



Pothole Problems

Have you hit a pothole and suffered damage to yourself and/or your motorcycle? Here are some tips that may help you get compensation.

Size Doesn't Matter

The pothole does not need to be a certain size or shape to be successful in a compensation claim.

Capture the Evidence: The Incident

If it is safe to do so, collect as much information about the pothole and the incident as you can. Useful evidence could include:

- Photographs of the pothole (from different angles and distances)
- Measurements of the pothole
- Location of the pothole
- Time and date of the incident

It is also useful to look around for any other sources of evidence. If there were any witnesses, dashcam footage or nearby surveillance cameras, ask for details.

Capture the Evidence: Your Loss

If your property has been damaged, gather evidence about the damage. That could include:

- Photographs of the damage
- Quotes for repairs
- Replacement costs

If you have been injured, gather evidence about your injuries and their impacts on you. That could include:

- Medical certificates
- Receipts for treatment
- Pay records for any time off work

Identify Who is Responsible

Many main roads in Queensland are managed by the Department of Transport and Main Roads, while other roads are sometimes managed by local government authorities (i.e. councils). If the damage is caused on private property, the responsible person may be the property owner or occupier (who may have public liability insurance).

Don't Delay

The crucial time limits

There are strict time limits that apply to claims for compensation. Generally, under the *Limitations of Actions Act 1974* (Qld), formal proceedings must be commenced in a court by:

- For a property damage claim: 6 years from the date of incident;
- For a personal injury claim: 3 years from the date of incident.

Additional time limits

There may be further time limits that apply, depending on your claim. For example, personal injury claims usually require a number of steps to be taken before you can commence formal



legal proceedings. One of those steps typically involves giving notice of your claim (in a prescribed form) to the relevant respondent within 9 months of the date of incident.

Accordingly, it can be a good idea to consult with a lawyer about which time limits might apply to you.

Take-home message

Even if you still have time, it's best to take action early. As time passes, evidence can disappear and your claim may get weaker.

Accordingly, get your claim moving as quickly as possible.

With acknowledgement that this was taken from an article in the MCN magazine and adjusted for Australian conditions.