



Highways Authority Claims

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- Highways Insurance Programmes – Market Context
- Fraud
- Best Practice

Highways Authority Claims

Highway Authorities – An attractive risk?

- If you were an insurer, would you insure a Highway Authority?



Highways Authority Claims

Highway Authorities – An attractive risk?

• Annual Local Authority Road Maintenance (ALARM) Survey 2014

	England	London	Wales
• Shortfall in annual road structural budget	£587m	£64m	£62.7m
• Average annual budget shortfall per authority	£5.1m	£2m	£2.85m
• Percentage of budget used on reactive maintenance	24%	34%	35%
• Estimated time to clear maintenance backlog	12 years	14 years	12 years
• Estimated one-time catch-up cost per authority	£90m	£36m	£20m
• % of authorities reporting unforeseen costs	65%	29%	80%
• Frequency of road surfacing (all road classes)	68 years	32 years	68 years
• Number of potholes filled over past year	1,747,425	115,264	148,060
• Total spent filling potholes in past year	£90.9m	£8.1m	£7.7m
• Amount paid in road user compensation claims	£11.1m	£4.4m	£1.1m

Current Austerity Programme!

Highways Authority Claims

The Insurance Market



Highways Authority Claims

The Insurance market

- Most Highways Insurance programmes carry large deductibles usually between £100k & £250k
- Local Authorities therefore bear the cost of the majority of highways claims themselves
- Highways Claims = Public Money



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Highways Claims Fraud



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Highways Claims Fraud



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Highways Claims Fraud – Stephen Robinson v Newcastle City Council

- On the 28 June 2012 Newcastle was suffering from flooding due to persistent and torrential rainfall.
- Stephen Robinson, aged 30, claimed that he was walking along Pooley Road in Slatyford when he placed his right foot on a metal drain that collapsed, causing him to sustain a broken ankle. The road was flooded at the time.
- He submitted a claim for damages against Newcastle City Council.
- Video footage emerged from YouTube showing the true cause of his injuries.
- Newcastle City Council, Zurich Municipal & IFED (Insurance Fraud Enforcement Department) worked together to bring a criminal prosecution.
- Stephen Robinson was arrested on 23rd January 2014 and charged with fraud by false representation on 14th March 2014.
- On 26 January 2015 Stephen Robinson pleaded guilty to fraud by false representation and was sentenced to 200 hours unpaid work, a £600 fine for costs plus £60 victim surcharge.

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Highways Claims Fraud – Woman sues Wigan for £73,500 – Trial February 2015

- The claimant allegedly tripped on a pavement defect on 3 August 2012
- She sued Wigan for £73,500 claiming the pavement where she fell was defective.
- The claimant was found to be intoxicated at hospital but told the court she consumed alcohol after the fall.
- Medical records show she was still intoxicated three hours after the fall.
- The trial Judge said: *"She was drunk and in her intoxicated state I do not find that she knew where the accident occurred."*
- *"I find the claim to be exaggerated and she has altered it as she has gone along. She has only herself to blame and the claim is dismissed."*



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Highways Claims Fraud

- Organised fraud rings now operating in casualty claims
- Highways Authorities are being targeted
- Austerity measures resulting in changes to inspection & maintenance regimes encouraging fraudsters
- Claims Portal encourages quick liability decisions



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Best Practice



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Best Practice – Claims Processing

- The Majority of Highways claims are under £25k and go through the Claims Portal
- Claims must be acknowledged within 1 Business Day
- Defendants have 40 Business Days from the date of acknowledgement to investigate & communicate a decision on liability
- If liability is denied then the defendant must disclose all documentation relevant to the issues in question, so for Highways Claims this will mean: -
 - Highways Maintenance Policy
 - Highways Inspection Records
 - Highways Complaints Record
- **Challenge existing working practices on claims processing**
 - Can Highways documentation be shared with insurers & claims handlers in advance?
 - Ensure all Highways Inspectors and Highways Managers understand the claims and litigation process and the critical roles that they play
 - Build in processes that allow early consensus on liability decisions and check points to sense check claims defensibility during the litigation process

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Summary

- There is a limited insurance market for underwriting Highway Authority risks
- Local Authorities bear most of the attritional highways claims costs through large excesses
- The current review of the Code of Best Practice for Highways Maintenance presents opportunities but also risks if implementation does not consider the impact on highways claims defensibility
- Insurers will be scrutinising Highways Maintenance Policies and Procedures when pricing Highways risks
- Local Authorities who can clearly evidence good practice on highways claims will be viewed favourably by insurance underwriters
- Claims Processing – communication between Insurer and Local Authority is key
- Keep everyone in the loop – Insurance & Risk Manager, Insurer, Highways Manager
- Tight timescales to process highways claims present opportunities for fraudsters

Highways Authority Claims

Summary

- Yes – WE DO LOVE HIGHWAYS but.....
- For that love affair to continue we need to improve engagement with everyone involved in the claims process and....
- Engage with insurers and claims handlers during any policy reviews following the introduction of the new Codes of Practice and
- Challenge existing working practices in light of the above but always sense check with those tasked with defending your claims



Thank you

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