



***DUTY OF CARE &
TREE INSPECTORS***

14th March 2012

Chris Simpson

➤ ***Qualifications of the inspector***

- **The inspector should be able to conduct an “adequate” or “competent” inspection.**
- **Consider your qualifications, experience, professional memberships and CPD.**
- **A forester’s long standing experience is NOT enough. (Lane v Tredegar Estate trustees 1954) (Poll v Viscount Asquith of Morley 2006)**

➤ ***Methodology of the inspector***

- **Research for amenity trees series:**
 1. **Diagnosis of ill-health in trees (Diseased tree)**
 2. **The body language of trees (VTA)**
 3. **Principles of tree hazard assessment and management (Tree risk assessment and management system)**

➤ ***Methodology of the inspector***

- **Assess and quantify the risks:**
 1. **Quantified tree risk assessment (QTRA)**
 2. **Tree hazard evaluation form (ISA)**
 3. **Tree hazard: Risk evaluation and treatment system (THREATS)**
 4. **Give timescales for remedial work & re-inspection.**

➤ ***Methodology of the inspector***

- Consider appropriateness of system adopted.
- *Bolam case (1957)* –
- A professional is not liable merely because other members of his profession may take a different view.
- If you reach the standard of a professional body, you're not negligent.

➤ ***Methodology of the inspector***

- Consider appropriateness of system adopted.
- ***Edward Wong Finance Co*** – an agreed common practise can, in itself, be found to be negligent.
- So, put yourself in the strongest possible position – CPD.

➤ ***Negligence and the tree inspector***

- **Claims of negligence against tree inspectors are quite rare.**
- **Negligence may be proven if a failure to act in an accepted professional fashion results in “foreseeable” harm.**
- **So, the tree inspector should work to a standard accepted by (at least some) other members of his profession.**

➤ ***Negligence and the tree inspector***

- Even when injury or harm occurs, there may be no basis for a claim against the inspector.
- The failure and damage caused would need to have been reasonably predictable.
- ***Micklewright v Surrey CC [2011]***

➤ ***Micklewright v Surrey CC* [2011]**

- **Falling limb killed a man.**
- **Despite the tree owner having no defensible tree management system in place, liability didn't arise (even after appeal).**
- **It was deemed that the limb failure wouldn't have been predicted, even if inspected.**

➤ ***Bowen v National Trust [2011]***

- Also relevant because the tree owner adopted a system of “zoning” that the claimant felt was inadequate.
- The Bolam case was cited – the tree had been visually inspected (but not recorded in detail/individually) and although the wrong judgement (retention) was made negligence was not proven.

➤ ***To meet your duty of care:***

- **Use a recognised methodology (VTA?)**
- **Be methodical**
- **Be thorough**
- **Be consistent**
- **Be factual**

➤ ***To meet your duty of care:***

- **Always provide timescales for remedial work.**
- **Always provide timescales for re-inspection.**
- **Avoid producing a “method statement” for remedial work, unless asked to and are suitably qualified.**

➤ ***To meet your duty of care:***

- **Quantify the risk;**
- **Score**
- **Zone**
- **One word summary**
- **Timescales for remedial work**
- **Re-inspection frequency**

➤ ***To meet your duty of care:***

- **Think, targets, targets, targets...**





Thank you for your attention.