

- If your claim involves personal injury, then it will be forwarded to the Council's insurer and they will correspond with you directly

How is your claim dealt with?

Once a completed Incident Report Form has been received, the Council will acknowledge receipt within 5 working days. If you have suffered a personal injury, then the Incident Report Form will be forwarded to the Council's Insurer. Their handling agent Gallagher Bassett will also acknowledge receipt of your Incident Report Form with 5 working days.

Your claim will be investigated by the Council and our Insurer where applicable and you will be advised of our decision within 90 calendar days from the date we receive your completed Incident Report Form.

If there is insufficient information within the Incident Report Form to allow the Council to investigate the incident, e.g. the location is not clear or a specific defect has not been identified, you will be notified accordingly.

The 90 calendar day period will commence once you have provided the requested information.

The Claim Decision

All claims are decided on an individual basis. Ultimately only a court can decide whether the Council is liable to pay compensation. If the Council and/or our insurer considers that a court would not

award compensation, then your claim will be denied. You will be provided with an explanation of the decision by the Council or our insurer.

Challenging a decision

If you disagree with the decision made by the Council's insurer, then you should direct all correspondence to them. If you disagree with the Council's decision, please forward all correspondence to

insurance@westberks.gov.uk

We would not normally look at a claim again unless you have further information that has not been considered before.

You have the right to seek independent legal advice at any time in the claims process.

Contact:

Email: insurance@westberks.gov.uk

Tel: : 01635 551111

We are committed to being accessible to everyone. If you require this document in an alternative format or translation, please call Finance on Telephone 01635 519174.

West Berkshire Council

Finance

Market Street
Newbury
Berkshire
RG14 5LD

T 01635 551111

www.westberks.gov.uk

Guide to making a Highways claim

Should I claim



West Berkshire Council as the Highway Authority is responsible for maintaining over 1,250 kms of public highway within the Council's boundary. This includes roads and pavements.

The duty to maintain the roads and pavements is contained within the Highways Act 1980. The Act recognises that defects will arise from time to time and that whilst the overall appearance of a road or pavement may not be pleasing, it does not necessarily mean that the Council has breached its duty. The Council is not automatically liable for every incident which occurs on a road or pavement.

To meet the Council's duty, the Council has in place a safety inspection regime where each road and pavement receives regular routine inspections by qualified highway inspectors. These inspections are carried out using a dedicated inspection vehicle or on foot. The frequency of inspection is determined by the classification and use of a road.

As a result of this robust system of inspection, over **95% of claims made against the Council are successfully defended and compensation is not paid.**

Your right to compensation

If you have an incident on one of the Council's roads or pavements, there is no automatic right to compensation. For compensation to be paid, you must prove:

- That the area where the incident occurred was not properly maintained to the appropriate standard for the class of road **AND** was dangerous,
- That the defect was the direct cause of the incident.

Where the Council as the Highways Authority can prove that all reasonable steps were taken to maintain the Highway (roads and pavements), then compensation is not payable. The Council's formal safety inspection regime forms the basis of the Council's defence against claims made under the Highways Act.

Any claims that are paid are paid from public funds. As the Council also has a duty to protect the public funds it administers, legitimate defences will be applied where appropriate. Compensation will only be paid if the Council is found to have been in breach of its statutory defence

Other parties

If the incident appears to have occurred because of another party, your claim may be passed on to that other party. Examples of this include utility companies (SSE, Thames Water, etc.), the Council's Highways maintenance contractor, etc.

Should you claim?

If you think that the Council has failed in its duty and wish to pursue a claim, you will need to complete an Incident Report Form, available at: <https://citizen.westberks.gov.uk/damage>

Or you can request by phone – 01635 551111

Each claim will be investigated thoroughly regardless of its value. In order for the Council to do this, the following information will be required:

- The exact location of the incident. Please be specific so we can identify the road and exact location where your incident took place.
- The specific defect that you believe was responsible for the incident. It is not sufficient to state that a road or area is in a bad condition.
- The date and time of the incident.
- The weather conditions at the time of the incident.
- Your direction of travel.
- Where possible, the dimensions of the defect (length, breadth, depth etc.).
- Photographs of the area and defect. Please provide a context for any photos. Please do not put yourself in any danger whilst taking photos
- Details of any damage or injury suffered.
- An explanation as to why you think the Council is responsible for the incident.
- If your claim is for property damage, you are required to keep your losses to a minimum which means that any repairs should be arranged as soon as possible. Original repair invoices and receipts will be required in support of your claim. Repairs can be carried out on the understanding that compensation may not be payable.