

## Introduction

These guidance notes are intended to provide advice on how to pursue a claim for compensation for personal injury or property damage.

All claims will be dealt with fairly and as quickly as possible and you will be informed of the decision on liability in writing, usually within 3 months, in accordance with the Ministry of Justice's pre-action protocols. We should advise that there is no penalty on Shropshire Council exceeding the 3 months however in most cases a decision is made well within this timeframe.

You are entitled to seek independent legal advice at any stage of your claim.

We will use the information you provide to consider your claim and this information will be shared with our Insurers. Information will be processed in accordance with the Data Protection Act 2018.

## Advice before making a claim

Before you enter a claim for compensation (Public Liability claim) it is important to be aware of the following points:

- All claims are assessed on the basis of whether we have been legally at fault for the incident. Often events occur which, whilst they are unfortunate, are not the fault of any party's negligence. For this reason, there is no guarantee that entering a Public Liability claim will automatically result in compensation and in many cases it does not.
- In law, we and our appointed Insurers, having responded to notification of a claim, are allowed three months to investigate the circumstances and reach a decision.
- Letters of claim can be submitted by you or by a solicitor acting on your behalf. We will treat all claims equally, regardless of how they are represented.
- A claimant may seek independent legal advice at any stage during the course of the claim.
- Fraud is taken seriously at Shropshire Council and anyone found to be submitting a fraudulent claim will be prosecuted.

### Reporting a highway defect

Before submitting a claim, the problem on the road or footpath should be reported, and a reference number obtained. Defects can be reported as follows:

<https://improvingyourroads.shropshire.gov.uk> or by calling 0345 678 9006.



## Highways Claims:

- Shropshire Council, as a Highways Authority, has a duty under Section 41 of the Highways Act to maintain roads and pavements within its area of responsibility.
- It is recognised that the resources available to undertake this task are limited and in order to make best use of these limited resources we have in place a system of regularly inspecting our roads and pavements so that defects can be identified and necessary repairs carried out.
- The frequency of these inspections will depend on the importance of the road or pavement and takes into account national guidelines.
- In addition to these inspections we will respond to reports of road and pavement defects from other bodies and the public. However, it is obviously impossible for us to be aware of every defect on every road and pavement, given that defects may occur literally overnight, particularly in adverse weather conditions.
- Provided we have adhered to our inspection programme and responded in adequate time to any other damage reports, Shropshire Council is legally considered to have acted 'reasonably' and therefore claims of negligence will be repudiated on the basis of a Section 58 Defence
- When we are advised of a highway defect which may affect the safety of other road users, the size of the defect may be recorded prior to making the site safe or carrying out repair work. Any repair which is carried out will be for safety reasons and is not an acceptance of liability, or an attempt to destroy evidence.

## Making a claim

If you wish to submit a claim against us you should be aware that the basis of any claim is that there has been a fault on our part. It is therefore necessary for you to prove that we have been at fault in law.

**There is no automatic entitlement to compensation.** However, we will endeavour to settle all claims where there has been fault on our part, as promptly as possible.

The claim form must be completed fully and returned to the Insurance Team at the address below:

<p><b>Shropshire Council Insurance Team Shirehall Abbey Foregate Shrewsbury Shropshire SY2 6ND</b></p>	<p><b><a href="mailto:insurance@shropshire.gov.uk">insurance@shropshire.gov.uk</a></b></p> <p><b>Telephone: 0345 678 9000</b></p>
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Please note, if the form is not completed fully, it will be returned to you for completion which could delay the handling of your claim.

For vehicle damage claims we also require copies of the following documents in order to validate your claim:

- Certificate of Insurance covering incident period
- Valid UK Driving Licence
- Vehicle V5 Certificate

Once we receive the completed claim form the following will happen:

1. We will acknowledge receipt of your claim and advise you of a claim number and confirm if your claim will be handled by Shropshire Council or our Insurers.
2. If your claim is to be dealt with by our Insurers, we will forward to them details of your claim who will then deal with the matter on our behalf. Any future correspondence from you should be forwarded directly to our Insurers. We will not be in a position to advise you in any way.
3. Shropshire Council or our Insurers will investigate the claim, obtain all relevant documentation and make a decision with regard to liability.
4. You will then be contacted with a decision on liability and where applicable, the amount of compensation that is being offered.
5. If you are advised that there is no claim to be met, you have the right to discuss the decision with either Shropshire Council or our Insurers or seek independent legal advice.

## Property damage claims

Copies of receipts or estimates for replacement should be submitted with your claim form – original receipts and estimates should be retained by you and be available upon request.

The age of the item damaged must be clearly stated on the claim form. Please be aware any offer will **not** be on a new for old basis and as such, will be adjusted for wear and tear.

If you have any photographs these should be forwarded to support your claim.

**Photographs should clearly show the defect in context with the surroundings:**



## Personal injury claims

All personal injury claims are dealt with by our Insurers and their appointed solicitors.

Our Insurers must acknowledge the claim within 21 days. Following the initial acknowledgement of your claim, our Insurers have up to three months to investigate the claim and to either accept liability, or provide details of why they consider we are not at fault.

At this stage, if not before, you will also be advised on a “without prejudice” basis if enquiries suggest that the incident relates to a matter falling outside our responsibility. In those circumstances you will be given, in so far as is possible, an indication of to whom your claim should be redirected.

Any personal injury claim will need to be supported by medical evidence and you may need to give permission for our Insurers to approach your GP and/or hospital for a medical report. If you withhold such information, the claim may not be capable of being progressed.

Please be aware that the amount of time it takes to receive the report from the GP and/or hospital can vary widely. This is something over which neither we nor our Insurers have any control other than to issue regular reminders. You can, of course, chase the GP/hospital yourself.

For severe injuries or where medical records are inadequate, Insurers reserve the right to appoint a consultant to prepare a comprehensive report. This process can be lengthy and may take a number of months.

Generally you have up to three years from the date of an incident to make a claim for personal injury, although there are certain exceptions.

## Fraud

Whilst most claims are honestly made, unfortunately a small proportion of claims are fraudulent. As a result of this, our Insurers use various anti-fraud measures, including registering claimant’s details with databases that are shared with other Insurers and other councils.

We are under a duty to protect the public funds we administer and to this end may use the information you provide for the prevention and detection of fraud. We may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

## Privacy notice

### Who we are?

Shropshire Council is the local government authority for Shropshire. Our address is: Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND. You can contact our Data Protection Officer on: 01743 252774 or by email at: [information.request@shropshire.gov.uk](mailto:information.request@shropshire.gov.uk)

### How do we collect information from you?

We collect information from you when you visit the Shropshire Council website also when you contact us in writing, speak to us on the phone, by email or any other type of electronic communication, or talk to us face to face.

## **Who has access to your information?**

We may share your information with the following third parties for the reasons detailed;

- Insurance Claims Handlers – Within the terms of the council's insurance policy liability claims are to be handled by insurer's appointed claims handlers. Information is shared with them in order that they can fully investigate the claim and come to a decision regarding liability.
- Insurance Company – the council's insurers will have sight of the information in order that their Underwriters can come to a decision on liability when required.
- Solicitors – when a claim is litigated the Council will appoint a firm of solicitors and they will require sight of all documentation in order for them to represent the council appropriately.
- Internally with Service Areas for whom the claim is against in order that they can provide supporting documentation to allow full consideration of the claim. This may include payroll, HR and occupational health dependent on the type of claim.
- Statutory agencies, such as the Police, National Fraud Authority – We may share your information with statutory agencies in line with our legal obligations and/or in completion of our public tasks.
- Other Insurers where we have a duty to protect the public purse from fraudulent claims.
- Contractors – Where a contractor we have appointed is deemed to be at fault, we will share your Claim Form with them so they can take over the handling of your claim.

We will not sell or rent your information to third parties. We will not share your information with third parties for marketing purposes.

## **Further information**

For further details as to how the Council uses your information please see our full privacy notice, which can be found on our website.

## **Disclaimer**

The information given in this leaflet is intended as general advice with regard to pursuing a claim against Shropshire Council and does not constitute legal or other professional advice, and should not be relied on as the basis for any decision or legal action.

You should obtain any appropriate professional advice relevant to your particular circumstances.

Reasonable steps have been taken to ensure the accuracy of the information contained in this leaflet, but Shropshire Council cannot accept liability for any loss suffered due to reliance on the contents of this leaflet.

## **Equality for all**

If you need a copy of this leaflet or the Claim Form in large print, Braille, another language or on audio cassette, please ask us.