

# Visitor Safety in the Countryside Group

## Cwm Clydach Case



Cwm Clydach is an RSPB nature reserve in South Wales. Mr Mills-Davies, a visitor walking on a trail cut through the more remote part of the woodland reserve, apparently tripped on a small sapling stump left behind from the path clearance work. He alleged that he fell face-first onto another stump, which caused the loss of sight in one eye. The judge dismissed the claim on the basis that Mr Mills-Davies failed to prove that the accident occurred in the manner alleged by him. However, and more importantly, the judge also went on to consider the scope of RSPB's duty assuming that he had satisfied the court that the accident happened in the way he alleged.



The judge held that even in this case, the claim would still have failed. It was found that stumps such as these were commonplace in woodlands and on woodland trails and the presence of such a stump on the footpath was not a breach of duty under the 1957 Occupiers' Liability Act. This took into account the nature of the area in question, the type of visitor who could be expected there, the small number of visitors who walked in this part of the reserve and the absence of any previous accident or complaint. The judge held that the accident was not reasonably foreseeable and even if it was the risk was very small. It was also unreasonable to require the RSPB to remove all protruding

stumps and all other sharp pieces of bracken, sticks and other materials resulting from path clearance and subsequent maintenance work that could conceivably cause a penetrating injury.

### **Mills-Davies v Royal Society for the Protection of Birds (RSPB) March 2004**

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