



Highways Act claims – potholes, defects, bumps, dips and depressions : A Guide



1. What are potholes?

Potholes are defects caused by poor application of the road surface and/or wear and tear caused by traffic and weather conditions, particularly in the UK where freeze-thaw cycles are common. They can form when water seeps into small cracks in the road, freezes, and expands, weakening the surface. As vehicles pass over the weakened area, the asphalt breaks away, creating a hole. Other pinch points are around metalwork installations in the carriageway, joints in tarmac or areas impacted by other features such as vehicles which are too heavy for the road surface or areas of flooding. Defects do not need to be circular in shape as many potholes are – they can also be linear – a crack, a groove – or they can be a bump, a dip or a depression and often these do not trouble a motor vehicle with wider tyres but they can be catastrophic for a cyclist, a scooter rider or a motorcyclist.

For two wheeled travellers, potholes pose a significant safety hazard, potentially causing serious incidents due to sudden jolts, loss of control, or being forced into traffic to avoid them. Local authorities in the UK are responsible for inspecting and maintaining roads and addressing pothole repairs

2. How to report a pothole?

To report a pothole in the UK, you need to notify the local authority responsible for maintaining the road in that area. They should then assess the defect and determine whether repairs should be arranged according to their highways policy. Different local authorities have different policies to adhere to.

It is important to identify exactly where the defect is. You can use Ordnance Survey coordinates or What3Words or look for something in the immediate area which you can use as a reference point eg a house number, a lamp post number, road markings, a post box etc

You can often report potholes directly to your local council (information can generally be found online as to how to do this), but many authorities also accept reports via third-party apps such as Fill That Hole (provided by Cycling UK) and FixMyStreet. These apps make the process simpler, often allowing you to:

- Pinpoint the exact location of the pothole on a map on your smart phone or by reference to physical features in the area.
- Upload photos to provide evidence of the damage.
- Provide a brief narrative to describe the defect.

Using these platforms can help ensure the hazard is documented and visible to both the council and the public, increasing the likelihood of timely repairs and improving road safety for vulnerable road users eg cyclists. The other major benefit of reporting potholes is that it puts the local authority 'on notice' of the existence of the defect and once they know about it they need to consider how they should deal with that information. Your report can also form evidence in a claim for someone who comes a cropper at that same spot before the defect is repaired. For this, consider allowing your contact details to be made available when you report the defect. If your contact details are hidden, it is much harder for injured victims to access evidence to help their claims.

3. If you have been injured as a result of an incident with a pothole?

If you've been injured in a cycling accident caused by a pothole, you may be entitled to make a claim for compensation. As specialist cycling claims solicitors, Fletchers Solicitors can guide you through the process to help you secure the compensation you deserve.

Obtain good photographs and measurements of the defect as soon as you can and note down the location: Take these ASAP. Once the defect is repaired the evidence is lost. We will need length, width and depth photos. We need close up and wider angle photos. Use a good straight edge for the depth measurement and ideally a tape measure to measure vertically. Try and get your camera/phone down to road level to take a photo showing the measurement. Make a note of the measurements as these are really important. See our separate guide to securing the best evidence from the scene



Seek Medical Attention

Ensure your injuries are assessed and documented by a medical professional, as this will form a key part of your claim. Make sure you report that a pothole/defect caused your injuries. Simply describing 'fall in road' or 'fall from bike' is not enough



Obtain witness contact details :

This will help support your claim to confirm where and how you were injured

Be prepared to describe exactly which defect caused the incident ...and how :

The specifics of this are often difficult but without this information, your case could well fail.

Speak to a specialist lawyer

(obviously we would say this but it is important) The specialists at Fletchers Solicitors will be able to advise if you have a valid claim for compensation. We will collect evidence on your behalf and investigate the case but will need you to provide the following as a start:

- The exact location and your direction of travel
- Photos of the defect, its size, and position on the road
- Measurements of the defect
- Photos of your bike/scooter to show the wheels/tyres and any damage
- Witness contact details, if anyone saw the incident
- Any CCTV/camera footage

4. What is the law?

Local authorities have a legal duty under the Highways Act 1980 to maintain roads and pavements in a safe condition for all road users.

If a dangerous pothole has developed and the council has either failed to identify it through their own inspections or neglected to repair it after being made aware of it, they could be held liable for failing in their duty of care.

To establish your prospects of success in a claim we will consider:

- Whether the pothole would be classed as 'dangerous': There is no single test for this. Generally, a pothole would be considered dangerous if it is deep and wide enough to pose a risk to road users. Although policies of local authorities vary greatly, generally this is around 40-50mm deep on the carriageway and 20-25mm deep on a pavement. There are also examples of cases where a judge has departed from measurements set out in a policy and determined that a defect is dangerous despite measurements in the policy not being met
- Whether the local authority knew or ought to have known about the defect before you were injured. We will investigate to see if anyone reported the defect before your incident and scrutinise documents which the local authority are obliged to send to us if they dispute the claim. We look for any evidence that establishes that the defect was reported or seen on an inspection.
- Whether the local authority has complied with its own policy in terms of inspection, maintenance and repair of the highway
- Whether other local authorities have very different highways maintenance policies which might be considered to be more reasonable
- Any independent evidence of the mechanics of your incident/your fall. The pothole needs to have directly caused you to fall or lose control, leading to injury and damage

Even if all these are satisfied the local authority may attempt to show that they had a reasonable system for inspection, maintenance and repair in an effort to avoid paying compensation. The local authority have to prove this and we look to see if there is evidence to prevent them establishing this.