**Introduction**

Information for Highway Claimants

Please retain for your information.

The County Council as the Highway Authority is responsible for just over 4,375 miles or 7,000 km of highway across the County.

Highways England, not the County Council, is responsible for the maintenance of trunk roads and motorways; the A56 (between the M65 and the M66),A585 (From M55 to Fleetwood) and M6, M55, M58, M61,M65 (Junctions 1 to 10). The County Council is responsible for all other roads.

Before making a claim, please consider the following information which explains some of the legal background to highway maintenance and the law which relates to it.

**Duties**

Section 41 of the Highways Act 1980 requires the Highway Authority, which is the County Council, to maintain all highways for which it has a responsibility. In order to fulfil this responsibility a programme of inspection is in place. Each road and footway is the subject of inspection, the frequency of which depends upon the classification, or status, of the road or footway (how busy the road or footway is). When a defect, or fault, is identified on an inspection, any necessary repairs are carried out within set timescales. Defects reported by members of the public are treated in the same way.

**Claims and the Law**

Under Section 58 of the Highways Act 1980 provides the County Council with a "special defence" to claims for damage or injury arising from the condition of the highway, if it can show it has taken reasonable steps to maintain the highway.

In order to be successful a claimant will need to show that the section of highway in question has not been maintained properly, according to its status and was therefore unsafe. A claimant must also show that this was the cause of the incident and that a loss or injury has been sustained.

The County Council will not have to pay compensation if it can show that it has carried out inspections and repairs as planned and reported, satisfying the requirements of Section 58.

Please be aware that defects can develop very quickly particularly in the carriageway. The presence of a defect does not necessarily mean the Council is liable. If a claim arises from a defect that is subsequently repaired, this does not imply an acceptance of liability on the part of the Council.

Although unfortunately incidents do occur very few are actually attributable to the negligence of the County Council. The majority of the claims brought against the County Council are successfully defended.

**Making a claim**

If, after consideration of the legal principles, a claim is to be submitted there is a set process that applies. A claimant must supply, in writing, full details of the incident. For ease of reply a questionnaire is attached. The claimant may be asked to attend a site meeting in order to identify correctly the accident location or its circumstances.

**The procedure**

Claims will be dealt with in accordance with the Civil Procedure Rules 1998, which is the legal framework that governs claims of this kind.

A letter acknowledging receipt of the written claim will be sent to the claimant within 21 days. The claim will be thoroughly investigated in due course and a decision on liability will be given. The County Council will either accept the claim or produce sufficient evidence to refute it.

There are some cases where the County Council is not responsible for the location or type of works being undertaken; if that is the case the Claimant will be informed accordingly.

This procedure will be followed whether the claim is handled by the County Council; its insurers or their representatives.

**Fraud statement**

It is an offence to make a fraudulent claim for compensation or to exaggerate one. The County Council has a duty to protect public funds and may use the information provided for the detection and prevention of fraud. It may also share information with other bodies responsible for auditing or administering public funds for these purposes.

**Contacts**

To report a defect on the highway, report it online at [www.lancashire.gov.uk/](http://www.lancashire.gov.uk/) or to request a highway incident report form please contact: Lancashire County Council on 0300 123 6780

Please submit a claims questionnaire to Legal, Governance and Registrars Service at the contact details provided on the questionnaire.

Once the questionnaire is received, you will receive an acknowledgement within 21 days confirming details of the claims handler who will be investigating your claim.

**LANCASHIRE COUNTY COUNCIL**

THIRD PARTY DAMAGES, PERSONAL INJURIES OR LOSS

DUE TO A HIGHWAY INCIDENT

# QUESTIONNAIRE

The purpose of this document is to enable you to provide all the relevant information concerning your loss or injury sustained in your alleged highway incident.

**It is important that all questions are answered as fully as possible and that all accompanying information, which is requested, is supplied. Insufficient information may delay the processing of your case**. You must give sufficient details to allow the **precise** location of the incident to be identified. Your case will then be referred to the Litigation Team.

Please complete the form clearly using block capitals if necessary. Where a question is not applicable write “N/A”

**DATA PROTECTION**

In completing and submitting this questionnaire, Lancashire County Council have a responsibility to process your personal data. Your personal data will be processed lawfully in accordance with the UK General Data Protection Regulations (UK GDPR) and the Data Protection Act (2018). We will always process your personal data where we have a lawful basis for doing so, which may include sharing your personal data with other organisations (including our contractors, sub-contractors) for the purposes of providing these services.

For further details of how Lancashire County Council processes your personal data and for advice on how you can exercise your rights with regard to your personal data, please consult our Privacy Notice here:

<https://www.lancashire.gov.uk/council/transparency/access-to-information/privacy-notice/>

# Please ensure that you sign and date the form on the last page.

**SECTION A - PERSONAL DETAILS**

**Full name**……………………………………………………………………………. **Address**………………………………………………………………………………

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**Post Code** ……………………….

**Telephone No.s Home:** ………………………………………………………....

**Mobile:** ……………………………………………………......

**Email Address** .................................................................................................

**Date of birth**…………………………………………………………………………

**Are you registered for VAT? YES/NO**

**National insurance Number**……………………………………………………..

# If hospital was attended for treatment please supply: Address of Hospital.

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# SECTION B - DETAILS OF THE INCIDENT

# Highways Reference No. (*if you have one*) ……………………………………..

B1. Date and time of the incident

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| --- | --- | --- |
|  |  |  |

B2. Name of the road where the incident occurred.………………………….

**(Please state the direction of travel)**…………………………………… B3. Name of the Town, Parish ………………………………….

B4. Please provide photographs clearly showing the nature and location of the alleged defect in relation to other recognisable landmarks e.g. lighting columns/property numbers etc

B5. Please provide below, a sketch/plan of the area showing the **exact** location of the incident, together with street names and house numbers and street lamp column numbers, as appropriate.

B6. Please provide a description of weather conditions at the time.

B7. Please confirm how often you typically use the section of highway in question

# SKETCH PLAN

2

B8. Please explain **fully** how the incident occurred **OR**

If the incident **only** involves damage to a **motor vehicle**, please go straight to **Section D**

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# SECTION C – DETAILS OF YOUR INJURIES OR LOSS

**Please provide details of:**

C1 Your injuries………………………………………………………………….

………………………………………………………………………………… C2 Any financial losses………………………………………………………….

………………………………………………………………………………… C3 Loss or damage to property…………………………………………….…..

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C4 The names and addresses of any witnesses.

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# SECTION D - DAMAGE TO MOTOR VEHICLES

D1 Date and time of incident

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| --- | --- | --- |
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D2 Make of vehicle………………………………..……………………………. D3 Model. ..…………….………………………………………………………… D4 Year of manufacture.……………………………………………………….. D5 Registration No. …………………………………………………………..…

Please supply:

D6 A copy of the insurance certificate for the vehicle.

D7 A copy of a valid test certificate (MoT) for the vehicle, if applicable.

D8 A copy of the driver’s full driving licence.

D9 A copy of the v5 Vehicle Registration document.

These details are required by the Highway Authority to ensure that only those drivers entitled to

use the highway may do so.

# SECTION D (continued) – Damage to Motor vehicles only.

D10 Please explain fully how the incident occurred.

Please provide photographs of the damage (*where possible*)

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D11 State the nature of the damage (if a tyre or exhaust was damaged please state the age and approximate number of miles the tyre or exhaust had completed at the time of the incident.)

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………………………………………………………………………………………… D12 Please provide a copy of the repair invoice. In the event that repairs are yet to be carried out please provide **TWO** estimates for the cost of the repairs

D13 If you are not the owner of the vehicle, please give the owner’s name and address.

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D14 If the vehicle was not being driven by you at the time, please give the name and address of the driver.

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D15 Please give the name and addresses of any passengers.

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D16 If any passenger sustained injury, please give details.

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D17 Name and address of your insurance company.

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Policy No………………………………………………………………………......... Type of insurance cover (eg. comprehensive/third party)…………………........

# SECTION E - DAMAGE TO HOUSE OR BUILDINGS

E1 What is the cause of the damage?

…………………………………………………………………………………………

E2 When was the damage first observed?

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E3 Are you the owner of the property? Y/N\* If not please give the owner’s name and address.

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………………………………………………………………………………………… E4 Please enclose a repair estimate or invoice.

E5 Have you informed the insurers of the building about this matter? If so please give their name, address and policy number.

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………………………………………………………………………………………… E6 Please supply photographs of the damage. Enclosed/ To follow

E7 Please provide a sketch plan showing the location of the damage.

(\* Please delete as applicable) Name (print)…………………………………………………………………………...

Signature……………………………………….. Date………………………………. When completed please return to:

# Legal, Governance & Registrars Service

**Litigation Section**

**P O Box 78**

**County Hall Preston PR1 8XJ**

**or send via email to: Highways.Claims@lancashire.gov.uk**

**Please note** that the completion of this form does not guarantee that any payment will be made to you. It is merely to establish the facts of your case to permit a thorough investigation to take place.

Also: Please be aware that this authority is under a duty to protect the public funds it administers and to this end may use the information you have provided as part of this claim for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

For further information, see [*www.lancashire.gov.uk*](http://www.lancashire.gov.uk)