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The Rt. Hon. Andrew Smith MP  
Department for Work and Pensions  
Richmond House  
79 Whitehall  
London  
SW1A 2NS

Our Ref.: NE/C2/Insurance

Your Ref.:

19<sup>th</sup> January 2004

Dear Sir

## **EMPLOYERS' LIABILITY COMPULSORY INSURANCE FOR ARBORICULTURAL AND FORESTRY OPERATIONS**

I wrote to you on 29<sup>th</sup> August last year on behalf of nine business and professional membership organisations (see end) who together represent many thousands working in forestry and arboriculture as tree and woodland owners, managers and contractors undertaking tree planting, pruning, maintenance and felling operations, harvesting, sawmilling, tree health and safety inspections, making management decisions and making dangerous trees safe.

This industry of highly trained and skilled people is essential to:

- Deliver the multi-million pound benefits of trees which have become core to many government policies (e.g. the England Forestry Strategy, CAGE Space in relation to tree and green space maintenance and sustainability in general)
- Deliver government policies on environmental, rural, economic and social sustainability by expanding businesses in rural areas
- Enable government, organisations and individuals to fulfil their 'duty of care' responsibilities for the management of trees.

The findings of the *Review of the Employers Liability Compulsory Insurance – Second Stage Report, December 2003* are not our experience in the following areas:

1. Throughout arboriculture and forestry ELCI premium increases of 500% are continuing
2. We are left with only two insurance companies and brokers offering insurance schemes to our industry; one of those insurers is not taking on any new business and the other (responsible for the majority of policy holders) is continually reviewing whether or not to continue to offer insurance to our industry.



The situation is critical. If our businesses can not operate legally then government policy can not be delivered and there will be no one to maintain trees adjacent to power lines, railways and roads, clear trees that have blown down, or implement forest management operations.

My August letter was responded to by Bob Elam, Department of Work and Pensions, by email dated 12 September 2003. The response did not address all of the issues raised, namely:

1. We invited a government representative to attend an 'Insurance Open Forum'
  - The invitation was declined.
  - *We would still welcome help and advice.*
2. We asked government to ensure that claims resulting from an employee's own negligence were dismissed (current practice suggests such claims are commonly being awarded against employers).
  - This was not addressed in the reply nor does it appear to have been addressed in the Second Stage Report.
  - *We urge you to bring this to the attention of the judiciary.*
3. We asked for a reform to the adversarial way in which claims are assessed.
  - We are grateful for the positive reply received to this request and the government's continued commitment as outlined in the Second Stage Report.
  - *We welcome your speediest pursuit of this initiative.*
4. We asked for insurance premium tax to be removed from arboriculture and forestry premiums.
  - This was not addressed in the reply nor mentioned in the Second Stage Report; in spite of CBI figures suggesting the Treasury has received a £300m insurance tax 'windfall' from last year's increased insurance premiums.

ELCI for our sector could become impossible to obtain, in spite of the industry doing everything it can. We have:

- Adopted a co-ordinated approach by involving all the industry's main associations, the HSE and the remaining insurance schemes' brokers
- Set industry safety standards agreed by industry associations and the insurance industry
- Requested these safety standards to be reviewed by the ABI (their initiative "Making the Market Work")
- Advised industry workers and businesses to prepare for large premium increases
- Advised potential employers of the dangers of employing uninsured workers or businesses
- Looked for other insurers (with no success to date).

You can see further detail on <http://www.trees.org.uk/insurance.htm>. This is adding further cost to businesses with borderline viability.

**Jointly we urge you to take action:**

1. As government has in other insurance crises (e.g. terrorism and household flood insurance) and as an absolute priority assist us to ensure availability of insurance to the industry
2. Reconsider our points 1, 2 and 4

3. Urgently direct resources to enforce against those operating with the unlawful competitive advantage of trading without ELCI (a significant issue to the industry and identified in the Second Stage Report)
4. Pursue the other government initiatives within the Second Stage Report
5. Give us government's view as to what our members should do if ELCI becomes unavailable, and if there is anything else we can do ourselves or jointly with government to bring resolution.

We continue to stress the urgency and fragility of this situation.

Yours faithfully, and on behalf of nine industry representative bodies



Nick Eden  
Director

Copies to:

Government

- Shadow Secretary of State for Work and Pensions:  
David Willetts Esq. MP, 19 South Street, Havant, Hampshire. PO9 1BU
- The Deputy Prime Minister  
Rt. Hon John Prescott MP, ODPM, 26 Whitehall, London. SW1A 2WH
- Secretary of State for Environment, Food & Rural Affairs  
Rt Hon Margaret Beckett MP, DEFRA, Nobel House, 17 Smith Square, London, SW1P 3JR
- Parliamentary Under-Secretary of State, DEFRA  
Benjamin Bradshaw Esq. MP, DEFRA Nobel House, 17 Smith Square, London, SW1P 3JR
- The Scottish Executive First Minister  
Jack McConnell MSP, St. Andrew's House, Regent Road, Edinburgh, EH1 3DG
- The National Assembly for Wales First Minister  
Rt Hon Rhodri Morgan AM, NAW, Cardiff Bay, Cardiff. CF99 1NA
- Secretary of State for Northern Ireland Office  
Paul Murphy MP, Block A, Castle Buildings, Stormont, Belfast. BT4 3SR
- Small Business Spokesman for the Liberal Democrats  
Brian Cotter MP, 8a, Alexandra Parade, Weston-super-Mare, Somerset, BS23 1QT
- Secretary of State for Trade and Industry  
Nigel Griffiths MP, 31 Minto Street, Edinburgh, EH9 2BT

Tree owners and major tree contractor employers

- Forestry Commission Director General  
David Bills, CBE, FIC For, Silvan House, 231 Corstorphine Road, Edinburgh, EH12 7AT
- Local Government Association Chief Executive  
Sir Brian Briscoe, Local Government House, Smith Square, London, SW1P 3HZ

This approach to you is supported by the following nine arboriculture and forestry business and professional membership organisations:

<b>Organisation</b>	<b>Number of members represented</b>	<b>Contact</b>	<b>Activity</b>
Arboricultural Association	1,800 (individuals and organisations)	Nick Eden, Director 01794 368717 Arboricultural Association Ampfield House, Romsey, Hants, SO51 9PA, UK	Setting industry and training standards for arboriculture in the UK and maintaining quality assured accreditation schemes for arboricultural contractors, consultants and local government officers
Forest Industries Development Council	Included within other representative bodies	Barrie Hudson 01467 651368 c/o FCA Dalfling, Blairduff, Inverurie, Aberdeenshire AB51 5LA	Spearheading the sustainable development and promotion of an internationally competitive multi-objective forestry industry throughout the UK
Forestry and Timber Association	2,500 (individuals and businesses)	Chris Inglis, Executive Director 0131 538 7111 5 Dublin St Lane South Edinburgh EH1 3PX	Representing forest industry operators, including woodland owners, forest managers and contractors, forest nurseries and suppliers of goods and equipment
Forestry Contracting Association	1,300 individual and company members (approx 6,000 workers)	Barrie Hudson 01467 651368 FCA Dalfling, Blairduff, Inverurie, Aberdeenshire AB51 5LA	Representing forestry and arboricultural contractors. Provision of training and business development
International Society of Arboriculture (UK & Ireland)	600	Glenn Gerner 0121 556 8302 148 Hydes Road Wednesbury West Midlands WS10 0DR	Formed in 1992 to represent the UK based professional arborist and to promote an international platform for the advancement of the science of arboriculture
Institute of Chartered Foresters	1,100	Margaret Dick, OBE Executive Director 0131 225 2705 7A St Colme Street Edinburgh EH3 6AA	Regulated by Royal Charter to promote excellence and uphold Code of Ethics and Rules of Professional Conduct in the sustainable management of trees and woodlands
National Association of Tree Officers	76 Local Authority Corporate Members in the UK	David Williams Admin Officer 0161 281 6122 PO Box 734 Manchester M60 3UB nato@focusuk.net	Responding to and representing the views and concerns of local authority tree officers nationwide
Tree Care Industry Association	250 member businesses (approx 2,500 employees)	Chris Frankland Chairman (UK) 0161 941 5410 chrisfrankland@onetel.net.uk	Representing tree care businesses
UK Forest Products Association	94 companies (approx 8,500 employees)	David Sulman, Executive Director 01786 449029 dsulman@ukfpa.co.uk	Representing the technical and commercial interests of the UK forest products industry