**Shropshire Council – Pothole Claims**

All claims are assessed based on 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.

Letters of claim can be submitted by the claimant or by a solicitor acting on the claimant’s behalf. We will treat all claims equally, regardless of how they are received.

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 considers 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 denied based on a Section 58 Defence. A section 41 Defence may be used when the alleged defect has been inspected pre-accident and categorised as not dangerous or “below intervention level”.

In law, we and our appointed Insurers, having responded to the notification of a claim, are allowed three months to investigate the circumstances and reach a decision.

We accept claim forms in the post or via email and can arrange for Claim Forms to be emailed directly to claimants. We have downloadable copies of the forms on the shropshire.gov website in both Word Document and PDF Formats

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

• We will acknowledge receipt of the claim and advise the claimant of their unique claim number and details of our Insurers.

• We will forward details of the claim to our Insurers who will then deal with the matter on our behalf.

• We will investigate the claim, obtain all relevant documentation and forward this to our Insurers in order that they may make a decision with regard to liability.

• Our Insurers will then contact the claimant with their decision on liability and where applicable, the amount of compensation they are prepared to offer.

• If our Insurers advise that there is no claim to be met, the claimant will be advised of their right to discuss the decision with them or seek independent legal advice.

Where the council is found to be liable then a prompt payment will be made to the claimant. However, where there is no liability to be found against the council, we will defend any claim robustly. The council has a large deductible (excess) so any payments made are normally from public money, so we have a duty to ensure payments are only made where liability attaches.