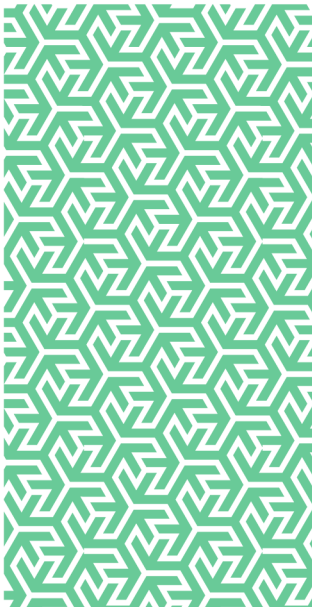




## Risk control

Ice on the Road -  
Responding to Ad-Hoc  
Requests



In partnership with



# Ice on the Road – Responding to Ad-Hoc Requests

## Introduction

Section 41 (1A) of the Highways Act 1980 states “a highway authority are under a duty to ensure, so far as is reasonably practicable, that safe passage along a highway is not endangered by snow or ice.”<sup>1</sup> The Well Managed Highways Infrastructure Code of Practice (2016)<sup>2</sup> outlines how this duty can be met through the application of a risk based approach. To satisfy their duties, Highway Authorities are required to do all that is reasonably practicable to manage the network effectively to manage risk and keep traffic moving. Highway Authorities should establish contingency plans for dealing promptly and effectively with unplanned events, such as unforeseen weather conditions, as far as is reasonably practicable.

## Smithson v Lynn and North Yorkshire County Council

On the 22nd November 2015 the claimant and first defendant were involved in a road traffic collision on a road in North Yorkshire. The Fiat Punto car the defendant was driving allegedly slid on black ice, left the road and collided with a tree. This event resulted in the claimant, who was a passenger in the car, suffering a serious brain injury.

The first defendant (the driver) blamed the second defendant (North Yorkshire Council) for failing to ensure the road was free from ice, issuing Part 20 proceedings against it for a contribution / indemnity, with the claimant adding the second defendant to the claim. The first defendant then settled the claimants claim out of court. The subsequent trial considered whether the first defendant was entitled to an indemnity or contribution from the second defendant.

During the trial evidence was heard that while the first defendant's actions were “accidental but culpable” the Highway Authority's Winter Service Manual (WSM) lacked any guidance on how to respond to ad hoc requests for interventions, relying on there being “exceptional circumstances”, however these were not defined in the WSM. As a consequence the Highway Authority had failed to act despite receiving 2 separate requests from Police Officers to deploy gritters earlier that evening following unrelated accidents on the same road.

Consequently, the court ruled that the Highway Authority should bear the greater share of liability and made an apportionment allowing the first claimant to recover two thirds of the claim settlement.<sup>3</sup>

## The Impact of this ruling

The ruling in the case of Smithson v Lynn and North Yorkshire County Council highlights the need for Highway Authorities to ensure that all aspects of their Winter Service provision enable them to satisfy the duties placed upon them by Section 41 (1A) of the Highways Act 1980. Winter Service Manuals should clearly define what are regarded as urgent ad-hoc requests or exceptional circumstances and detail the arrangements and communication systems to ensure that appropriate and effective actions are initiated.

## The Safe Systems Approach

As part of this approach Local Authorities should look to not only manage safe roads but also safe road users. Education of how to drive safely near these vehicles is vital as there are rises in collisions by members of the public not always giving due consideration. 2023 saw a fivefold increase in the number of National Highways gritters being hit by other vehicles<sup>4</sup>.

## How Risk Control can help

We offer a number of services to support Local Authorities identify and meet their liability risks relating to them being Highways Authorities, all of which can be delivered remotely. These include;

- Highways Risk Management Health Check
- Highways Risk Management Review
- Winter Service Review
- Training courses in Risk Management

## Highways Risk Management Review

The Highways Risk Management review is designed to review the adequacy of highway strategy and policy in the following key areas:

- Framework, policy, and strategy.
- Risk management.
- Risk-based approach.
- Network inventory and hierarchy.
- Safety inspections.
- Defect assessment and repair.
- Winter maintenance and severe weather.
- Competencies and training.
- Claims management.
- Outsourcing.

## Winter Service Review

The Winter Service review is designed to review the adequacy of Winter Service provision in the following key areas.

- Framework, policy, and strategy
- Winter Service Manual
- Reporting and monitoring systems
- Roles and responsibilities
- Record keeping.

## Training courses in Risk Management

We can provide a range of Risk Management training courses that can be tailored to your requirements in terms of delivery, duration and tailored content covering all aspects of risk.

Please contact your Risk Control Consultant or RMP Account Director to obtain further information or discuss these in more detail.

## References

- 1** The Highways Act 1980 s41 (1A). Available from the National Archives online at:  
<https://www.legislation.gov.uk/ukpga/1980/66/section/41>
- 2** The Well Managed Highways Infrastructure Code of Practice (2016) Amended March 2017. Available online from the UK Roads Liaison Group at:  
<https://www.ciht.org.uk/ukrlg-home/code-of-practice/>
- 3** Smithson v Lynn and North Yorkshire County Council case details available from CASEMINE online at;  
<https://www.casemine.com/judgement/uk/5f8d14582c94e0363c19833e>
- 4** National Highways Gritters hit by other vehicles. Online at:  
<https://www.exmouthjournal.co.uk/news/24050605.rise-accidents-involving-national-highways-gritters/>

## Further information

For access to further RMP Resources you may find helpful in reducing your organisation's cost of risk, please access the RMP Resources or RMP Articles pages on our website. To join the debate follow us on our LinkedIn page.

## Get in touch

For more information, please contact your broker, RMP risk control consultant or account director.

[contact@mpartners.co.uk](mailto:contact@mpartners.co.uk)



### **Risk Management Partners**

The Walbrook Building  
25 Walbrook  
London EC4N 8AW

020 7204 1800  
[mpartners.co.uk](http://mpartners.co.uk)

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