

INJURY or DAMAGE on the Highway



Introduction

Personal injury or damage to property on the public highway is always regrettable. As part of the London Borough of Hammersmith and Fulham's commitment to serving the community we aim to minimise such incidents as much as possible.

Some accidents, by definition, will happen. However in other instances personal injury or damage to property, may arise from a defect in our roads and footways.

Background

As a highway authority we are required to maintain the highway in a safe condition. This does not mean they should be perfectly even but rather that they be kept at a reasonable standard for normal use.



Technical officer conducting an inspection

To ensure our roads are properly maintained we undertake regular inspections that are carried out by qualified and experienced Technical Officers. The frequency of these inspections is greater on roads and footways where the vehicular and pedestrian usage is highest.

Unsafe defects observed during these inspections are repaired promptly. We also encourage the general public to report any potentially hazardous defect observed in our streets.

Your rights to compensation

In general for a claim to be successful against a highway authority it is necessary to prove that:

- 1 The highway in question has not been properly maintained;
- 2 The defect that caused the accident was dangerous; and
- 3 The defect was the direct cause of the accident.

Inspection and repair records form the basis of the highways authority's legal defence against any claim. If the highway authority can show that they took reasonable steps to ensure the highway was safe, then **the claim will fail**. The majority of highway claims against this Council fail.

Should you claim?

Our local roads are amongst the Borough's most valuable assets. It is vital that they are maintained as cost effectively as possible. Please think carefully before making a claim. Your own insurers may be able to compensate you.

In very rare cases claims can be settled where the Council's insurers accept that there has been a failure to maintain the highway.

But in all other cases each and every claim, regardless of the size, will be defended.

Valuable resources are taken up with investigating, defending and (in a very small number of cases) paying compensation. This may result in a lack of funds for important works that keep up the appearance of your local streets.



Example of Utility works defect

Utility companies (gas, water and electricity) carry out work in our streets. Last year they were responsible for over 10,000 excavations in this Borough alone. Many claims each year have to be referred to the utility companies to defend, as the defect in question is a direct result of their work. Similarly some accidents occur during work managed by our contractors. They carry their own public liability insurance for working on the public highway.

If you decide to claim

If you decide to claim you will be asked to provide full details in writing outlining the following:

- ◆ Your name, NI number, date of birth and full contact details
- ◆ An exact location of the incident
- ◆ The names and contact details of any witnesses
- ◆ The time, date and weather conditions
- ◆ The direction of travel
- ◆ A sketch of incident location
- ◆ The details of injury or damage
- ◆ Why you believe the highway authority is responsible

and if possible

- ◆ photographs of the defect and surrounding area.

In addition for vehicle damage:

- ◆ Proof of ownership
- ◆ A copy of the current MOT
- ◆ Your insurance certificate
- ◆ The odometer reading
- ◆ The date of last service *and*
- ◆ Two independent repair estimates.

How your claim is processed

On receipt of your claim we will acknowledge it within 10 working days. We will also notify our insurers that your claim has been received. If necessary we will request further information or a site meeting as part of our investigations.

When we are in possession of all the necessary details, our aim is to have the investigation

completed and a full report, based on incident details, inspection records and works conducted, sent to our insurers within 30 days. Our insurers will then respond to you.

This may be to:

- ◆ Refer the claim to others
- ◆ Deny liability
- ◆ Pay compensation

Contact

For further information, to report a defect or to make a claim following an accident please contact the Highway Projects Group Insurance officer in the Council's Environment Department on **020 8753 1081**.



Highway improvement work

Highway Projects
Highways and Engineering
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Improving Urban Green Spaces
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Street and Highway Works