

Public Liability Claims Procedure

Thank you for reporting an incident to Ku-ring-gai Council. Please be assured that the circumstances surrounding its occurrence will be investigated and that Council will take appropriate action.

Please read the information below and if you wish to proceed with a claim against Council for loss or damage arising from the reported incident, complete the attached form and provide us with the required information, to allow us to properly assess your claim.

All claims will be considered on a "Without Prejudice" basis. While Council sympathises with anyone suffering Injury or sustaining loss, the acceptance of the completed public liability claim form by the Council in no way infers negligence on the part of the Council or binds Council to provide compensation.

Notice to Potential Claimants

Before Council is obliged to pay compensation for any injury, loss or damage suffered, it must be established that this Injury, loss or damage was caused through negligence on the part of the Council or employees of the Council.

The proof required to establish negligence can be onerous and quite often you may be better served seeking compensation through your household, motor vehicle or medical insurance if you have it, as 'in most cases', proof of negligence will not be required. Should your insurance company then consider the Council to be negligent, it may seek reimbursement of its costs and any excess that you have paid from the Council.

Particular consideration needs to be given to claims associated with roads and footpaths as the Civil Liability Act 2002 and amendments set out a number of principles to be employed in determining whether an authority has a "duty of care" or has "breached a duty of care" in Section 45 and 42 as stated below:

- 1) A roads authority is not liable in proceedings for harm arising from a failure of the authority to carry out road work, or to consider carrying out road work, unless at the time of the alleged failure the authority had actual knowledge of the particular risk the materialisation of which resulted in the harm.
- 2) The functions required to be exercised by the authority are limited by the financial and other resources that are reasonably available to the authority for the purpose of exercising those functions.
- 3) The function required to be exercised by the authority are to be determined by reference to the broad range of its activities and not merely by reference to the matter to which the proceedings relate.

The same consideration needs to be given for injury, loss or damage being caused from trees or branches falling. While trees may be situated on nature strips or reserves that are Council owned, this does not mean Council will be automatically liable for any damage or injury that they cause. It must be proven that Council has been negligent and other factors (e.g. disease, damage by a third part, severe weather etc.) may need to be taken into consideration to determine if Council can be held liable for the injury or damage.



Public Liability Claim Form

Claimants Details:

Claimants Name	
Address	
Postal Address (if different to above)	
Contact Phone Numbers	Home
	Work
	Mobile
Email	

Incident Details:

Date of incident		Time of incident	
Exact location where the incident occurred			
Details of Property/ Personal Damage			
Details of why you consider Council liable			
Estimated Cost \$			
Has an Insurance claim been made by you?	<input type="checkbox"/>	Yes	<input type="checkbox"/> No

To assist Council in assessing and investigating your claim please provide photographs of the damage (without a photograph with the exact location marked Council Officers will not be able to investigate your claim), quotations for repair(s), medical certificates or other appropriate documents to support your claim.



Public Liability Claim Form

If an injury occurred did the injured person require medical assistance?

Yes No

If 'YES' please provide details of doctors, medical centre or Hospital attended:

Do you regularly use the area where the incident occurred?

Yes No

If 'YES' how frequently?

Witness Details

Name	
Address	
Contact Phone Numbers	Home
	Work
	Mobile

Have you previously notified council of a problem related to this incident?

Yes No

If 'YES' please provide details: (include date if know)



Public Liability Claim Form

Privacy Notice

The personal and sensitive information collected in this form and other information you or third parties provide in connection with this claim will be used to process this claim, compile and analyse data, and resolve claim disputes. If you do not provide this information to us we may not be able to process this claim.

We may have to disclose your personal and other information to third parties who assist us in assessing and processing this claim, including our insurers, health service providers, investigators, our specialist advisors, our service providers or as required by law.

You have the right to seek access to your personal information and to correct it at any time. For information about how you may access and request correction of personal information we hold about you, or complain about a breach of the Australian Privacy Principles, please see our privacy policy available at www.kmc.nsw.gov.au or contact us on 02) 9424 0000 EST 8.30am-5pm, Monday to Friday.

Declaration

I/We certify that the information given in this form is truthful, accurate and complete. No information likely to affect this claim has been withheld.

I/We understand that if this claim is found to be fraudulent, or deceptive to gain money or other items of value, Council may refer the matter to the NSW Police for prosecution under the Crimes Act 1900 and Crimes Amendment (Fraud, Identity and Forgery Offences) Act 2009.

I/We understand that this claim may be refused if information is untrue, inaccurate or concealed.

I/We acknowledge that I/we have read and understood the Privacy Act 1988 information referred to above and consent to the collection, storage, use and disclosure of personal and sensitive information of all persons affected by this claim, with their approval.

I/We acknowledge that if I/we do not agree to the collection of this personal and sensitive information then Ku-ring-gai Council will be unable to process my/our claim.

Name: _____ **Signed:** _____

Date: _____

On completion, please forward this form to the attention of, Corporate Risk and Assurance, by either:

Mail to: Ku-ring-gai Council, Locked Bag 1006 Gordon NSW 2072, or

Email to: kmc@kmc.nsw.gov.au.

Council Use Only

Date Received	
Claim Number	
Trim Reference	

