

**JAPANESE KNOTWEED
(Report by the Head of Legal and Democratic Services)**

1. INTRODUCTION

- 1.1 This report contains scoping information on Japanese Knotweed, which will enable the Panel to determine whether to undertake a study on this subject.

2. BACKGROUND

- 2.1 At meeting on 10th July 2012, the Panel requested information on Japanese Knotweed. The request was made because there exist concerns that Japanese Knotweed might be growing on Council owned land and that there could be legal implications for the Council if it is disposed of by the Council and private land owners through the waste collection service.
- 2.2 Japanese knotweed (*Fallopia Japonica*) is native to Japan, Taiwan and China, and was introduced to Europe as an ornamental plant in the early 19th century. It is a large vigorous weed that appears to have no natural enemies in Britain. It grows to a height of about 3 metres in the midsummer with bamboo-like stems, and produces large masses of white flowers. It can colonise most habitats and is regarded as a troublesome pest in many parts of the Country because of its rapid invasion and domination of habitats, which results in the exclusion of other plants. It can damage property (for example by growing through tarmac or even the floors of houses) and therefore needs to be cleared from development sites. The species also causes problems in terms of flood management. It increases the risk of riverbank erosion when the dense growth of the plant dies back in the autumn exposing bare soil. It can create a flooding hazard if the dead stems are washed into the streams and clog up the channel.
- 2.3 Japanese knotweed is listed by the World Conservation Union as one of the world's 100 worst invasive species. A fragment of root as small as 0.8 grams can grow to form a new plant.

3. LEGISLATION

- 3.1 Managing Japanese knotweed is the responsibility of the owner/occupier of a site. It is not an offence to have it on your land and there is no specific legal requirement to control it if it is. It is not a notifiable weed so there is no need to report its presence on your land. Allowing Japanese knotweed to grow onto other people's property may be regarded as a private nuisance under common law, but this would be a civil matter.
- 3.2 Legislation covering the handling and disposal of knotweed includes the following:

The Control of Pesticides Regulations 1986 require any person who uses a pesticide to take all reasonable precautions to protect the health of human beings, creatures and plants, safeguard the environment and in particular avoid the pollution

of water. For application of pesticides in or near water approval from the Environment Agency should be sought before use.

Section 14(2) of the **Wildlife and Countryside Act 1981 (WCA 1981)** states that “if any person plants or otherwise causes to grow in the wild any plant which is included in Part II of Schedule 9, he shall be guilty of an offence.” Japanese knotweed is one of the plants listed in the Schedule. Both the Police and local authorities have enforcement functions under the Act. Anyone convicted of an offence under Section 14 of the WCA 1981 may face a fine of £5,000 and/or 6 months imprisonment, or 2 years and/or an unlimited fine on indictment.

The **Environmental Protection Act 1990 (EPA 1990)** contains a number of legal provisions concerning “controlled waste”, which are set out in Part II. Any Japanese knotweed contaminated soil or plant material that an individual discards, intends to discard or is required to discard is considered to have the potential to cause ecological harm and is likely to be classified as controlled waste (Waste Management Licensing Regulations 1994). The most relevant provisions are in:

Section 33 (1a) and (1b) which create offences to do with the deposit, treating, keeping or disposing of controlled waste without a licence. Exemptions from licensing are available in some circumstances, and are set out in Schedule 3 to the Waste Management Licensing Regulations 1994 as amended (the WMLR 1994).

S.33 (1c) which makes it an offence to keep, treat or dispose of controlled waste in a manner likely to cause pollution of the environment or harm to human health. For offences a magistrates’ court can impose a maximum fine of £20,000 or a maximum prison sentence of 6 months, or both. A Crown Court can impose an unlimited fine or a maximum prison sentence of 2 years, or both.

Section 34 places duties on any person who imports, produces, carries, keeps, treats or disposes of controlled waste. Waste must be handled responsibly and in accordance with the law at all stages between its production and final recovery or disposal. Waste must be transferred to an authorised person, in other words a person who is either a registered carrier or exempted from registration by the **Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991**. A waste transfer note must be completed and signed giving a written description of the waste, which is sufficient to enable the receiver of the waste to handle it in accordance with their own duty of care. The provisions concerning waste transfer notes are set out in the **Environmental Protection (Duty of Care) Regulations 1991** (as amended). Failure to comply with these provisions is a criminal offence. The Environment Agency is responsible for enforcement and a person found guilty of an offence under this section is liable to a fine not exceeding £5000 in the magistrates’ court and to a fine in the Crown Court. Japanese knotweed must be safely disposed of at an appropriately licensed landfill site in accordance with the **Environmental Protection (Duty of Care) Regulations 1991**. To ensure safe disposal, contaminated soils must be buried to a depth of at least 5 metres.

The **Hazardous Waste Regulations 2005 (HWR 2005)** contain provisions about the handling and movement of hazardous waste. Consignment notes must be completed when any hazardous waste is transferred, which include details about the hazardous properties and any special handling requirements. If a consignment note is completed, a waste transfer note is not necessary. Untreated Japanese knotweed is not classed as hazardous waste, but material containing knotweed which has been treated with certain herbicides, may be classified as hazardous waste.

The **Waste Management Licensing Regulations 1994** describe 'waste relevant objectives' in Paragraph 4 of Schedule 4. These objectives require that waste is recovered or disposed of "without endangering human health and without using processes or methods which could harm the environment and in particular without – risk to water, air, soil, plants or animals; or causing nuisance through noise or odours; or adversely affecting the countryside or places of special interest"

4. GOVERNMENT ACTION

- 4.1 The Government is aware of the problems of invasive non-native plants such as Japanese knotweed. The cost of a national eradication programme using current techniques is prohibitively expensive, estimated in the Defra Review of Non-native Species Policy to be in the region of £1.56 billion. However, the Environment Agency does take local measures if flood defences are compromised (using risk assessment and local knowledge).
- 4.2 Defra has contributed funding to scientific research into the natural control of Japanese knotweed, commissioned in collaboration with Cornwall Council, the Environment Agency, the Welsh Assembly Government and others. This study has been undertaking the necessary research to establish whether natural control is a feasible method for the long-term, sustainable management of Japanese knotweed in Great Britain. The project has identified a potential control agent, an insect which is highly specific to Japanese knotweed. The research is currently undergoing rigorous scientific and regulatory examination, and consideration of any risks, which will form the basis of a decision on whether any release of the control agent can go ahead.
- 4.3 The Environment Agency (in partnership with Defra and Network Rail) has published [the knotweed code of practice](#) for those involved in the development industry, which faces the problem on a large scale. Much of the advice holds good for householders and private landowners. The code also gives practical advice on the use of herbicides and other control methods. The Non Native Species Secretariat (NNSS) has produced the [Horticultural Code of Practice](#).
- 4.4 In Cornwall, in response to particular problems, a proactive programme has been implemented by the Environment Agency in association with the Cornwall Knotweed Forum. A considerable amount of information is available on the Cornwall County Council website (see <http://www.cornwall.gov.uk/default.aspx?page=13789>).

5. THE LOCAL POSITION

- 5.1 In Huntingdonshire Japanese Knotweed cannot be disposed of through the green waste collection service. The advice is that there are a number of routes for treatment including removal, burning, spraying or disposal by a specialist firm.
- 5.2 There are three locations where Japanese Knotweed has been found on land for which the District Council is responsible. They are already being managed. One occurrence is in St Neots on open space land that it is believed has come from a neighbouring property. It is being sprayed regularly with herbicides to kill it. The Council will write to the properties affected and advise them of their responsibilities. There is also some at Paxton Pits which the Countryside section is dealing with. It is being cut and burnt. The third occurrence is in a car park site and is similarly being treated. The Council is not aware of any other cases on its land at the current time.
- 5.3 Cambridgeshire County Council provides the following advice:

“When taking down this plant do not flail mow. You should ensure that the plant is cut with simple blades with no fragments. It would be beneficial to ensure that it has been treated with an appropriate chemical beforehand.

All cutting and shoots should be burnt to avoid further infestation.

- Do not take this to a recycling centre.
- Do not place it in the compost waste collected by your district council.
- Do not try to compost this at home.”

4. CONCLUSION

- 4.1 A potential area of study has been identified relating to the District's environment and the Council's waste collection service. A survey of available information has been undertaken and the findings have been presented above. There is a very limited occurrence of Japanese Knotweed in Huntingdonshire and, where the Council is responsible, action has been taken to deal with it. Members are invited to decide whether to commence a study.

BACKGROUND PAPERS

Environment Agency Website
Environment Agency - [the knotweed code of practice](#)
Cornwall County Council Website
Natural England Website
Cambridgeshire County Council Website
Cornwall County Council Website
Non-Native Species Secretariat Website

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