

How to claim for damage

If your car is damaged by a pothole, you may be able to claim compensation. Overall payouts by local authorities to road users in 2012 ranged from £8m in north-west England to just £0.1m in the East Midlands. However, more compensation doesn't necessarily equal inferior roads – it may simply mean that some councils are more willing to pay out on claims. The figures can also be skewed easily by a few major cases.

Your chances of claiming compensation depend largely on whether a pothole has already been reported. Section 58 of the Highways Act 1980 provides councils with a statutory defence if they can show that reasonable care was taken to 'secure that the part of the highway to which the action relates was not dangerous to traffic'. In other words, if the local authority knew about the pothole but hasn't repaired it, or hasn't followed road maintenance guidelines, you should be able to claim.



All councils allow you to report potholes via their websites

REPORTING A POTHOLE

All councils allow you to report potholes via their websites. When you make a report, include all the supporting evidence you can, such as photos of the pothole and damage to your car. To find out which council maintains the road, you can enter the road name, town or postcode on the Directgov website. Alternatively, the Cyclists' Touring Club's Fill That Hole website (below) allows you to identify the location of a pothole using Google Maps – or via GPS if you download the free iPhone app. The club will then report the pothole on your behalf. If the incident happens on a motorway or A-road, you will need to contact the relevant highways agency. And if your car was damaged on a private road, your claim will be against the road owner.

If the council or relevant authority makes an offer, you may be able to negotiate. While you can claim the cost of car repairs, you won't necessarily be compensated for additional travel expenses or the inconvenience caused. If your claim is rejected, you can use the small claims court. However, we suggest you seek legal advice first, as you will be liable for costs if you lose the case.



If your car is damaged, you may be able to claim compensation

EXPERT VIEW

I claimed for my car

Dave Holes | Which? researcher



I was driving at about 50mph along a B-road in Bedfordshire when I saw a large pothole just ahead.

Unfortunately, it was too late to react and I hit the pothole with an almighty jolt. The car swerved sharply, but thankfully I brought it safely to a stop.

Getting out, I immediately realised that my offside front wheel was buckled and the tyre completely deflated. I jacked the car up and changed the wheel, then walked back up the road to inspect the pothole.

It was huge – clearly it had been there for a while and I was pretty angry that something that large and dangerous had been allowed to develop. Judging by the number of lost hubcaps lying around I wasn't the only one to have hit it. Thankfully I was in a car, but for a motorcyclist the consequences could have been dreadful.

I knew that if I was going to claim compensation I'd need evidence, so I took photos of both the pothole and the damage it had caused to my wheel. I then drove home gingerly as I wasn't sure if there was any suspension damage (it was later confirmed there wasn't).

CLAIMING FOR REPAIRS

I contacted my local garage the next day. It ordered a new wheel and tyre at a cost of £120. I then wrote to the council, including hard copies of the photos, an explanation of what had happened, a map of where the hole was and copies of garage receipts, asking it to reimburse me. I also urged it to fix the pothole as soon as possible as it clearly represented a danger to other road users. The council wrote back a couple of weeks later to say that it had passed the letter on to its insurers. About two months after that, I received a cheque for the full £120.

I was happy with the outcome, although could have done without the hassle in the first place. When I drove along the same road a few weeks later, I noted that the pothole had been repaired.

PHOTOGRAPHY BY: PETER ASCOTT

Contacts

LOCAL COUNCILS

mycouncil.direct.gov.uk

MOTORWAYS AND A-ROADS

HIGHWAYS AGENCY (England)
www.highways.gov.uk

TRANSPORT SCOTLAND

www.transportscotland.gov.uk

NORTH WALES TRUNK ROAD

AGENCY www.northwales-tra.gov.uk

SOUTH WALES TRUNK

ROAD AGENT www.swtra.co.uk

ROADS SERVICE (all roads in

Northern Ireland)

www.nidirect.gov.uk

TRANSPORT FOR LONDON

www.tfl.gov.uk

CTC FILL THAT HOLE

www.fillthathole.org.uk

WHICH? LEGAL SERVICE

www.whichlegalservice.co.uk

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