

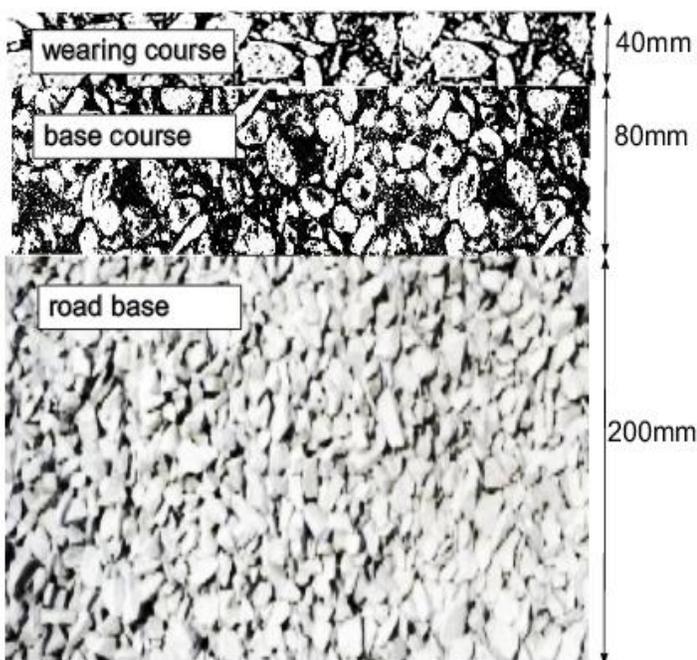


Watch out for potholes!

Recent heavy frosts in Britain have increased the number of potholes seen in many roads and some of the holes can cause major damage to the suspension components of cars and motorcycles. Local councils are shelling out thousands on compensation for damage caused by potholes to vehicles. So how do potholes form, how large can they get, who is responsible for monitoring our roads for potholes and repairing them and what costs are involved?

How are potholes formed?

A typical road is made up of a number of different layers, each with a different function. The top surface is a **wearing course** which provides a skid- and wear-resistant surface for the traffic and protects the lower layers with bitumen-bonded aggregate to create an impermeable layer. Below that is a **base course** of bitumen bonded aggregate which distributes the traffic loads on to the **road base** which is the main load-bearing layer. That layer is made of well compacted rocks with a high crushing strength. The thicknesses of the layers shown below are typical values and



depend on the amount of traffic the road has to take. The combination of rock aggregate and the bitumen matrix that holds it together is called asphalt.

The damaging effect of frost is that it freezes the water that seeps down into the upper layers of the road surface, and as ice forms it expands and causes "heave" which lifts sections of the road structure. That then creates further routes for water to penetrate, causing more damage when freezing conditions next occur. Meanwhile at the road surface traffic flows constantly batter the surface and as sections of the road surface are fractured by the frost pushing up the aggregate and asphalt surfacing so it breaks away forming a hole. Those holes then develop rapidly with more material being knocked out of the hole so it grows deeper and wider.

In some cases where holes are not filled, they can become deep enough that a wheel of a car dropping into a hole at even modest speeds can result in a severe impact on the suspension system. In some cases this results in damage to wishbones and other components. The most obvious damage is to our wheels, with both wheel rims and punctured tyres being major complaints. If maintenance checks are not made, a car that has suffered a severe impact in a pothole with damage to the suspension or misalignment of the steering can result in accelerated tyre wear.

Why are the roads so bad?

Pressure groups say it is not just the weather that is causing such havoc. Other contributing factors are vastly increased traffic flow, which is putting pressure on roads of all sizes throughout the UK, and the constant digging up of our roads by utility companies. When electricity and water companies perform repairs to their cables and pipes, they tend to simply patch up the road rather than resurfacing it, and this makes them more susceptible to damage. With the vast profits that these companies make perhaps they should be forced to make proper repairs in future!

Who is responsible for monitoring our roads for potholes and carrying out repairs?

Local authorities have the responsibility for fixing potholes and reports say each individual pothole costs on average around £53 to repair. In December 2014 and again in 2016, Transport Minister Patrick McLoughlin announced a record £6 billion will be spent on tackling potholes and improving local roads between 2015 and 2021. The investment amounts to £976 million a year, enough to fix around 18 million potholes across the country. He said it is the first time councils have been given locked-in funding over this length of time, which will help them plan ahead and save money for the taxpayer. In the Budget 2016 the UK Government revealed how a **£250 million Pothole Action Fund** to fix over 4 million potholes by 2020/21 to improve local roads and deliver better journeys. Motorists and cyclists would be set to benefit from £50 million of funding for repairs to nearly 1 million potholes across the country over the following 12 months.

Rise in compensation claims

Motorists' compensation claims for damage from potholes have been rising and records show that a compensation pay-out can be anywhere up to £3,000. **Pressure groups like potholes.co.uk** say with local councils paying out hundreds of thousands each year in compensation, why isn't the money being earmarked for repairing the roads instead? Despite paying through the nose, local councils are allowing our roads to deteriorate year on year. It has been reported that road maintenance in England and Wales is underfunded by around £1 billion every year (55%), according to

potholes.co.uk.

What can you do?

Although driving with a greater attention to the road surface ahead to try and spot potholes in good time is not only wise but increasingly essential, often conditions make that difficult. With reduced daylight hours in winter inevitable much driving is done when it is dark, raining and often in heavy traffic so seeing potholes can be a last minute shock. In those conditions avoiding the pothole by swerving may not be safe if you have traffic in lanes alongside you.

Should you incur damage from a pothole, the suggested steps to follow are:

- **Take a photograph of the pothole** and note down its rough size and depth as well as its precise location, making a sketch of the area if you can.
- **Report it to the local council** using the reporting procedure specified on the council's website.
- **If the council has not repaired it within a reasonable time** for say around a week then this should strengthen your case.
- **Consider submitting a Freedom of Information Act request to the council or Highways Agency to find out as much as you can about the road and its maintenance history**, as this could also strengthen your case.
- **Put all your complaints in writing** and ensure that all contact with the council is done via letter or email - a phone call can always be denied. In your letter include: a full description of the incident when your car suffered damage, where and when it was (date and time), your photographs and your sketch plan of the area. Also include a copy of your repair bill for the damage caused and keep copies of all your letters!
- **Consider using social media too.** Tweeting will put pressure on your local council as its other followers are likely to see the tweet.
- **Use the free RAC Report Pothole app** which uses GPS to identify rapidly where you are and can send a report to your local council automatically. You can send up to three photos of the pothole as well as any signage problems, street lighting problems and more. It's available on iOS and Android.

If the council makes you an offer you should give it proper consideration even if you are not entirely happy. If you wish to fight on, your next option will be to take court action. Provided your claim is for under £5,000 you can take action in the Small Claims court. You won't need a solicitor and you can issue proceedings online via their MoneyClaim Online system.

Are you likely to get a pay-out? It won't be easy! The council will vigorously defend itself under section 58 of the Highways Act (which basically states they just have to prove they have taken 'reasonable' care of the road). But that doesn't mean you shouldn't try. While evidence suggests that the vast majority of claims are automatically turned down in the first instance, persistence is necessary to get a result. Local authorities currently pay out more than £30 million in compensation for potholes so it's worth your time and effort.

Judges rule that potholes must be fixed promptly

The [Court of Appeal ruled](#) on 2nd February 2017 that "councils should respond more quickly to repair "deep potholes" after being notified of the problem fix serious potholes". In the case a member of the public phoned the local council at 4.20pm on a Friday the day before the accident that became the subject of the case. The call was logged and forwarded to highway inspectors but the council took no further action that day. On Monday morning the inspector read the message on his computer notifying him of the pothole and

immediately set off to inspect the pothole. He reported the pothole and said it must be repaired within 24 hours which was done. Where the emergency services report a serious defect in a road that is in a sensitive location, the council's call centre staff would refer the matter to an emergency stand-by-team which would take any necessary action.

The judge commented that the council's systems suffered from a built-in flaw that reports of potentially serious defects, like a bad pothole, would not be evaluated at all by someone with the necessary skills out of working hours unless the report came from members of the emergency services. He added that whilst it may be reasonable to have reduced staff and activity over a weekend, there must be some means of responding quickly to complaints of serious and dangerous road defects. One of the judges dissented saying that in the case the report clearly called for action but not for an overnight response or urgent attendance by the emergency standby team during the weekend.

