



A code of practice for the inspection of trees



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Contents

1.0 Legal overview.....	6
2.0 Trees are an important natural resource.....	7
3.0 Assessing the risk.....	8
4.0 A structured approach to managing the risk	9
5.0 Tree Risk Assessment.....	11
6.0 Ash Dieback.....	12
7.0 Reactive inspections	13
8.0 Tree management by Portfolio and Service.....	14
9.0 Tree inspection and management along the Flintshire highway network.....	18
10.0 Powers to deal with trees reported as being dangerous	24
11.0 Arboricultural surveyor competencies	24
12.0 Protected species and duty under Section 6.....	24
13.0 Tree roots.....	25
14.0 Serious incidents.....	25
15.0 Reviewing the Code of Practice	26
15.0 Appendices.....	27

Introduction

This Code of Practice (CoP) sets out how the Council will inspect and maintain trees on the land it manages in accordance with its legal duties and best practice. The CoP should be read in the context of the Council's overarching strategy for trees contained in the Flintshire Urban Tree and Woodland Plan 2018-2033. This plan acknowledges the wide-ranging benefits of trees and sets out how the Council proposes to increase the county's canopy cover using a range of objectives, including managing trees sustainably, managing the risks associated with trees, promoting biodiversity and working in partnership.

The CoP aims to be proportionate, taking into account the low overall level of risk that trees present, and their value as an intrinsic and important part of Flintshire's landscape. The CoP also states how the Council will use its powers to deal with hazardous trees situated on land not belonging to the Council and how they may be identified.

The CoP incorporates current health and safety requirements, tree risk assessment methods and guidance, highway maintenance requirements and recent case law to ensure that the methods adopted are in accordance with current best practice. If there is a civil claim or investigation of an incident by the Health and Safety Executive, the CoP may need to be relied upon as evidence that the Council is managing its trees in a proper manner.

This document should be read in conjunction with the Ash Dieback Action Plan published in 2019 which outlines the main risks of the disease to the Council. The rapid spread of ash dieback and its implications for safety have highlighted the risks and the need to carry out Proactive Arboricultural Inspections where necessary.

The CoP is a working document that will be subject to modification to reflect changes to Service Level Agreements and duty holders' varied approaches to tree management covered in Chapter 8.

Glossary of terms

ALARP	'As Low as Reasonably Practical', a health and safety term used where the level of risk is judged to be low enough to be acceptable, and where further measures to control the hazard would be disproportionate to their cost.
Arboricultural Inspector	A person who carries out tree inspections and surveys and is proficient in the identification of tree hazards and assessment of tree risk.
Ash dieback	The fungal pathogen, <i>Hymenoscyphus fraxineus</i> , that is usually fatal to common ash. First recorded in Flintshire in 2016 and now endemic in the county.
Code of Practice	A set of agreed standards that people follow to do a particular job or task.
Council tree	A tree growing on land maintained or owned by the Council (e.g., parks, school grounds), including those on the adopted public highway.
Claimant	A person or organisation seeking to recover compensation for a loss that they have suffered, (e.g., due to a tree falling).
Defect	According to the National Tree Safety Group definition, (and used in this document), a defect in the context of the growing environment of a tree is a structural, health or environmental condition that could predispose a tree to failure.
Duty holder	In relation to trees, a person or organisation who owes a duty of care to visitors using the land containing trees or passing nearby. In nearly all cases this will be the owner of the land.
Frontager	A person who owns land fronting onto the adopted public highway.
Hazard	Something that has the potential to cause harm, which may or may not be tolerable or acceptable to society.
Hazardous	Something that is usually considered to present an unacceptable risk of harm.
Highway Authority	The organisation responsible for maintaining the adopted highway network. County roads are maintained by FCC and trunk roads are maintained by the North and Mid Wales Trunk Road Agent.
Highway network	The full extent of the road and street network, along with associated land maintained by the Highway Authority.
Highway tree	A tree growing on land maintained by Highway Authority.
Inspection	Used interchangeably with survey, although the term survey is usually confined to recording the condition of many trees in one event.
Occupancy (e.g. high, medium, low)	Describes the intensity of use by people and/or the presence of property within range of a tree, that could be harmed or damaged if a tree falls.
PAI	Proactive Arboricultural Inspection. A scheduled inspection or survey of trees in areas of higher occupancy zones
Proactive Tree Works	Tree works recommended in a routine survey as part of the ongoing management (cf. Reactive Tree Works).
Public Highway	Roads, streets, carriageways, footways, cycleways and other highway infrastructure used for travel.
Reactive Tree	Tree work required in response to a sudden tree failure usually

Works	following inclement weather.
Risk	The possibility that something bad or dangerous will happen.
Roadside tree	A tree on a frontager's land within falling distance of the highway.
SLA	Service Level Agreement
Section 154	The part of the Highways Act 1980 that allows the Highway Authority to serve notice on a landowner to make a dangerous tree safe and includes a provision for the Highway Authority to carry out the work in default and reclaim its costs.
Soft verge	Land that usually contains grass, wildflowers, trees, or shrubs that is maintained by the Highway Authority as part of its wider estate.
Streetscene Coordinators	FCC officers who, as part of their remit, have responsibility to ensure safety of the highway network.
Survey	See <i>Inspection</i> above.
Target	People or property that could be harmed or damaged by the failure of a tree.
Tree Risk Assessment (TRA)	The method used to assess hazard and risk to people and property caused by a tree or trees.
Tolerability of Risk (ToR)	A health and safety framework used to assess whether a risk is tolerable.
Zoning	A means of categorising areas of land according to their level of occupancy. Tree in zones where there is a high level of occupancy are prioritised for more frequent tree inspection.

1.0 Legal overview

1.1 Landowners are under a duty of care to “take reasonable care to avoid acts or omissions which cause a reasonably foreseeable risk of injury to persons or property”¹. Even though the law recognises that trees are dynamic living organisms, under the Occupiers’ Liability Acts of 1957 and 1984², a landowner’s duty of care extends to trees.

1.2 The organisation that controls the management of a tree, as owner or occupier of the land on which it stands, is the organisation owing the duty of care. The duty of care is owed to any person who can be reasonably foreseen as coming near to a tree and being harmed by its failure. Many of the premises maintained by the Council are publicly accessible and contain trees within their grounds. The Council is the duty holder for trees growing on highway land adopted by Flintshire County Council, with the duty being owed to highway users and occupiers of land neighbouring highway trees.

1.3 As a large well-resourced organisation, the duty of care that the Council is expected to demonstrate in a court case is greater than that which would be required by that of a typical landowner. When applying the duty, it should be recognised that the Council must make the best use of available funding by focussing resources on the management of higher risk trees.

1.4 Where, as a result of a tree failure, a person suffers financial loss, (e.g., personal injury or damage to property), a claim may be made. In any claim, the owner (or duty holder if different) must be proven to be negligent for compensation to be awarded because there is no strict (automatic) liability relating to trees in UK law. If, on the balance of probabilities, it is proven that a landowner has been negligent a claim is likely to be successful and compensation awarded for the loss or damage a person has suffered (Appendix 5).

1.5 Separate from the duty of care in civil law, Section 3 of the Health and Safety at Work etc. Act 1974 places a general duty on employers to conduct their undertakings in such a way as to ensure, so far as reasonably practical, that persons such as members of the public are not exposed to risks to their health or safety. The Health and Safety at Work etc. Act 1974 applies to the services and activities provided by councils.

1.6 If a council fails to adequately inspect and maintain its trees and a serious incident occurs, the HSE may carry out enforcement action and/or prosecute the council. For a criminal conviction to occur, the case must be proven beyond reasonable doubt and therefore is more difficult to prove than a civil claim of negligence. Appendix 5 highlights four cases where the HSE has successfully prosecuted councils for offences under the Health and Safety at Work Act etc. 1974 because expected standards of tree inspection and maintenance had fallen significantly short of what was required.

1.7 Under the Highways Act 1980 and the Local Government (Miscellaneous Provisions) Act 1976 councils have the power to require a landowner to make a dangerous tree on their land safe, and in default a council can carry out the work.

¹ Caminer v Northern & London Investment Trust Limited [1951] ac 88

² OLA 1957 <https://www.legislation.gov.uk/ukpga/Eliz2/5-6/31/contents>

OLA 1984 <https://www.legislation.gov.uk/ukpga/1984/3>

2.0 Trees are an important natural resource

2.1 Trees provide an immense variety of tangible and intangible benefits to us all and are an essential part of the natural environment. For example, trees help to mitigate the effects of climate change, support a wealth of biodiversity and contribute to human wellbeing.

2.2 The Council manages a diverse range of sites containing trees and woodlands, including ancient woodlands, Sites of Special Scientific Interest, Special Areas of Conservation and sites with veteran trees. In accordance with their importance, these sites must be managed sensitively, respecting the biodiversity they support, their landscape quality and the venerability of the oldest trees. Other sites containing trees may be more mundane, however, it is important to recognise that the trees on them will support biodiversity, improve the quality of the landscape and provide canopy cover.

2.3 Section 6 of the Environment (Wales) Act 2016³ places a duty on the Council, as a public authority, to maintain and enhance biodiversity when carrying out all its functions.

The key components of the Section 6 duty are:

- *Managing land appropriately to create healthy functioning ecosystems*
- *Increasing awareness of the importance of a biodiverse natural environment*
- *Support ecological resilience, making the environment healthier for wildlife and people*
- *Be adaptive to a changing environment where there is a need to use resources efficiently*

2.4 The Flintshire Urban Tree and Woodland Plan⁴ (UTWP) sets out how the Council strategically manages its trees. In recognition of the benefits trees provide, it has a target of attaining 18% urban canopy cover by 2033. Objective 3 of the UTWP, recognises that the strategic management of trees should include assessment of safety, but this should not be the sole reason for tree management, because it would result in a risk averse approach with overzealous tree felling.

2.5 The Council Plan 2023-2028⁵ promotes the enhancement of biodiversity and an increase in the number of trees, to deliver multiple benefits for people, wildlife, and the environment. A Flintshire Forest is also a priority of the Council Plan, which has the aim of providing a network of publicly accessible woodlands across the county.

2.6 Management should comprise of a balance between the recognised value of trees and an objective assessment of the risk they pose.

³ Environment (Wales) Act 2016 <https://www.legislation.gov.uk/anaw/2016/3/section/6>

⁴ Urban Tree and Woodland Plan

<https://www.flintshire.gov.uk/en/PDFFiles/Countryside--Coast/Tree/Tree-Plan.pdf>

⁵ The Council Plan 2023-2028

<https://www.flintshire.gov.uk/en/PDFFiles/Council-Democracy/Council-Plan-and-Well-Being-Objectives/Council-Plan-2023-28.pdf>

3.0 Assessing the risk

3.1 The Health and Safety Executive (HSE) recommend a five-step process to conduct a generic risk assessment.⁶ The HSE describe risk assessment as a careful examination of what, in the workplace, could harm people and that assessing risk should help to decide whether an organisation has done enough to prevent anyone coming to harm or whether they need to do more. Table 9 (Appendix 4) follows the top down HSE five-step risk assessment process for identifying the risks from trees and what steps should be taken to control the risk.

3.2 Health and safety law requires that where reasonably practicable measures are available, in individual cases, these should be taken to reduce the level of risk. A risk is tolerable where the cost of reducing it further is disproportionate to the benefits gained. At this level, the Health and Safety Executive refer to the risk as being 'As Low as Reasonably Practical' (ALARP).

3.3 To assist with meeting requirements under Section 3 of the Health and Safety at Work etc. Act 1974 the HSE provides guidance to tree owners in its Sector Information Minute⁷. The guidance is primarily aimed at large organisations who have numerous trees and recommends that this category of duty holder should make an overall assessment of tree risk, identifying groups of trees by their position and degree of public access. This enables the trees presenting a higher risk to be prioritised for assessment.

3.4 The National Tree Safety Group's - Common sense risk management of trees (CSRMoT) (Second Edition, published September 2024)⁸, provides guidance on the management of trees and is underpinned by a set of five key principles: -

- *trees provide a wide variety of benefits to society*
- *trees are living organisms that naturally lose branches or fall*
- *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*

3.5 Research commissioned by CSRMoT found that the overall risk of being killed by falling trees or branches is in the order of 1 in 15 million and therefore is an 'extremely low' risk when compared to other risks (1 in 370,000 for transport or 1 in 200,000 for workplace accidents). This degree of risk is defined as 'Broadly Acceptable' in the HSE's Tolerability of Risk framework.

3.6 CSRMoT recognises the numerous environmental benefits that trees provide and advises on a proportionate approach to the assessment of risk. Elaborating on the HSE's advice, CSRMoT states that 'it is not a requirement to inspect every tree because this would be disproportionate to the extremely low level of risk'.

3.7 Despite the overall risk being 'extremely low', the HSE advises that around a half of all tree related fatalities that occur each year will result from falling trees or branches in public spaces

⁶ HSE, Managing risks and risk assessment at work
<https://www.hse.gov.uk/simple-health-safety/risk/steps-needed-to-manage-risk.htm>

⁷ https://www.hse.gov.uk/foi/internalops/sims/ag_food/010705.htm

⁸ Common sense risk management of trees – Second Edition (National tree Safety Group). Page 45
<https://ntsgroup.org.uk/wp-content/uploads/2024/10/NTSG-full-guidance.pdf>

such as parks or beside roads. The law requires that where reasonably practicable measures are available, in individual cases, they should be undertaken to reduce the risk.

“Organisations that maintain a tree strategy or management plan, part of which includes information regarding their risk-management plan for the trees they own, are better placed to demonstrate that they have fulfilled their duty of care.”

Common Sense Risk Management of Trees – Second Edition (National Tree Safety Group)⁹

4.0 A structured approach to managing the risk

4.1 Having a Code of Practice for the management of trees on Council owned and maintained land ensures that trees across the various portfolios and services are managed consistently, and in a way that is proportionate to the level of risk.

4.2 Zoning is the formal method of categorising areas of land, containing trees, according to their level of use by people, or the proximity of property to them. Priority is given to the inspection of trees in higher occupancy zones where there is a greater a risk of harm being caused. The CoP has used zoning at a strategic level to assign different occupancy zones to the various categories of land in each Council portfolio (See Table 1). CSRMOT recommends a minimum of two zones but states that duty holders may deem it appropriate to have more than two zones.

4.3 Due to the wide variation in the occupancy and use of the land managed by the Council, the CoP has four zones ranging from *High Occupancy* for schools and main highways to *Negligible Occupancy* for inaccessible woodlands. CSRMOT gives examples of high-use zones as busy roads or where people regularly congregate, and advises that, ‘Judgement and knowledge of the site are required to use the level of occupancy as a determinant of risk assessment.’

4.4 Trees in *High Occupancy* zones are subject to more frequent PAIs than those in Medium Occupancy zones. Whilst trees in Low Occupancy or Negligible Occupancy zones, do not require PAIs for safety reasons because of the much lower level of risk (Table 2).

4.5 To ensure consistent recording and easy retrieval of information, PAIs and surveys are carried out using tree management software (currently Ezytreev) which provides an overall assessment of tree risk once the three main criteria i.e., *Target*, *Impact*, and *Probability of Failure* (Figure 1), have been entered for a tree or group of trees. These criteria are considered in more detail below. The overall assessment of risk for a tree can range from *Insignificant* to *Extreme*, see Table 6, Column 6 (Appendix 3). The tree management software also allows a user to input a timescale for the completion of remedial work taking into account the level of risk.

4.6 Table 1 lists the portfolios and services where PAIs are undertaken, either directly or as part of a Service Level Agreement (SLA). Where PAIs are advised but are not in place, duty holders are advised to commission an arboricultural consultant to carry out tree risk assessment surveys at the recommended frequency.

⁹ Common sense risk management of trees – Second Edition (National tree Safety Group). Page 49
<https://ntsgroup.org.uk/wp-content/uploads/2024/10/NTSG-full-guidance.pdf>

Table 1. Zoning by Council Portfolio/Service

*Services that have expressed an interest in entering into a SLA for Proactive Arboricultural Inspections (PAI).

**Currently no expression of interest over a SLA for Proactive Arboricultural Inspections

Portfolio	Service	Zone
Chief Executives	Civic centres*	Medium Occupancy Car parks, visitors and staff entering and leaving buildings.
	Valuation and Estates (e.g., business parks, allotments, farms)**	Not zoned
Education and Youth (SLA in place until March 2026 for PAIs in schools)	Primary Schools Secondary Schools Special Schools	High Occupancy Zone reflects congregation of students and teachers during term time, regular use of outdoor games areas and playgrounds. Also, car parks and pedestrian thoroughfares.
	Hawarden Record Office*	Medium Occupancy Grounds have limited use and currently overgrown. Car park used for village parking as well as for visitors to record office building. Mature trees adjoining Cross Tree Lane.
Housing and Communities	Housing Open Spaces**	Not zoned
	Council tenants' gardens**	Not zoned
Place and Growth (formerly Planning, Environment and Economy) Where necessary PAIs carried out directly	Urban Public Open Spaces	Medium Occupancy
	Country Parks	Medium Occupancy Visitor Centres, car parks, main pedestrian thoroughfares and adjacent main roads, adjacent properties
	Country Parks	Low Occupancy (Default Zone) Zones as identified by site manager, such as, less busy paths
	Country Parks	Negligible Occupancy Zones as identified by site manager, such as, paths used infrequently and inaccessible areas.
Social Services	12 premises including one under construction*	Medium Occupancy
Streetscene and Transportation	See section 9.0 for inspections along highway network	
	Cemeteries and Closed Churchyards*	Medium Occupancy

Table 2. Frequency of Proactive Arboricultural Inspections (PAIs) according to zone	
Zone	Inspection frequency
High Occupancy	Proactive Arboricultural Inspections every three years
Medium Occupancy	Proactive Arboricultural Inspections every five years
Low Occupancy	Recorded site-based risk assessment including trees carried out by duty holder. Requests for an arboricultural inspection can be made if a tree gives cause for concern.
Negligible Occupancy	None. Reactive inspections following tree failures.

4.7 If a tree requires more frequent inspection than the default period stated in Table 2, (e.g., because of poor condition), it can be recorded on the tree management software. This allows higher risk trees to be inspected more frequently than the default period for the occupancy zone.

5.0 Tree Risk Assessment

5.1 Where necessary, PAIs are carried out using tree management software which incorporates a risk assessment method for each individual tree or group in the survey using the following factors.

“It is only where there is a close association between humans and trees that tree failure takes on safety significance, and that the concepts of hazards and risk from trees have any meaning.”

Common Sense Risk Management of Trees – Second Edition (National Tree Safety Group)¹⁰

Target

The foremost factor in tree risk assessment is the location of any *Targets* that could be harmed or damaged by a falling tree or branch. This follows the same principle as zoning but identifies targets, i.e., people or property, that could be harmed or damaged by the failure of a particular tree or group of trees.

¹⁰Common sense risk management of trees – Second Edition (National tree Safety Group). Page 37

Impact

The second criterion is *Impact*, which involves the assessment of the likely consequences of a tree or part thereof failing. Upon failure, large trees will have a higher impact because they are heavier and have greater kinetic energy. Conversely, small amounts of dead wood can be tolerated in high occupancy areas, even if they are likely to fall, because the consequence of an impact would be, reasonably foreseeable, as negligible.

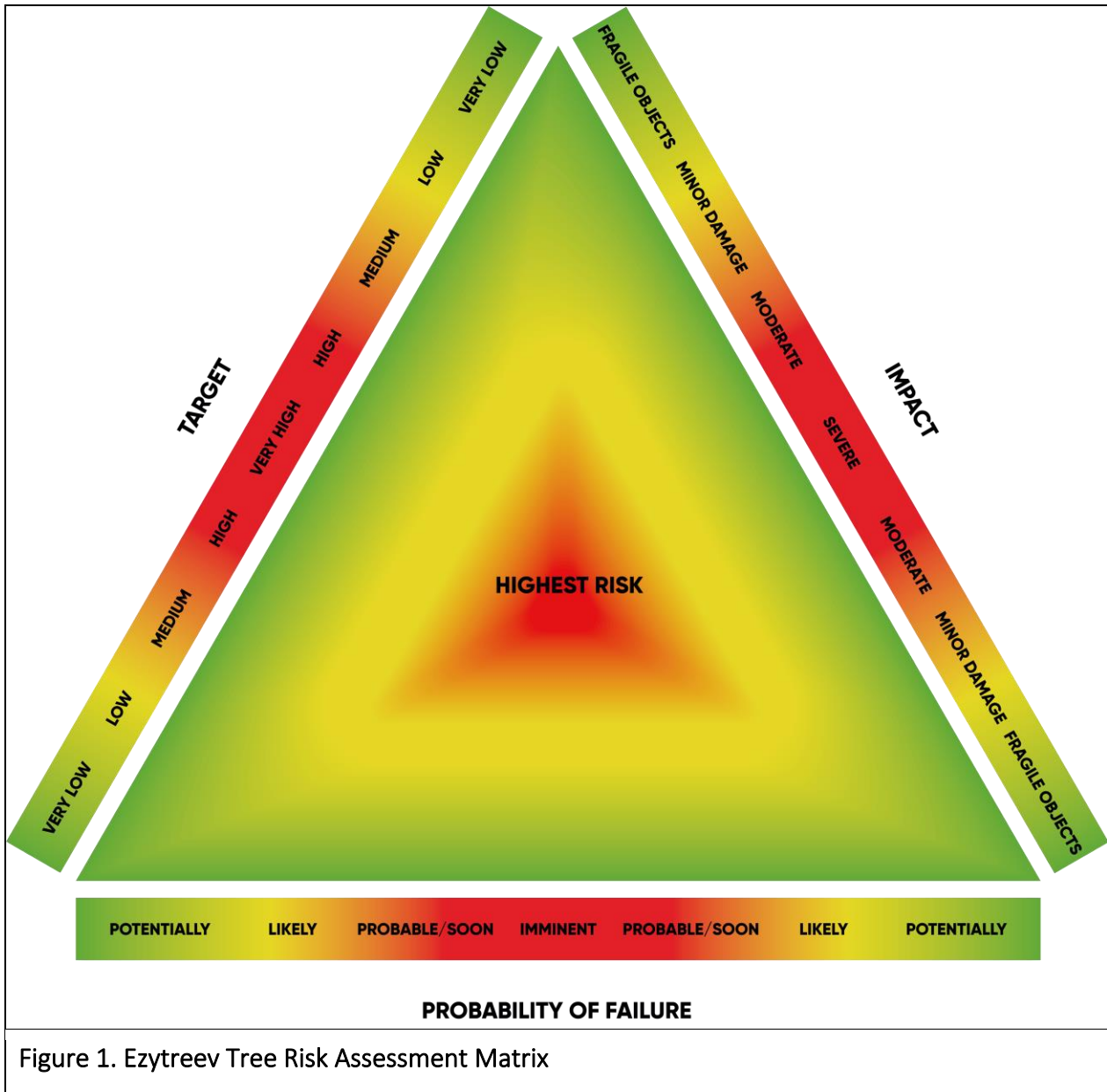


Figure 1. Ezytreev Tree Risk Assessment Matrix

Probability of Failure

The third criterion, *Probability of Failure*, requires arboriculturists to assess the likelihood of a whole tree or part thereof failing. The assessment requires judgment based on what can be observed during an inspection and using knowledge and experience. The *Probability of Failure* will also take into account prevailing climate conditions. The assessment will not include climate change predictions as these will vary depending on the source and could lead to a risk averse approach to the management of trees, which have a role in mitigating climate change and its effects. In addition, the relative frequency of tree inspections will allow changes in weather patterns to emerge and for them to be taken into consideration when assessing the probability of failure.

5.2 Once the three criteria are combined the overall risk can be represented diagrammatically (Figure 1), with the area of highest risk identified in the centre of the triangle marked red. Where one or two of the criteria is a lower risk, the overall level of risk soon diminishes even if another remains high. Surveying, inspection and maintenance should focus on trees in the red and yellow parts of the triangle. Inspecting and maintaining trees in the green areas of the triangle will not reduce risk and is an inefficient use of resources.

6.0 Ash Dieback

6.1 Since first being suspected in 2014, ash dieback has become endemic throughout Flintshire with the disease's symptoms now being present in most ash trees regardless of their age or size. The disease has resulted in numerous mature trees on the Council's land dying back over a short period of time and becoming hazardous. This has led to significant challenges to not only carry out more frequent surveying but also organising, supervising and funding the removal of hazardous ash trees.

6.2 The Flintshire Ash Dieback Action Plan was published in October 2019 and sets out how the Council is dealing with the additional tree safety risks exacerbated by the disease. The CoP makes provision for the annual inspection of mature ash trees, instead of every three or five years, to identify and address hazardous trees.

6.3 It cannot be predicted how long annual inspections will be necessary; however, they will be undertaken until such time as the risk from ash trees is assessed to be at the same level as that for other tree species. (The effects of ash dieback along the adopted highway network are considered in 8.6 below).

7.0 Reactive inspections

7.1 Not all tree failures can be predicted and occasionally they will occur even when PAIs have been undertaken to assess the risk trees not subject to PAIs will sometimes fail and require remedial action.

7.2 Service requests reporting that a tree on Council maintained land has become dangerous or has fallen are an essential part of tree risk management and can prevent further damage or harm occurring. In most cases service users and members of the public can identify critical tree defects such as heavily leaning and hung-up trees, large limb failures, or fallen trees. Reports of hazardous trees will be prioritised in accordance with the level of assessed risk from the information provided. During and immediately after storms the demand for reactive inspections will be high, and prior to assessment by an arboriculturist, service users should prevent members of the public and pupils from going near to hazardous trees.

7.3 Enquiries relating to trees that are not considered dangerous will be assessed in accordance with Section 6.2 (See below) of the Urban tree and Woodland Plan. This will enable the Council's arboriculturists to focus on PAIs to meet the CoP's requirements.

Section 6.2 Urban tree and Woodland Plan

Unless there are exceptional overriding reasons, trees managed by the council's arboriculturists will not be cut back or felled, at the expense of the Council, as a result of the following:-

- Allegedly too tall
- Shade (unless oppressive)
- Loss of a view
- Dropping aphid honeydew/sap
- Dropping leaves or other seasonal debris
- Interfering with TV reception
- Affecting the efficient working of solar panels
- Touching overhead telecommunication wires
- Overhanging branches

8.0 Tree management by Portfolio and Service

8.1 Table 1 shows the various Portfolios and Services of the Council and identifies, those that have a structured system of proactive tree inspection and maintenance in place and each service is discussed in more detail below.

8.2 Schools

8.2.1 A SLA is in place until March 2026 for the PAI of trees in 64 primary, 11 secondary and 2 special schools, covering 237ha. As the landowner, Education and Youth Services are ultimately responsible for the health and safety of trees in the schools. However, head teachers and caretakers are expected to report any obvious tree risks, particularly following inclement weather. Reports can be made to trees@flintshire.gov.uk.

8.2.2 All schools have been categorised as *High Occupancy* zones. Therefore, PAIs are carried out every three years except for ash (*Fraxinus spp.*) species, which are inspected annually in accordance with 6.0 above.

8.2.3 PAIs are carried out in accordance with the Walkover Visual Tree Assessment method in Table 4 (Appendix 1). Where necessary Intermediate Inspections and Advanced Inspections are undertaken in accordance with Table 4.

8.2.4 If, in the course of carrying out a survey, a tree on adjoining land is found to be hazardous it will be recorded, and steps taken to notify the landowner of the tree's condition.

8.2.5 Higher priority tree works will be organised by the Council's arboriculturists and funded by Education and Youth Services. To be more efficient, tree works in different schools will be combined and undertaken as one tree work contract. Urgent (*Extreme* priority) tree works will be undertaken as a single work order so that they can be undertaken as soon as possible. In the

event of a tree failure, reactive tree works will also be organised by the Council’s arboriculturists and funded by the Education and Youth Service.

8.2.6 On occasions, a Head Teacher or the School’s Governors may want to undertake additional tree work that is not required for health or safety reasons, (See Urban Tree and Woodland Plan extract under 6.3 above for examples). Works of this nature are not covered by the SLA and where proposed the school should seek their own arboricultural advice. Any proposed tree works should apply the policies and objectives of the Urban Tree and Woodland Plan¹¹ adopted by the Council in 2018.

8.3 Urban Public Open Spaces



Figure 2 -Ezytreev Tree Mapping Screenshot – Bailey Hill, Mold

8.3.1 As part of the Access and Natural Environment Service the Council’s arboriculturists directly inspect and manage trees situated on Urban Public Open Spaces, which cover an area of nearly 200ha. Urban Public Open Spaces are categorised as *Medium Occupancy* zones (See Table 1) with PAIs carried out every five years, except for ash (*Fraxinus spp.*) species which, due to ash dieback,

¹¹ Urban Tree and Woodland Plan <https://www.flintshire.gov.uk/en/PDFFiles/Countryside--Coast/Tree/Tree-Plan.pdf>

are inspected annually, in accordance with 6.3 above. Tree works are prioritised, organised and completed according to the level of risk.



Plate 1. Fallen limb in an Urban Public Open Space

8.4. Countryside Sites

8.4.1 Flintshire's Countryside Sites comprise of the main country parks, (e.g., Wepre Park and Greenfield Valley), and other smaller sites of nature conservation interest. Countryside Sites are managed by the rangers in the Access and Natural Environment Service and contain numerous trees and woodlands, many of which are protected habitats, (e.g., Ancient Woodland, Special Area of Conservation, Sites of Special Scientific Interest).

8.4.2 One of the main reasons why members of the public visit Countryside Sites is to experience nature and enjoy the outdoors. Visitors are most likely to be aware of common hazards, (e.g., water bodies, steep slopes, cliffs, trees¹²), that come with experiencing the natural environment, and rangers are aware the hazards on their sites, including trees.

8.4.3 By default, Countryside Sites are considered *low occupancy*. However, it is acknowledged that specific areas, (e.g., visitor centres), are subject to fairly high levels of use or will be adjacent to significant targets on adjoining land, (e.g., a dwelling), these areas are categorised as *medium*

¹² Managing Visitor Safety in the Countryside – principles and practice. Published by the Visitor Safety Group (2005)

occupancy zones. Areas where there is very infrequent access and no property, are zoned as *negligible occupancy*.

8.4.4 Managers are responsible for zoning their sites, or parts thereof into *Medium, Low or Negligible Occupancy* zones and showing the zoning by reference to site plans.

8.4.5 As part of their general duties and broader health and safety remit, managers of Countryside Sites carry out patrols and recorded site-based risk assessments. This enables tree defects in *Medium* and *Low Occupancy* zones to be noted and tree work or other remedial action, (e.g., diversion of a path) to be undertaken. Only trees with defects are recorded. Where a site manager identifies a tree that requires inspection by an arboriculturist this is recorded and undertaken within an appropriate timescale.

8.4.6 *Medium Occupancy* zones are subject to PAIs every 5 years by a Council arboriculturist or appointed arboricultural consultant and are supplemented by broader health and safety audits carried out by site managers that provide opportunities for tree defects to be identified in the intervening period. This is particularly relevant following inclement weather and where ash dieback can result in the rapid decline of mature ash trees.

8.4.7 It is the responsibility of the site manager to organise and carry out the priority tree works recommended in a PAI as well as any tree work identified in their own site-based risk assessments and patrols.

8.4.7 During and following inclement weather, Countryside Sites, or selected paths, car parks and other facilities within them may be subject to temporary closures by site managers to discourage access. Before reopening, site managers will carry out an assessment of trees in *medium* and *low occupancy* zones, demark hazardous trees and seek advice from an arboriculturist if a specialist inspection is required.

8.5. Social Services' Sites

8.5.1 A SLA is currently in place for 12 Social Services' sites that have, preliminarily, been categorised as *Medium Occupancy* zones and will be subject to PAIs every five years. Inspections will be carried out in accordance with Table 4 (Appendix 1). Due to an expansion programme the number of Social Services' sites are expected to increase and this will need to be reflected in the SLA.

8.5.2 As the landowner, Social Services are ultimately responsible for the health and safety of trees and facility managers should report any obvious tree risks, particularly following inclement weather.

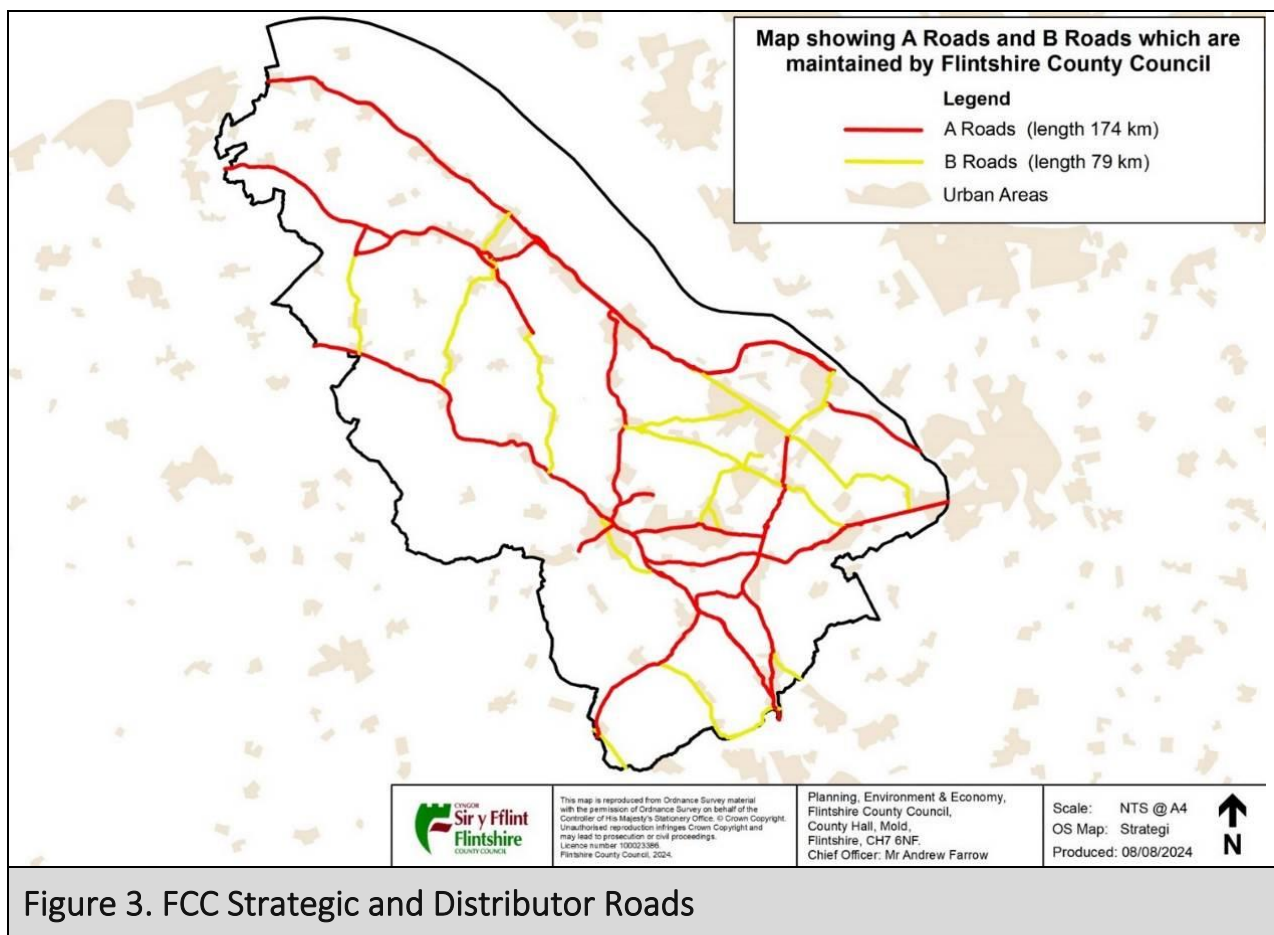
8.2.3 Higher priority tree works will be organised by the Council's arboriculturists and funded by Social Services. To be more efficient, tree works on different sites will be combined. However urgent (*Extreme priority*) tree works will be undertaken as a single job. In the event of a tree failure, reactive tree works will also be organised by the Council's arboriculturists and funded by Social Services.

8.2.4 If a facility manager wants to carry out additional tree work that is not required for health or safety reasons, (See 7.3), they will not be covered by the SLA. Where tree works of this kind are proposed, the facility manager should seek their own arboricultural advice and apply the policies and objectives of the Urban Tree and Woodland Plan adopted by the Council in 2018.

9.0 Tree inspection and management along the Flintshire highway network

9.1 The Adopted Flintshire Highway Network

9.1.1 The adopted public highway includes carriageways, footways, cycleways, Active Travel Routes and associated verges situated between the highway and frontager's land. Nearly all highway trees are on soft (grassed) verges with only several streets containing trees in the footway.



9.1.2 The highway network maintained by FCC includes all roads within the county boundary apart from: -

- The A55, A494 and a section of the A550, which are maintained by the North and Mid Wales Trunk Road Agent on behalf of the Welsh Government.
- Unadopted or private roads.
- Public footpaths, Byways Open to All Traffic, and bridleways. (These are rights of way over private land, that are enforced by the Council but not adopted as land maintained by the Highway Authority).

9.2 Best Practice for Tree Inspections along the Highway Network

9.2.1 In addition to adopting tree risk assessment methods and zoning to prioritise the surveying of trees on highway-maintained land, the CoP incorporates recommendations found in the Code of Practice for Well-Managed Highway Infrastructure¹³ (WMHI).

9.2.2 Paragraph A.2.4.10 WMHI suggests that it may be appropriate to develop policies for specific assets, including trees and makes the following recommendations: -

RECOMMENDATION 7 – RISK BASED APPROACH

A risk-based approach should be adopted for all aspects of highway infrastructure maintenance, including setting levels of service, inspections, responses, resilience, priorities and programmes.

RECOMMENDATION 14 – RISK MANAGEMENT

The management of current and future risks associated with assets should be embedded within the approach to asset management. Strategic, tactical, and operational risks should be included as should appropriate mitigation measures.

RECOMMENDATION 16 – INSPECTIONS

A risk-based inspection regime, including regular safety inspections, should be developed and implemented for all highway assets.

The CoP is also in accordance with paragraph B.5.4.5 of WMHI, which states that: -

“Authorities should include some basic arboricultural guidance in training for inspectors, but it is important that arboricultural specialists should advise on the appropriate frequency of inspections and works required for each individual street or mature tree that is considered to hold a high risk to users of the network. A separate programme of inspections for such trees, should also be undertaken by arboricultural advisors”.

9.2.3 Since publication of WMHI in 2018, the Code of Practice has been amended to make it clear, that in England and Wales, it is the common law duty of the landowner and not the duty of the Highway Authority to ensure that trees outside the highway boundary, but within falling distance of the highway are safe¹⁴.

9.3 Highway Trees

9.3.1 Under Section 41 of the Highways Act 1980, the Council has a statutory duty to maintain adopted highway land and may be exposed to claims of a failure in this duty if a tree on highway land causes damage or harm. As the organisation responsible for maintaining the Flintshire highway network the Council is also the duty holder under the Occupiers' Liability Acts.

9.3.2 The Council's arboriculturists directly manage highway trees and carry out reactive inspections and PAIs in accordance with Table 5 (Appendix 2). Highway trees are recorded on tree management software in the same way as trees on other Council maintained land, with necessary tree works prioritised and undertaken according to the level of assessed risk.

¹³ UK Roads Liaison Group, Well-Managed Highway Infrastructure: A Code of Practice (2016)

¹⁴ <https://www.ciht.org.uk/ukrlg-home/code-of-practice/>

9.4.1 The highway network has been zoned according to the level of occupancy with *High*, *Medium* and *Low* Occupancy zones. Zoning is based on highway classification, (See Table 3), which reflects the volume of traffic as well as the speed limit.

9.4.2 Due to Flintshire's largely rural highway network and the need to be efficient, PAIs are carried out using the Walkover and Drive-by methods. The Drive-by method comprises of an inspector viewing trees from a slow-moving highway vehicle driven by another person. This method is quicker than the Walkover method and can identify the more severe hazards in trees but is less reliable for identifying defects that are not as severe. Therefore, the inspection of large highway trees will usually be carried out using the Walkover method of inspection because of the greater consequences should a tree failure occur.

9.4.3 When planning and carrying out the inspection of trees along Flintshire's highway network it is up to the arboricultural surveyor to choose which method to use. When the Drive-by method identifies a tree defect or other characteristic of concern the highway vehicle can always be stopped and a closer inspection undertaken using the Walkover method.

9.4.4 If, following a tree inspection, it is necessary to carry out an Intermediate or Advanced Inspection this will be recorded on the tree management software with a timescale for completion.

9.4.5 To enable the tracking of tree work orders, invoicing, and payments, the Council will use its corporate payments system (P2P), and Microsoft business systems. In addition, surveying is carried out and checked as being completed on tree management software.

9.4.6 PAIs supplement the more frequent Highway Inspections carried out by Streetscene Coordinators that can identify more obvious hazards along the highway network (Table 3). The method, extent, and frequency of Highway Inspections is outside the scope of the CoP.

9.5 Trees adjacent to the adopted highway

9.5.1 The Council does not owe a duty of care to highway users for trees which are on land belonging to a frontager, (a person who owns land fronting onto the adopted highway), but has powers under Section 154 of the Highway Act 1980, to serve a formal notice requiring the owner of a dangerous tree to make it safe.

9.5.2 There is a balance to be struck between the duty to inspect and maintain trees on adopted highway land, (and other Council land), and ensuring that hazardous trees belonging to frontagers are identified and made safe to reduce the overall risk to highway users, without necessarily reducing the Council's liability. Ash dieback has made this particularly relevant because the disease has resulted in numerous trees becoming hazardous along the highway network, irrespective of whether the Council or frontagers are responsible for them. To address the increased risk to highway users resulting from ash dieback the remit of tree inspections along the highway network has been expanded (See 9.6).

9.5.3 Apart from the specific measures to address the risks resulting from ash dieback identified below, PAIs along the highway network are primarily concerned with assessing the condition of trees on highway land. However, if in the course of carrying out a highway tree survey a hazardous tree on a frontager's land is incidentally found, it will be recorded for action.

Table 3. Frequency of Proactive Arboricultural Inspections (PAIs) and Highway Inspections along highway network

Highway Category and colour code	Classification	Description	Zone	Frequency	Highways Inspections – By Streetscene Coordinators
2	Class A - Strategic Route (Length 152km)	Routes for fast-moving, long-distance traffic with few frontages or pedestrian traffic	High occupancy	Three years	Monthly. Undertaken in accordance with the Maintenance Manual (May 2025)
3(a)	Class B - Main Distributor (Length 76km)	Routes between strategic routes and linking urban centres	High occupancy	Three years	Monthly. As per above.
3(b)	Class C – Secondary distributor (Length 262km)	Routes carrying mainly local traffic with large numbers of frontages and junctions.	Medium occupancy	Five years.	Monthly. As per above.
4(a) and 4(b)	Unclassified – Link Roads (Length 666km)	Routes linking main/secondary distributors and local access roads, many frontages and junctions	Low occupancy	None. Highway Inspections only	Three Months. As per above.
		Routes serving properties only with limited access traffic	Low occupancy	None. Highway Inspections only	Six Months. As per above.

9.5.4 It is not necessary for officers to enter private land to inspect a frontager’s tree from the non-highway side, and therefore defects which cannot be seen from public land won’t necessarily be recorded. Notwithstanding, occasionally a defect will be noted in a frontager’s tree from the roadside, and it may be necessary to enter private land to undertake a 360° inspection.

9.5.5 If the owner refuses access to carry out such an inspection, a person duly authorised in writing by a highway authority may at any reasonable time enter any land for the purpose of surveying that or any other land in connection with the exercise of a function by the Highway Authority. The right of entry is contained within Section 289 of the Highways Act 1980.

9.5.6 Hazardous trees belonging to frontagers are recorded using the Council’s tree management software, with Microsoft business systems used to keep a record of emails, letters, and notices sent to tree owners.

9.5.7 Where a frontager’s tree has been identified as being hazardous, the action taken will be dependent on the level of assessed risk. In the most severe cases it may be necessary to close the road and for the Council to remove the imminently dangerous or fallen tree, for highway operational reasons. Where it is unnecessary for a frontager to urgently deal with a hazardous tree because it is not imminently dangerous, the Council will expect the frontager to take timely remedial action to maintain highway safety. In default, the Council will use its Highway Authority

powers under Section 154 of the Highways Act 1980 and serve notice on a landowner to make a dangerous tree safe.

9.5.8 When a frontager does not carry out the work specified in a notice to make a dangerous tree safe, the Council may carry out the work and recover expenses reasonably incurred. The provision under Section 154 is a power rather than a duty and the Council is not required to serve a notice where it becomes aware of a dangerous tree.

9.5.9 Before invoking its powers to carry out tree work in default of a tree owner, the Council will contact the Magistrates Court to determine whether an appeal has been submitted under Section 154(3). The Council will use its powers under Section 154 to recover the cost of arranging and carrying out the tree works specified in a notice.

9.5.10 Whether or not a notice is served under Section 154, the duty owed remains with the organisation or person who controls the management of the tree. (In most cases this is the owner of the land where the tree stands). However, if the Council has the power to serve a notice and declines or serves a notice and does not make a tree safe where it has the power to do so, and the tree subsequently falls causing harm or damage, the Council may be criticised.

9.6 Ash Dieback along the highway network

9.6.1 At the time of writing the final draft of the CoP, ash dieback has been endemic throughout the county for at least five years affecting approximately 90% of common ashes along the highway network, with many becoming hazardous, whether they are on highway land or on a frontager's land.

9.6.2 Notwithstanding the fact that frontagers should identify and remove hazardous trees on their land and not the Highway Authority, the CoP recognises that there is an increased tree risk to highway users that has not been seen since Dutch elm disease in the 1970s.

9.6.3 A 2020 survey of ash dieback identified 96 compartments adjoining the highway network where the nature and extent of ash dieback, on the adopted highway and frontager's land, presented a higher risk to users of the network. The assessment used a colour coded risk matrix with green (low risk), yellow (med-low risk), amber (medium risk), and red (high risk). Compartments were categorised according to, the highway classification; speed limit; estimated traffic volume; the prevalence of ash trees; their age and size; their proximity to the carriageway; and the level of infection represented by the extent of dieback.

9.6.4 Following the identification of the 96 compartments, resources have focussed on annually re-surveying each compartment and recategorizing them on the risk matrix. As hazardous trees are removed, a compartment previously categorised as high risk will be moved to a lower risk category, whilst other compartments might be reclassified as a higher risk because the level of infection has increased.

9.6.5 Where a hazardous ash tree is recorded on a frontager's land, a stepped approach is followed, starting with a letter of information, and if necessary, leading up to the serving of a formal notice under Section 154. If the owner of a high-risk tree cannot be established, the Council may carry out the work as last resort in accordance with its powers under Section 154. By adopting the above method, the CoP reduces tree-related risks to users of the adopted highway network, whether they arise from mature ash trees on adopted highway land or a frontager's land.

9.6.6 In response to the specific risk of ash dieback, the CoP continues to use the above risk matrix and survey method. However, the main priority will be to ensure that ash trees, (early mature, mature and over mature), on highway land are inspected annually, in line with other Council maintained land, (See 6.0) until such time as risks from ash trees is at a level that is equivalent to that of other tree species.

9.7 Reactive inspections on the highway network

9.7.1 Service requests relating to trees along the highway network will be logged and prioritised in accordance with levels of assessed risk. Inevitably the demand on the service is greatest during and immediately following storms, and priority will be given to the clearance of fallen and hazardous trees or branches on the public highway that are causing the greatest disruption. Service requests for reactive inspections on the highway network will also be prioritised alongside requests from other Council departments.

9.8 Trees, Hedges, and Shrubs Overhanging and Obstructing the Highway

9.8.1 As part of their highway inspections and in response to service requests, Streetscene Coordinators assess vegetation growth to determine if it is causing an unreasonable obstruction of the highway. Where trees, hedges, or shrubs on a frontager's land cause an unreasonable obstruction, steps will be taken to ensure the vegetation is cut back by, if necessary, using powers under Section 154.

9.8.2 PAI will identify highway trees that are causing an unreasonable obstruction of the highway and will specify what measures are required to address or remediate the obstruction. If, during an arboricultural inspection, a frontager's tree is identified as causing an unreasonable obstruction of the highway it will be recorded and reported for action.

9.8.3 When assessing the degree of obstructions caused by tree growth, the Council's arboriculturists will take into account the season, growth rate, branch droop in wet weather, and factors relating to the category of public highway and its use by the public.

The following clearances will apply along the highway network: -

- 2.4 metres over pedestrian accesses
- 3 metres over cycleways and bridleways
- 5.2 metres over road carriageways

9.9. Identifying Land Ownership

9.9.1 The Council will use plans of adopted public highway, Land Registry documents and local knowledge to identify the owners of hazardous trees. Where definitive plans do not show the precise extent of the adopted public highway, trees growing within roadside boundary hedges will be deemed to be on the frontager's land. Whereas trees growing outside the roadside boundary hedge will be considered part of the adopted public highway. Records and knowledge of who has previously carried out maintenance of a tree or roadside hedge in which a tree is situated, will also help to determine who is responsible for its management.

9.9.3 Under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 the Council has the power to serve a notice on a person requiring them to furnish the Council with information about the nature of their interest in the land. Where it is expedient to do so, the Council will use this power to obtain details of who has an interest in the land on which a

hazardous tree is situated, so that it can serve a notice under Section 154 of the Highways Act 1980 or take other steps as may be appropriate. Under Section 16(2) of the Local Government (Miscellaneous Provisions) Act 1976 it is an offence if a person fails to comply with the request for information, or to make a statement which is false.

10.0 Powers to deal with trees reported as being dangerous

10.1 Similar to the powers under Section 154 of the Highways Act 1980, the Council has powers, under Section 23 of the Local Government (Miscellaneous Provisions) Act 1976, that apply to dangerous trees on land. Under Section 24, in certain circumstances outlined in Section 23 of the said Act, the Council has the power to authorise in writing a person or persons to enter land to ascertain the condition of the tree or to make it safe.

10.2 Where a person provides good evidence to demonstrate that a tree is dangerous because of the risk it poses to people and/or property, the Council will carry out a Tree Risk Assessment to determine whether action is necessary in accordance with its powers. As Section 23 is a power rather than a duty, the Council may decide not to take action to deal with a dangerous tree when taking into account all relevant factors.

10.3 Where it is expedient to do so, the Council will use the provisions under Section 23 and Section 24 to ensure a dangerous tree is made safe in response to a person's request, and in carrying out the work will, where appropriate, seek to recover expenses that have been reasonably incurred.

11.0 Arboricultural surveyor competencies

11.1 PAIs on Council land and along the Flintshire Highway network will be carried out by a competent and qualified person. Inspectors will possess the LANTRA - Basic Tree Inspection Certificate or equivalent qualification and be qualified in Quantified Tree Risk Assessment or an equivalent tree risk assessment method.

11.2 Persons carrying out Intermediate Inspections will have good working knowledge of trees and will possess the LANTRA – Professional Tree Inspection and/or Level 5/6 equivalent arboricultural qualification, (e.g., BSc).

11.3 Advanced Inspections will be carried out by an arboriculturist trained and experienced in the use of Decay Detection Equipment, or other specialist equipment used.

12.0 Protected species and duty under Section 6

12.1 In the carrying out of its duties and powers relating to trees the Council will comply with legal requirements applying to protected species, (e.g., bats, nesting birds and badgers). The sustainable management of trees is a key function in meeting the Welsh Government's Section 6

duty under the Environment Wales (Act) 2016, and the Council is committed to increasing the county's canopy cover.

13.0 Tree roots

13.1 The action of tree roots drying out shrinkable soils can cause subsidence in low rise buildings, which may lead to a claim of negligence, and compensation being payable where the duty of care has not been met. Due to the underlying geology, soil type, and climate in Flintshire, the Council receives very few claims where the roots of Council trees are implicated in the cause of subsidence, (approximately one every two years). Where a Council tree has been allegedly implicated in a subsidence claim, none have resulted in compensation being payable. For this reason, PAIs do not incorporate an assessment of the risk of tree related subsidence occurring.

13.2 PAIs will record significant displacement and cracking of the footway or other ground underneath trees maintained by the Council. In such instances the manager of the site, (e.g., Streetscene Coordinators for footways), will be notified of the findings so that action can be taken to address the uneven surface and reduce the potential for trip claims to be made.

13.3 Significant displacement to structures caused by the roots of Council owned trees will be recorded in PAIs. Any proposed remedial action, (e.g., repairs, the incurring of increased maintenance costs, or tree removal), will be assessed against the tree's Capital Asset Value for Amenity Trees (CAVAT)¹⁵ value. CAVAT is a method of tree valuation advocated by the London Tree Officers Association and is used to quantify the financial value of a tree, enabling its value to be compared with the cost of any proposed remedial action.

14.0 Serious incidents

14.1 It is the case that even though the risk from falling trees or branches is extremely low, there is the possibility that a serious incident, i.e., involving death or severe injury could occur, however unlikely.

14.2 If a serious incident or significant damage to property is caused by the failure of a tree maintained by the Council, the fallen part and remainder of the tree will be made safe and retained to allow further investigation into why the tree failed. This will help determine the facts of the case in the event a claim of negligence is made against the Council.

14.4 Where a tree or branch has fallen from a frontager's land onto the public highway and caused a serious incident the Council will record details of the tree failure, where it is acting within its powers and duties.

14.5 The Council will fully cooperate with any investigation carried out by the police, coroner, or HSE that may follow a serious incident.

¹⁵ Capital Asset Value for Amenity Trees <https://www.ltoa.org.uk/resources/cavat>

15.0 Reviewing the Code of Practice

15.1 The Code of Practice will be reviewed after five years, or earlier, if there is a significant material change in the guidance, case law, or risks from trees or branches falling.

15.0 Appendices

Appendix 1.

Table 4. Levels of arboricultural inspection for trees on Council land – Excluding the highway network	
<p>Proactive Arboricultural Inspection (PAI) - Walkover Visual Tree Assessment</p>	<p>In accordance with best practice guidance and tree risk assessment methods, not every tree will be recorded. Trees that are deemed to be a low risk, because they are too small or too far from targets may be omitted from the survey or surveyed as group at the discretion of the Arboricultural Inspector. Unrecorded trees will be regarded as not hazardous and a tolerable risk.</p> <p>The attributes of recorded trees will usually include species, location (using GIS), dimensions, i.e., (height, crown spread, DBH in ranges), condition, defects, and a tree risk assessment value (<i>Target, Impact, Probability of Failure</i>). The assessment will also give a work priority for any tree works identified and a period for reinspection that may be sooner than the default survey period. To aid in the identification of trees, and the defects they may exhibit, photographs will be taken and tagged to the tree inspection. All of this information will be recorded on tree management software.</p> <p>If the extent of a defect and the level of risk cannot be fully elucidated, it will be recorded for an Intermediate Inspection within a stated timescale using the method below.</p> <p>Ash Dieback More frequent PAIs, in accordance with paragraph 5.0, to identify trees of highest risk.</p>
<p>Intermediate Inspection - A detailed visual inspection of an individual tree using equipment.</p>	<p>A detailed and longer visual inspection using hand tools, (e.g., Metal probe, knife, binoculars, rubber faced mallet, measuring tape, hypsometer, camera, plumb line, spade, increment borer, drone), to investigate the extent of a defect that has been identified during a PAI. Intermediate Inspections may include a climbing inspection, the excavation of roots, taking of samples or cutting back of vegetation such as ivy to enable better inspection. In addition, an Intermediate Inspection can be timed to coincide with the period where a pest or disease is more identifiable.</p>
<p>Advanced Inspection - An advanced tree inspection using specialist equipment.</p>	<p>Inspection using specialist Decay Detection Equipment, (e.g., Resistograph, PiCUS Sonic Tomograph and PiCUS Treetric), or tree stability test equipment, (e.g., Dynatree), that can inform, with greater accuracy the probability of failure.</p> <p>Advanced inspections will only usually be carried out where a tree affords significant amenity, is of ecological importance, or is otherwise a notable specimen.</p> <p>As the Council does not own specialist equipment, arboricultural consultants will be commissioned to undertake advanced tree inspections.</p>

Appendix 2.

Table 5. Levels of arboricultural Inspection on highway network		
Level	Highway Trees	Roadside Trees
<p>Proactive Arboricultural Inspection (PAI) - Visual tree assessment combining Drive-by and Walkover methods.</p> <p>(see Table 3 for road classification and frequency)</p>	<p>Trees will be surveyed and inspected from a moving vehicle using the Drive-by method or on foot using the Walkover method.</p> <p>Drive-by inspections using a vehicle meeting Chapter 8 requirements, i.e., (flashing beacon and rear chevrons), with a driver and a qualified arboriculturist sitting in the passenger seat assessing trees on the roadside. To ensure a higher degree of visual assessment Drive-by surveys are undertaken at low speeds and in both directions even if trees are only present on the nearside of the highway. Where, in the opinion of the arboriculturist, it is necessary, the vehicle will be stopped, and a Walkover inspection undertaken in accordance with the method in Table 4.</p> <p>Data recorded on a tree management software for ease of retrieval.</p> <p>Highway trees within falling distance of busier and faster stretches of highway will have a higher target category (Figure 1). However, other factors that might increase the target category and may also be considered are, the possibility of stationary traffic at junctions or traffic lights, people waiting at bus stops, or limited visibility for motorists on bends or the brow of a hill.</p>	<p>If, while carrying out a Walkover inspection or Drive-by survey of highway trees, it is noted that a tree on a frontager’s land is considered an unacceptable risk to highway users, it will be subject to a formal tree risk assessment in accordance with paragraph 4.9 and those details recorded.</p> <p>A recording system will be used to keep track of actions taken to ensure, where it is appropriate, that frontagers fell or make safe hazardous trees on their land. Where necessary, powers under Section 154 will be used, including seeking the recovery of costs for arranging and carrying out the work.</p> <p>Arboricultural Inspectors do not have a right to enter private land and therefore defects that cannot be seen from public land won’t necessarily be recorded.</p>
	<p>Ash Dieback Proactive inspection of ash trees along the highway network in accordance with 8.6 to identify trees of highest risk.</p>	
<p>Intermediate Inspection - A detailed visual inspection of an individual tree using tools.</p>	<p>Carried out in accordance with method in Table 4.</p>	<p>Intermediate Inspections for roadside trees should be commissioned by the tree’s owner. Copies of the inspection/report may be provided by the tree owner to the Council for information.</p>
<p>Advanced Inspection - Advanced inspection using specialist equipment.</p>	<p>Carried out in accordance with method in Table 4.</p>	<p>Where an Advanced Inspection is necessary, it will need to be commissioned by the tree owner. Copies of the inspection/report may be provided by the tree owner to the Council for information.</p>

Appendix 3.

Table 6. Ezytreev - Tree Risk Assessment categories and ranges, risk category outcomes and work priorities (Most critical to least critical)							
Condition	Failure	Target	Impact		Risk Category		Work Priority
None selected	Imminent/immediate	Very High	Severe		Significant		Extreme Priority
Dead	Probable/soon	High	Moderate		Moderate		High Priority
Poor	Likely	Medium	Minor Damage		Slight		Medium Priority
Fair to good	Potentially	Low	Fragile Objects		Minimal		Low Priority
Good		Very Low			Insignificant		No Action Required

Appendix 4. Table 9. Health and Safety Executive – Five steps to risk assessment



Health and Safety Executive

Risk assessment template

Company name: Flintshire County Council

Assessment carried out by: S. Body (Forestry Officer)

Date of next review: September 2030

Date assessment was carried out: September 2025

What are the hazards?	Who might be harmed and how?	What are you already doing to control the risks?	What further action do you need to take to control the risks?	Who needs to carry out the action?	When is the action needed by?	Done
<p>Falling trees and branches striking people or objects.</p> <p>The hazard caused by standing but usually fallen trees and branches obstructing the highway, or other thoroughfares,</p> <p>Trip hazards from uneven surfaces caused by growing roots.</p> <p>Poisonous seeds or fruit, falling leaves or other detritus, are not considered to require specific actions within the Code of Practice.</p>	<p>Persons visiting, using, or occupying Council premises including the public highway.</p> <p>Persons occupying adjoining land.</p>	<p>Non-formalised proactive arboricultural inspections and reactive inspections following reports of tree failures or enquiries.</p>	<p>Establish a Code of Practice to strategically assess the level of risk to each Council service taking into account level of occupancy and tree cover.</p> <p>The overall risk is considered to be extremely low but healthy and safety legislation requires the risk to be 'As Low As Reasonably Practical' and therefore where a higher risk is identified measures, where they are viable, should be put in place to reduce the increased level of risk.</p> <p>Ash dieback has been assessed as a risk requiring additional measures. These are incorporated into the Code of Practice.</p>	<p>Forestry Officer</p>	<p>September 2025</p>	<input type="checkbox"/>

Source : Health and Safety Executive at <https://www.hse.gov.uk/simple-health-safety/risk/risk-assessment-template-and-examples.htm>

Appendix 5. Legal Cases relevant to the Code of Practice

Criminal Prosecutions

In each of the cases the judge said that there were very significant failings in the maintenance and inspection of trees belonging to the Council.

Cheshire East Council

On 8th November 2024, Cheshire East Council was fined £500,000 at Chester Magistrates Court for breaching Section 3(1) of the Health and Safety at Work Act 1974. A 48 year-old man was struck and killed by a falling branch whilst walking his dog in August 2020. The investigation found that the Council did not have a formal overarching tree strategy to manage the risk from trees in public places, nor did the Council's grounds maintenance contractors have a robust tree management policy. It was found that less than a year previously the same tree had shed a large limb, but this incident was not investigated by the Council or its contractors. The judge said that the previous incident should have acted as "a wakeup call," and the HSE inspector said, "Had the area been better managed, this death might have been avoided". The Council pleaded guilty to the offence and was ordered to pay £7,284 in costs in addition to the £500,000.

Newcastle City Council

In 2023, the HSE brought a case against Newcastle City Council, whereby Magistrates fined the Council £280,000 following the death of a pupil by a falling tree. In 2018, the willow tree had been identified as needing further inspection, but a number of failings meant this did not happen. It was found to have significant decay that caused the trunk to break during 38mph (60km/h) winds. The council admitted it had failed to inspect the tree properly and had also failed to inform the school of the results of a report into the condition of the trees, which had accidentally been sent to the wrong school.

Staffordshire County Council

Staffordshire County Council was fined £300,000 after pleading guilty to failing to inspect and maintain trees on a public footpath, leading to the death of a member of the public in 2019. A 58-year man was walking his dog along a popular footpath when a bough from an oak tree fell, and he suffered a cardiac arrest. The tree should have been inspected under Staffordshire County Council's own safety measures, but the court heard that an 'administrative mistake' meant that the Isabel Trail had been left off the authority's inspection list for more than a decade. This meant that damage to the oak was not spotted by inspectors, despite at least 20 complaints from locals about dangerous trees along the route. The court heard that, had the damage to the tree been spotted, a simple pruning would have prevented the bough falling from the multi-stemmed mature hybrid oak and that it was foreseeable that the defect was likely to fail and cause injury.

Wirral Metropolitan Borough Council

Wirral Metropolitan Borough Council was fined £100,000 and ordered to pay £50,000 costs in 2020 following an incident on the morning of 10th November 2016 where a pregnant woman was driving along the A551 Arrowe Park Road when her vehicle was struck by a large branch falling from a mature horse chestnut tree. The branch broke through the windscreen and front driver window and struck the woman's stomach. She was taken to hospital with suspected major trauma and her baby girl was delivered by emergency caesarean. Tragically, the baby did not survive.

The HSE said Wirral had failed to identify and manage the risks from falling trees and branches and had failed to implement a robust system of inspection of trees in its

remit despite a similar incident occurring on Arrowe Park Road in January 2015 where a branch fell and struck a taxi. The court were told that a HSE investigation found that the failings were present and "significant" over a number of years leading up to the incident. An independent tree expert hired by HSE, said that a proactive check looking at the trees every three years would have been appropriate. The HSE investigation found that the large branch that fell, had a crack on its upper edge where it was joined to the main trunk. It had begun to separate from the main trunk for at least one growing season before the failure. The tree, located within the boundary of Arrowe Park, adjacent to the highway, had not been inspected for at least 13 years.

Civil claims of negligence

Civil claims are easier to prove in the courts because they only need to be proven on the balance of probabilities (cf. beyond reasonable doubt).

In the case *Hoyle v Hampshire County Council*, the council was able to demonstrate that it had regularly inspected a mature cherry using a system of inspection by highways inspectors and tree inspectors that met the duty of care owed to highway users. It was not therefore liable for the death of a man driving along the road when the tree fell on onto his car, and damages were not awarded.

In *Micklewright v Surrey County Council*, the case involved a large oak that shed a bough killing a man unloading a bike from a car. The council had a system of inspection and maintenance using tree inspectors, Highway Inspectors and Community Highways Officers, and whilst no specialist tree inspection had been undertaken, due to a backlog, there was a system and a tree policy in place. At the time of the accident the system in place was not adequate. Nevertheless, it was found that even if there had been a proper system in place the defect in the branch would not have been revealed so as to enable the accident to be avoided. An appeal against the decision was unsuccessful. The council was criticised for clearing up 95% of the fallen branch following the incident, which as a result did not permit a full investigation of the accident and disadvantaged the claimant's burden of proof.

In *Chapman v Barking and Dagenham London Borough Council* case, a large limb from a horse chestnut belonging to the council failed and caused serious injuries to a motorist. The cause of the branch failure was decay which had been initiated by pruning. The council allowed the danger to persist and continue because there were no regular inspections of trees along the street. As part its defence the council stated it had a system of inspection in the highways department whereby every eight to nine weeks the streets were inspected, including the one where the horse chestnut stood. The highway inspectors looked at the trees, but critically it was found not above eye level, because they were primarily concerned about pedestrians being inconvenienced. There was a clear duty to carry out inspections of the horse chestnut and as such the duty had not been met, and the council was therefore liable.