



Your Trees and Risk Management

The Legal Bit

Under both civil and criminal law, the owner of land on which a tree stands has responsibilities for the health and safety of those on or near the land and has potential liabilities arising from the falling of a tree or branches from a tree. All landowners therefore have a statutory duty of care to ensure (as far as is reasonably practical) that every asset, including the trees located on their land, is unlikely to cause harm.

It's About Balance

In practice, this requires a balance between the interests of the owners of trees, those of the people that may be harmed by them and those of the public. It is not possible to ensure complete and guaranteed safety unless no trees are present.

The primary means of managing the risk from trees is the implementation of a regime that evaluates and inspects trees on a regular basis (not necessarily annually) to determine their safety.

Trees are a very important part of the overall landscape and their presence has many different benefits depending on how the land is used and where they are situated. An important part of land management must be the impact and risk it has on the human population. Tree felling is an emotive subject, so the measures that are taken must comply with current legislation but also be in context with the location and the number of people who could potentially be harmed, against what is reasonable and practicable to protect and manage the tree.

In order to reduce this risk, tree owners, landowners and land managers are required to “take a balanced and proportionate approach to tree management”. This is generally through establishing an operating procedure concerning their trees and a methodical approach to inspection, recording findings and carrying out remedial treatments.

Tree Risk Management Process

The following 5 steps make up a robust strategy for tree safety management *where an establishment has a large tree population*. Smaller establishments, with fewer trees need only have certain trees periodically checked to cover duty of care.

Step 1: Farm / Estate Policy. A simple policy document needs to be in place identifying what the Estate intends to do to manage the risk posed by its trees.

Step 2: Zoning. This is a process where areas of land are defined according to their level of use and tree stock present. For a programme of tree inspections to be manageable, resources need to be directed primarily to areas where the risk are potentially highest.

Step 3: Tree Inspection. All trees identified in risk zones will be subject to planned inspection programme.

Step 4: Managing risk at an acceptable level: Any remedial action identified during inspections should be recorded and carried out in a timely manner.

Step 5: Record Keeping: All records including maps, form the basis for safety management reviews and in the case of an accident or incident, will be the essential evidence of an estate wide defensible tree management process.

Conclusion

The days of claims of 'act of god' when a tree causes an accident are now well and truly gone, as for the most part, tree failures are 'foreseeable'. This essentially means that when a tree falls over in high winds, it most likely failed as a result of being dead, internal decay, or due to the effects of a wood decay fungus or other defect, all of which would likely have been detected during a tree inspection. Therefore, tree hazard management is now commonplace across the rural management community and insurance companies are beginning to look more closely at tree related incidents. Tree inspections do not guarantee that your trees are safe, rather they demonstrate that you as a landowner or manager have done all that is reasonable to prevent harm to others from trees under your responsibility.

The development of these tree hazard management documents including policy, zone mapping and forward planning of inspections is not particularly time consuming and therefore an expensive exercise. However, they form the foundations of a long term, cost effective and reasonable approach to managing trees to ensure that a proactive and defensible system is in place for the future.

Call us on 01480 890686 or email ross@oakbankgc.co.uk to find out more and how we can assist you.

