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## **FOIL Update 27<sup>th</sup> April 2026**



### **Britain's Potholes: A Growing Liability for Insurers and Lawyers**

The deterioration of the UK's roads has led to every British driver facing a specific kind of dread when embarking on a car journey, which is the half-second between spotting a pothole and hitting it. This is frequently followed by a loud noise and the mental calculation of what may have just happened to the tyres, wheels, and suspension. It is a sound that has become increasingly familiar and one that often has consequences for insurers, local authorities, and the courts.

RAC data obtained through Freedom of Information requests show that compensation claims submitted to local councils across England, Scotland, and Wales have risen by 91% in just three years, soaring from 27,731 in 2021 to 53,015 in 2024; over 144,000 claims were made between 2022 and 2025.

Admiral Car Insurance's internal claims data tells a similar story, highlighting that pothole-related claims have increased by 175% since 2016, with 2024 setting a record as the worst year the insurer had seen in nine years of tracking. Claims were 14% higher than in 2023, and close to three times the levels seen in 2016.

This is more than an inconvenience for motorists; it is a systemic issue with significant implications for public finances, road safety, and the legal frameworks used to determine liability and compensation, making having an understanding of the full picture essential for insurers and legal professionals.

## **The Scale of the Problem**

The physical condition of the UK's road network has been deteriorating for years and has reached a critical point. The Asphalt Industry Alliance's (AIA) 2025 ALARM survey found that local authorities would need £16.81 billion to clear the backlog of repairs and bring the road network up to their own 'ideal' condition. This is up from the £14 billion figure flagged in 2023.

It is estimated that approximately 24,400 miles, 12% of the network, is likely to need some form of maintenance in the next 12 months. Furthermore, 52% of local roads have under 15 years of structural life, and almost 35,000 miles of road have less than 5 years. Despite 1.9 million potholes being filled in 2024/25, only 1.5% of the local road network was resurfaced in the last year.

The consequences for individual drivers are significant, with a reported 12.8 million having to repair vehicles because of pothole damage in 2025, at a total cost of £1.8 billion. Meanwhile, the average cost of pothole damage increased by 20% in 2024 compared with 2023, likely due to the increase in vehicle technology, causing a general increase in repair costs. The trend clearly points towards an increase in the frequency and increasing severity of incidents, a combination of concern to insurers.

Local councils have limited resources, relying on a reactive 'patch and dash' approach by filling individual potholes quickly, rather than properly resurfacing roads. These quick patches often break down within months, creating the same pothole again. Severe weather compounds the problem considerably and the repeated freeze-thaw cycles of British winters are especially damaging to road surfaces, and weather events can cause heavy rainfall, flooding and road deterioration that pushed up claim numbers to record heights in 2025.

## **Additional Impacts**

A recent report in The Times illustrated how the pothole crisis can impact other facets of society, highlighting the threat deteriorating road surfaces pose to the Nationwide Association of Blood Bike volunteers. These charity riders number almost 5,000 and deliver blood, donated organs, and other emergency medical supplies free of charge to hospitals on behalf of the NHS, often through the night and at weekends.

One blood bike charity reported a delay to one of its deliveries and faced a repair bill of almost £900 after a bike hit a pothole. Another reported that one of their riders hit a pothole while out in the rain at night in Birmingham, causing a tyre to buckle and deflate, resulting in a delay of around 45 minutes to planned deliveries of blood and breast milk to multiple hospitals. These incidents represent a systemic risk to a vital voluntary service that saves the NHS significant sums every year and could result in patient harm or even death.

## **The Claims Landscape**

For insurers and litigators, the current claims environment presents a complex and often contradictory picture, as claim volumes are rising sharply, while the proportion that succeed remains remarkably low. Data from the RAC indicate that 172 councils rejected over 90% of claims in 2024, with several authorities refusing 99% of the claims they received. Of the 53,015 claims submitted to councils in 2024, only around 26% were paid out. Of these, 173 councils settled 13,832 claims totalling approximately £3.5 million, at an average payment of around £390 per claim.

The section 58 defence under the Highways Act 1980 is the legal mechanism behind this high rejection rate, enabling councils to defend claims by demonstrating that they had a reasonable system of inspection and maintenance in place, and that they adhered to it. Councils generally argue that they were unaware of the pothole, or that a reasonable inspection regime was in place, usually by providing records to show that the pothole was not present at the time of the last inspection.

In practice, this defence is frequently deployed as a first response, with local authorities often refusing claims as soon as they receive them and quoting section 58 of the Highways Act 1980. The burden then falls on the claimant to investigate whether the authority met its statutory obligations. For legal practitioners advising clients in these circumstances, the challenge is gathering evidence demonstrating that the pothole had been reported previously, the inspection process was inadequate, any repairs had not been done properly, or that the authority's response time was unreasonable.

For insurers, where a driver has comprehensive motor insurance and makes a claim for pothole damage, the question is whether to pursue subrogated recovery against the relevant highway authority. Given the high rejection rates and the evidential burden involved in overcoming the section 58 defence, many claims will not be worth pursuing individually. But as the volume of claims continues to rise, the aggregate cost of absorbing that damage without recovery is substantial, and the need for a more systematic approach to subrogation in this area is growing.

## **The Funding Question and the Road Ahead**

The Government has not been entirely inactive in its response to this crisis, and the Department for Transport has stated it is investing £7.3 billion in capital funding over the next four years to help councils resurface roads, with a record £1.6 billion allocated to highway authorities in England for the 2025/26 financial year. There are early signs of progress in some areas, with Derbyshire County Council, which reported the sharpest rise in claims from 2021 to 2024 of any authority (1,376%), registering a 72% reduction in compensation claims since May 2025, following significant investment in its road network. Elsewhere, Oxfordshire County Council has undertaken its largest road resurfacing programme in 20 years, covering over 1 million square metres of road in 2026 as part of an £8 million maintenance scheme.

However, the structural problem is deep-rooted, and the ALARM report identifies a recurring pattern over three decades of short-term cash injections followed by longer periods of underfunding. Local authorities claim they need their budgets to more than double for the next five to ten years if they are going to be able to address the backlog of repairs. Decades of underinvestment have left many roads in a woeful state of disrepair, and one-off investments, however welcome, cannot address the underlying systemic failure.

### **What This Means for the Professions**

Insurance professionals must pay close attention to claims trends, particularly the upward pressure on both the frequency and average settlement values. The continual development of vehicle technology means that pothole damage increasingly extends beyond tyres and wheels to sensors, cameras, and suspension systems, all of which carry higher repair costs. Multiple UK insurers report their average cost of pothole-related claims now exceeds £4,000, underscoring the need for pricing models that fully account for this upward trend to avoid underestimating exposure.

Legal professionals are presented with opportunities from the growing number of potential personal injury and property damage claims, but also the complexities of navigating around section 58 defences. They are also well-placed to highlight the feelings of every driver, cyclist, and pedestrian in the country that roads are essential infrastructure and everyone is affected when they fail.

The pothole situation in the UK has developed over a long time and will not be resolved quickly, but it has generated a claims environment of record-breaking proportions that is likely to intensify before it improves.

The Public Sector Focus Team at the Forum of Insurance Lawyers (FOIL) are hosting an in-person event at the offices of Kennedy's in Sheffield on Thursday 2<sup>nd</sup> July. A panel of speakers, including Mike Hansford, CEO of the RSTA and former Head of Highways Maintenance at Dorset Council, will discuss the growing issue of potholes and the associated challenges for insurance and legal professionals. Please register [here](#) to reserve your place.

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