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**Tree Safety – Summary Background of Poll v Asquith (2006)**

Landowners owe a duty of care to users of roads adjacent to their land under the general law and under the Occupiers Liability Act 1957. A failure to fulfil this duty may amount to negligence and might result in the landowner being liable to pay damages for loss and injury suffered by a road user as a result of such failure.

Trees falling into the road from neighbouring land and causing damage and injury are an obvious example of this. Poll v Asquith is a well-known case arising out of injuries suffered by a motorcyclist who collided with a fallen tree lying across the road, and the courts considered the nature and extent of the duty owed by the landowner to take steps to safeguard users of public roads running adjacent to or through his estate.

In this case, the motorcyclist suffered injuries when he collided with an ash tree which had fallen from Viscount Asquith's land onto an adjacent public highway. The tree had fallen due to the combined effect of a visible structural defect and a hidden fungal infection which was only detectable upon closer inspection.

The landowner's forestry inspector had only carried out a drive by inspection and the court had to decide whether this was sufficient to fulfil the duty of care owed by the landowner to users of the highway. After hearing expert evidence, the court found that a competent inspector would and should have appreciated that such a multi-stemmed tree posed a potential risk and a closer inspection should have been undertaken. Appropriate remedial action could, and should, have been taken to prevent the tree from falling onto the road, which was particularly likely in the high winds at the time of the accident.

What is reasonable depends on the extent of the land owned and the foreseeability of loss or injury being caused to road users by trees that abut the highway. In summary, landowners should consider whether reasonable steps are being taken to fulfil their duty of care. It is important to note that this will also encompass loss and injury in other ways eg by straying animals.

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