

Fact Sheet

Personal Injury or Property Damage Claims against Council

In the unfortunate event that you have suffered a personal injury or damage to property that you consider to be the result of Council's negligence, you can submit a claim to be compensated for your loss. The information below will assist you through the process to lodge a claim.

Claiming through your insurance

A claim through your own insurance policy (e.g. property or motor vehicle) is likely to be resolved more quickly than a claim against Council because you will not need to establish negligence.

If your insurer determines Council is liable for the loss, they will initiate recovery proceedings against Council. You should discuss this directly with your insurer prior to lodging a claim with Council.

Claiming against Council

Council assesses all claims for compensation in accordance with the *Civil Liability Act 2003 (QLD)*. An incident that has occurred on council-owned or managed land does not automatically mean that Council is liable or will provide compensation to you.

It is your responsibility to prove Council acted negligently. In establishing liability, consideration will also be given to whether your actions or that of other parties also contributed to the loss or damage. Each claim against Council is assessed on its own merit.

All personal injury claims are independently managed by a third-party liability claims manager. Council also refers a number of property damage claims to the third-party liability claims manager in line with good governance practice.

What is negligence?

To determine negligence you must establish, on the balance of probabilities, three essential elements:

1. A duty of care was owed by Council to you
2. Council breached the duty of care owed to you
3. The loss or damage suffered was caused by Council's breach of duty of care – put simply, you

must establish that your loss has been directly caused by Council rather than by other factors

Why can't Council pay on compassionate grounds?

While we regret any incident that has resulted in a loss to you, Council is unable to pay compensation unless a clear legal liability has been established.

Why has Council asked for photographs?

One of the most effective ways to avoid confusion about the circumstances surrounding your claim is with photographic evidence. Providing photographs with your claim is not essential, however it ensures that Council is investigating the correct issues.

Please ensure that you only take photographs if it is safe to do so.

The photographs should be taken from various angles to clearly show the damage and environmental surroundings to support your claim.

What information do I need to attach to my claim for compensation?

Personal injury

If you have suffered a personal injury you are required to provide:

- Photographs of the exact location the injury took place
- Photographs of the surrounding environment to provide context
- Photographs of the injury if relevant
- Receipts/invoices for any medical expenses related to the incident

Upon receipt of your claim and supporting documentation, the claim will be referred to Council's third-party liability claims manager who will investigate and assess your claim. They will contact you directly with the outcome of your claim.

Property damage

If you are claiming property damage, you are required to provide:

- Original receipts/invoices for the damaged property and a minimum of two independent quotations for repair/replacement of the damage
- If the damage relates to a motor vehicle, a copy of the relevant ownership and vehicle details, e.g. registration papers and drivers details etc
- Photographs of the damaged property/vehicle
- Details of all expenses incurred and the specific amount you are seeking. You will be required to provide documentation to substantiate all amounts claimed.

How long does the process take?

The process of conducting enquiries and determining an outcome can take approximately 25 business days.

If your claim cannot be determined within 25 days due to its complexity or requirement for additional information, Council will contact you with an update on the status with an estimated timeframe for resolution.

Timeframes for personal injury claims will be advised to you by Council's third-party liability claims manager.

What is not claimable with Council?

Every claim lodged against Council will be assessed, however there are certain claims that Council will not accept, including:

- Claims that have passed the statutory limitation period as prescribed in the *Limitations of Actions Act 1974 (QLD)*
- Damage to motor vehicle tyres and rims which result from wear and tear or modifications
- Damage to motor vehicles incurred in the normal course of driving
- Damage resulting from criminal actions
- Matters already the subject of an insurance claim
- Damage resulting from the actions of a third party

It is very unlikely Council will be held liable, and therefore cannot pay compensation, if:

- You cannot establish the cause of the damage
- You have not provided the appropriate detail or supporting evidence

- The damage was caused by, or resulted from, a weather event e.g. fallen trees/branches, water inundation
- The damaged property has exceeded its natural life span e.g. 15 years for timber retainment walls and fences
- The damaged property pre-dates the date you purchased the property
- The damage was caused by defects that Council was not previously aware of e.g. potholes, displaced or cracked footpaths etc.
- Incidents relating to the condition of pit lids or other infrastructure belonging to utility companies e.g. Telstra/NBN. Please refer to the utility company's website for information on how to make a claim.

Council contractors

If your loss was caused by a contractor acting on behalf of Council, your claim will be referred to the relevant contractor to respond to you directly

Submitting a claim to Council

To substantiate and submit your claim to Council, please provide a letter of demand with the following details:

- What has happened
- When and where it happened
- Who you think is responsible and why?
- What you expect
- Supporting documentation to substantiate your claim e.g. photographs, two repair quotations.
- If you are making the claim on behalf of the person who has suffered a loss, provide a signed authority confirming you are their authorised representative.

Your claim can be submitted through:

1. Online via the Redland City Council - Compensation Claim Form - The claim form enables you to upload documentation and photographs to support your claim. If, at the time of lodgement these documents are not available, the documents can be emailed to Claims@redland.qld.gov.au quoting your claim number.
At the completion of the form please select Save (to submit the claim), then close the window. Once saved, an email will be sent to you acknowledging receipt of your claim and providing you with a claim reference number.
2. Email via Claims@redland.qld.gov.au
3. Post to Redland City Council, Risk and Liability Services, PO Box 21, Cleveland Qld 4163
4. Hand-deliver to one of Council's Customer Service Centre

If you have any difficulties with lodging your claim please email Claims@redland.qld.gov.au