

A guide to making a claim

The following information will be required when making your claim:

- The road name and a detailed description of the location. This should include any landmarks and other distinguishing features.
- Location sketch plan showing location of defect – this could be extracted from Google to enable us to locate the defect.
- Time and date of the incident. (Please note that a claim cannot be made for damage that has occurred over a period of time, this would be considered wear and tear).
- The weather conditions at the time of the incident.
- Where possible and if it is safe to do so, take photographs of the road showing the defect responsible for the incident and the surrounding location.
- Again, where possible and if it is safe to do so take measurements of the defect, including its depth using a ruler or measuring tape.
- Details of the damage that has occurred and photographs of this damage.
- Where the damage is to property, receipts to substantiate the financial loss incurred.
- For personal injury claims, dates of any hospital or GP visits.
- Retain details of any witnesses and/or police incident number (if applicable).

Consider checking who is responsible for the road in question

With a network of over 1137kms of maintained highway, Warrington Borough Council is responsible for the vast majority of roads within Warrington. These roads are often referred to as adopted highway or highway maintainable at public expense.

The main exceptions are roads designated as private roads. These are the responsibility of the road owner, which is usually not the council. Private roads are sometimes called unadopted roads (not adopted or owned by the local authority).

Check the council [mapping](#) to see whether the highway is maintainable at public expense by Warrington Borough Council.

The council's responsibilities and the law

The council, as the Highway Authority, has a statutory duty to maintain the public highway in good order, [under section 41](#) of the Highways Act 1980.

[The Highways Act 1980](#) also acknowledges that it is not possible to keep the road network entirely free from defects, and that it is unreasonable to expect local authorities to know about all defects and to repair them the moment that they appear. Similarly, not all defects are of a serious enough nature to represent a danger to road users, and would not be considered in need of repair.

In recognition of this, local authorities have been given a legally recognised defence against compensation claims under [section 58 of the Highways Act 1980](#). To enable us to rely on a section 58 defence, the council

must have a clear policy setting out its road maintenance regime, and must show that we have complied with this policy.

Our maintenance regime includes:

- Regular safety inspections of the highway.
- A system to identify and prioritise defects and hazards.
- Response times within which to undertake repairs.

How we will deal with your claim

When we receive your claim, including any photographs and receipts, your claim will be investigated by the Highways Team. A copy will also be forwarded to the Council's Insurers who are responsible for the handling of the claim and advising a claimant of the outcome of the claim. Claims will only be paid if Warrington Borough Council are legally liable for the incident.

It is important to understand that due to section 58 of the Highways Act 1980, mentioned above, there is no automatic right to compensation. Warrington Borough Council as the custodian of the public highway uses taxpayers' money to maintain the road network and cannot immediately and automatically pay for damage caused by defects. All public expenditure is subject to scrutiny and we need to demonstrate that taxpayers' money is spent in the right way.

In this context, we investigate all claims individually and on their own merits in order to reach a position on liability as quickly as possible. For property damage claims and personal injury claims (pre July 2013) we aim to provide a liability decision with 90 days from receipt of the claim.

For applicable claims post July 2013 (personal injury only) these are now dealt with via the claims portal and a liability decision will usually be provided with 45 days.

Whilst assessing your claim we will look at the classification of the road, how often it is inspected and whether the council could have reasonably been expected to know that the defect existed. If we have previously identified the defect, we will also take into account its prioritisation for repair.

When the council does not consider that it is liable, and that the section 58 defence can be relied upon, then we will tell you as quickly as possible. Our decision to deny a claim will be based on the facts and the law.

You may decide to take the claim further, by issuing small claims court proceedings. When this happens the council will continue to defend the claim in court.