

# LEGAL EAGLE



WITH ANNE AUSTIN

## Solving your knotty problem

**I**t has been estimated that the potential cost of eradicating Japanese Knotweed in Britain is more than £1.25 billion. This has recently been highlighted to us by a client who had to take their house off the market following the discovery of the plant in her garden.

It only came to light when the buyer's surveyor discovered a clump of the invasive plant in the back garden – to the untrained eye it was just another plant in the garden. An expensive removal programme had to be undertaken before the property could be placed back on the market.

The costs of removing the plant will likely put a potential buyer off, but there are

also the other problems to consider such as possible physical damage to the buildings and land, which will affect the value of the property, as well as its marketability and insurability.

To add to any these woes, there is also a potential criminal liability. New guidance issued by the Home Office in November 2014 provided that people who fail to control Japanese Knotweed in their gardens can be prosecuted for anti-social behaviour and fined up to £2,500. Whilst the guidance specifically named Japanese Knotweed, it also lists other non-invasive plants such as Himalayan balsam and giant hogweed.

Buyers of properties need



to be aware of the presence of Japanese Knotweed. Enquiry 7.8 of the Law Society Property Information Form (TA6), which is completed by the seller, asks whether there is Japanese Knotweed on the property and, if so, whether there is a management plan in place. A mortgage valuation survey should also help a buyer. The Council of Mortgage Lenders has said that mortgage lenders will expect the presence of knotweed to

be noted on the residential valuation report.

Finally, it should be remembered that whilst a house owner is not obliged to control, remove, eradicate or treat Japanese Knotweed, failure to take reasonable measures to control it that results in the plant spreading to the wild, or being negligent or reckless about that occurring, could amount to the offence of causing it to grow in the wild under section 14 of

the Wildlife and Countryside Act 1981.

It would therefore be prudent for anyone facing the problem of Japanese Knotweed to take prompt action to control the spread of the plant or you could face getting tied up in knots, both physical and legally, that will be difficult to get out of!

● **Anne Austin** is a solicitor in **David Gray Solicitors' Property Team**. Anne is available for appointments at both the **South Shields** and **Newcastle** offices.

You can contact Anne or the Property Team on 0191 243 8167.

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