



Highway tree inspections; are you on the right side of the law? (Cornwall AA Autumn Seminar presentation by Jeremy Barrell on 20th November 2018)

When a large branch fell from a mature oak tree near Windsor (adjacent image) on 5th October 2012 and caused the death of a motorist, it set in motion a sequence of events that is shining a spotlight on highway tree inspection. An inquest held in July 2014 resulted in a Narrative Verdict and the first ever Prevention of Future Deaths (PFD) report relating to highway tree inspections (<https://www.barrelltreecare.co.uk/assets/Uploads/D05-Inquest-verdict-and-PFD-Report-Warren-2014.pdf>). In that report, the Coroner recorded concerns including a lack of guidance for highway inspectors, the limited training provided for those inspectors, and the need for a series of inspections limited only to trees. Taking a broader perspective, it also identified that there was: *"very little by way of clear, detailed guidance available to Local Authorities as regards the appropriate systems of highway inspection of trees abutting the highway. There is a potential need for clear direction from a suitably qualified source to assist Local Authorities in this crucial role."* This PFD report was forwarded to the UK Roads Liaison Group and its content was considered in the October 2016 update of the government endorsed Code of Practice for highway management, *Well-managed Highway Infrastructure*. There is a 2-year period of grace to transition from the earlier version, so the new guidance came into force in October 2018.



There are more than 200 highway authorities around the UK that must manage the risk from roadside trees, but Jeremy Barrell's experience at dealing with criminal and civil cases, and inquests, reveals a wide variety of interpretations of what the standard of the duty of care is for highway trees. In the context of the PFD report and the updated highway guidance, Jeremy submitted a Freedom of Information (Fol) request to all the UK highway authorities asking for information on tree failure related fatalities and injuries, tree risk management strategies, tree inspection protocols, and training programmes. It is planned to compare these results with a second Fol request scheduled for 2019, to provide a before and after snapshot of the critical date (October 2018), when the above guidance becomes fully effective.



In this presentation, Jeremy will report a summary of the current state of the nation in respect of highway tree inspections, and offer his interpretation of what the standard of duty of care is likely to look like into 2019, and beyond. It is anticipated that, when published in 2019, this data could form the basis for designing the *"clear, detailed guidance"* on highway tree inspections called for in the PFD Report.

Jeremy Barrell is the Managing Director of Barrell Tree Consultancy (www.barrelltreecare.co.uk), one of Britain's leading planning and legal tree management practices. He has been involved in six of the 11 civil cases relating to harm arising from tree failures that have resulted in written judgments in the last two decades (<https://www.barrelltreecare.co.uk/assets/Uploads/LegalCases-Updated-301217.pdf>).