidance contained in the latest version of British Standard BS 5837 (Trees in relation to construction).

## **2.7 Tree planting**

- Orbit will work with customers and the community to identify suitable areas and appropriate species for planting as part of delivering improvements in greenspace.
- Planting of trees within communal spaces is not permitted without prior permission from

Orbit, any such requests should be directed to the Tree Team.

- Where Orbit removes trees, it will plant replacements when and where it is appropriate to do so and carry out a programme of maintenance to ensure that they are given the best start possible. Replacement trees may be replanted in alternative locations to where trees have been removed. In addition, where protected trees have been removed Orbit will require the planting of replacements. Orbit will identify opportunities to secure funding to deliver new tree planting and establishment where possible.

## 2.8 Trees and Buildings

- Subsidence occurs on highly shrinkable clay soils. It is caused when the soil supporting some or all of a building dries out and consequently shrinks which results in part of a building moving downwards. Trees, like all plants loose water from the leaves through transpiration but they are usually able to balance this loss by taking water from the soil by the roots. However, if a tree takes more water from the soil than is replaced by rainfall the soil will gradually dry out.
- 'Heave' is the opposite of subsidence and occurs when shrinkable clay soil rehydrates and begins to increase in volume, which results in part of a building being pushed upwards. Heave can also cause damage to buildings and is just as undesirable as subsidence.
- Orbit's Customers and private homeowners who suspect that their home is being impacted by either subsidence or heave should contact Orbit so this can be investigated. Building Insurers should also be notified.
- To protect Orbit's interests and speed up the processing of claims, Orbit will manage and process subsidence claims for trees in accordance with the London Tree Officers Association (LTOA) Risk Limitation Strategy where appropriate.

## 2.8 Tree Vandalism

- Orbit will investigate any reports of vandalism on Orbit's estates and properties and try to correct any damage where we can. Orbit encourage local communities to report incidents of vandalism and we will consider taking legal action where witnesses have been prepared to come forward.

## 3. Data retention

Documents and data will be retained as necessary to comply with statutory and legal requirements. The Head of Property and Estates Management is responsible for ensuring that any data etc. is held securely and is disposed of in an appropriate and timely manner.

## 4. Roles and Responsibilities

- 4.1 The Head of Property and Estates Management is responsible for the delivery of the policy including responsibility for the performance management and internal control of the policy.

- 4.2 The Tree team is responsible for day-to-day service delivery
- 4.3 The Group Contract and Standards Manager is responsible for overseeing the day-to-day service delivery

## **5. Performance Controls and Business Risk**

- 5.1 This section will be revised following the establishment of a Tree Management System to enable the recording of the number of species, location, or condition of trees within Orbit owned land. Until the new Tree Management System has been procured alongside recruitment of qualified Arboriculturists it is acknowledged that there is minimal information captured relating to tree works undertaken. The design stage of the new system is essential in minimising risk and potential court claims.
- 5.2 Investigations are currently carried out on the condition of trees on an ad hoc basis, usually identified at the point of a potential Health and safety risk and/or a structural issue. The focus is on trees that are dead or dangerous, so there is no forward planning for the health or condition of trees. This area will be enhanced including the frequency of tree stock surveys. Periodic checks will be carried out and documented by the Property and Estates Management Teams as part of general estate management.
- 5.4 Monthly meetings with Orbit's Tree Contractors will ensure planned works are on schedule and additional works are being completed to minimise risks to the public and Orbit's liabilities.
- 5.5 A Tree Management Budget is to be established and regularly managed throughout the year.
- 5.6 Orbit will carry out a fundamental review of this policy every three years subject to legal, regulatory changes or in accordance with the agreed Policy Review programme.

## **6. Essential information**

- 6.1 All Orbit policies and procedures are developed in line with our approach to the following, data protection statement, equality diversity and inclusion (EDI) approach, complaints policy and our regulatory and legal obligations to ensure we deliver services in a lawful manner and treat people equally and fairly. Orbit's privacy policy can be accessed on our website [www.orbitcustomerhub.org.uk/publications/policies/](http://www.orbitcustomerhub.org.uk/publications/policies/)

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| <b>EA</b>           | An Equality Analysis was completed in April 2023. The risk was categorised as minor with no action required at this time  |
| <b>DPIA</b>         | A DPIA is to be completed alongside the Tree Management Procedure when it is reviewed during 2023/24. The DPIA will also apply to the new Tree Management system. |
| <b>Consultation</b> | <b>Internal:</b> Orbit Homes, Orbit Health & Safety team, Environmental Sustainability, Insurance team.   |
|                     | <b>External:</b> Customer's will be consulted alongside the review of the Tree Management procedure.  |
| <b>Applies to</b>   | All Orbit   |

## Document control

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|--------------------------------------|--|---------------------------------|
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|                                      |  |                                 |

## Revision History

| Version Number | Date | Comments / Reason for revision   |
|----------------|------|--|
| v1.1           |      | The policy review date has been extended to the end of Q1 2026/27 in line with Orbit's Approval procedure to allow for team and process changes in line with Everyday Excellence. Approved by Wendy Edmonds, Head of Estate Services. The Tree Procedure has also been extended. |
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