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Local roads maintenance in England

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2. Road management standards and methods
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Summary

This paper describes the governance and funding framework in which local authorities in England maintain and repair the local road network.

England's road network consists of motorways, major 'A' roads, as well as local classified and unclassified roads. Highway authorities have a legal duty to maintain their respective sections of the network under section 41 of the Highways Act 1980, as amended. Highways England, which was established in April 2015, maintain the Strategic Roads Network. All other road types are managed by 153 local highway authorities, which are responsible for maintaining, managing and, where necessary, improving their section of the network; there is extensive guidance on how they should do this. Central government has a core role in funding the provision of funding for local roads maintenance and renewals, as well as policy development and setting the legislative framework through which the local roads sector operates.

There are ongoing concerns about the general state of the road network, the backlog of repairs and the cost of bringing these defects up to standard. Industry reports suggest that around 18% of the local roads network is in poor condition and it would take 14 years, at a cost of £9.31 billion, to get local roads back into a reasonable steady state.

Local road maintenance expenditure can be classified as 'capital' or 'revenue' and are covered by a combination of local government own revenues and central government grants. Total local authority road maintenance expenditure was £3.3 billion in 2016/17 and has been trending down in recent years. While motorway and A road local road maintenance expenditure has increased, this has come at the expense of spending on minor roads. The squeeze on local authority budgets has meant that spending is being allocated to other core services at the expense of local roads maintenance.

Proposals have been put forth in recent years to change the way in which local roads are funded. The most notable of these is the proposal for a Major Road Network. Others believe more far-reaching reform is required in the form of a Local Roads Fund paid for by redirecting a share of the existing fuel duty to be reinvested in local road maintenance.

The Transport Select Committee launched an inquiry into governance and funding of the local roads network in England in August 2018. The Committee will take oral evidence for the inquiry toward the end of 2018, with the inquiry likely to be completed in early 2019.

This paper does not deal specifically with winter maintenance, which is covered separately in [SN2874](#). Information on other roads-related issues can be found on the [Roads Topical Page](#) of the Parliament website.

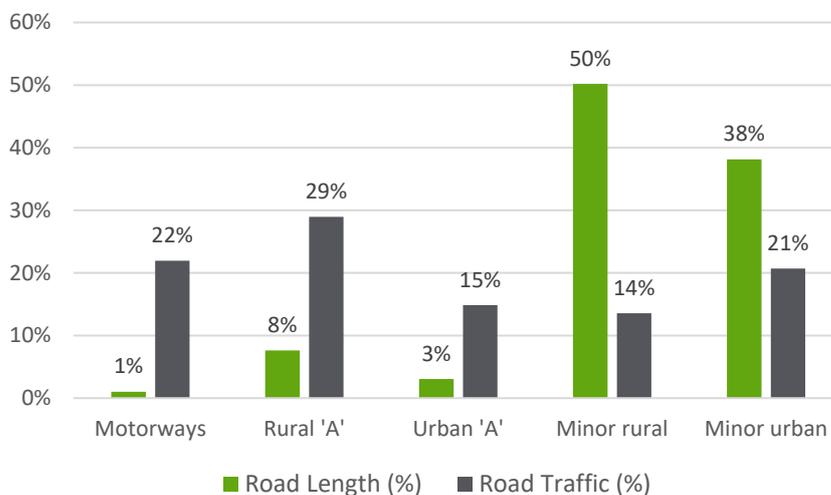
1. Governance of local roads

England's road network consists of motorways, major 'A' roads, as well as local classified and unclassified roads.¹ Highway authorities have a legal duty to maintain their respective sections of the network under section 41 of the Highways Act 1980, as amended.² Highways England, which were established in April 2015, maintain the Strategic Roads Network (made up of motorways and 'A' roads).³ In 2016, the SRN made up 2.4% of road length but carried 33% of motor traffic vehicle miles.⁴

1.1 Role of local highway authorities

All other road types are managed by 153 local highway authorities, which are responsible for maintaining, managing and, where necessary, improving their section of the network. In 2016, local authority managed 'A' roads and motorways made up 9% of road length and carried 32% of motor traffic vehicle miles. Minor roads are made up of classified non-principal roads ('B' and 'C' roads) and unclassified ('U') roads. They make up the majority of road length in England, at 88%, but carried only 35% of motor traffic vehicle miles.⁵

Share of road length and traffic, by road type, England, Great Britain, 2017⁶



The proportion of roads administered by local highway authorities has grown in recent years following the reclassification of some major roads and the increase in the length of the minor road network with new

¹ For full detail around road classification, see: Department for Transport, [Guidance on Road Classification and the Primary Route Network](#), January 2012

² Highways Act 1980, [Part IV Maintenance of highways maintainable at public expense. Section 41](#)

³ For more information, see: Butcher, L, [Strategic Road Network](#), HOC Library Briefing Paper, SN01448, 10 August 2015

⁴ DfT, [Road Conditions in England 2017](#), 18 January 2018; Please note that these figures are the latest year in which they are available and broken down by local authority and Highways England jurisdiction in England.

⁵ DfT, [Road Conditions in England 2017](#), 18 January 2018

⁶ DfT, [Road lengths in Great Britain: 2017](#), 5 July 2018

housing and commercial developments. For example, over 3,500 miles to the English minor road network since 2005.⁷

Sometimes local authorities work together or must coordinate the maintenance of roads across jurisdictions and the efficient co-ordination of street works is an important aspect of street works legislation. The New Roads and Street Works Act 1991 (NRSWA)⁸ sets out the objectives of the co-ordination function:

- to ensure safety;
- to minimise inconvenience to people using a street, including a specific reference to people with a disability; and
- to protect the structure of the street and the apparatus in it.

The *Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters* is intended to help authorities carry out their duty to co-ordinate works in the highway, under section 59 of NRSWA, and for undertakers to fulfil their duty to co-operate in this process, under section 60 of NRSWA.⁹

The Midlands Service Improvement Group, the Midlands Highway Alliance, West Midlands Highway Alliance, Highways Term Maintenance Association, Road Surface Treatment Association, The Association of Directors of Environment, Economy, Planning and Transport, and the Local Councils Road Innovation Group are examples of well-developed and effective collaboration across the highway sector.

Relationship with Highways England

Motorists almost always start and end their journeys on local roads, therefore decisions about strategic roads must take account of the impacts on local transport infrastructure. Well-maintained and improved local roads are also needed for a successful strategic road network.¹⁰ Thus strategic and local highways authorities cannot operate in isolation, with an ongoing need for them to coordinate their planning across their respective sections of the network. The Government, in their *Action for Roads* policy paper, stated that an ideal relationship between Highways England and local highway authorities would be characterised by joint planning, investing, delivering, operating and managing growth together.¹¹ For example, Highways England strategically plans at the route level, the aim of which is to link together the pressures on the strategic network with the needs of local communities, with a view to arriving at shared solutions. The need for coordinated planning is formalised in Highways England's licence, which stipulates that it must "take account of relevant local plans and priorities concerning local road and other transport networks, wider socio-economic developments, and government policy."¹² Similarly, the

⁷ DfT, [Road lengths in Great Britain: 2017](#), 5 July 2018

⁸ New Roads and Street Works Act 1991, Part III, [Street Works in England and Wales](#)

⁹ DfT, [New Roads and Street Works Act 1991 - Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters](#), Fourth Edition, October 2012

¹⁰ DfT, [Action for Roads](#), July 2013

¹¹ DfT, [Action for Roads](#), July 2013

¹² DfT, [Highways England: Licence](#), April 2015, Para 5.14, p12

Government believes that Local Enterprise Partnerships and the local authorities who deliver local road schemes should have the option of directing their Local Growth Fund resources towards improvements on the strategic road network. Local and strategic highways authorities can also coordinate operationally by linking together respective control centres and traffic operations arrangements, planning for winter, sharing data and coordinating road works to manage traffic flows better.

1.2 Central government

Central government has a core role in the provision of funding for local roads maintenance and renewals. The Department for Transport (DfT) is responsible for funding local roads renewals and upgrades, while the Ministry of Housing Communities and Local Government provides revenue support to local highways authorities for road maintenance (discussed further in Section 5).

In addition to funding, central government has a key role in policy development and setting the legislative framework through which the local roads sector operates. The latest and primary policy document relevant to the local roads sector is the *Action for Roads* policy paper published in July 2013. The main reforms to emerge from this paper included the transformation of the Highways Agency to Highways England, a government-owned strategic highways company, with a greater independence to run the roads on a day-to-day basis. This was also accompanied by the introduction of the road investment strategy, setting out a long-term investment plan for the network, with a strategic vision, clear performance requirements and multi-year funding.¹³ Section 5 outlines the key policies related to local roads. Key local roads policy announcements stemming from this paper, included that:

- Local authorities would benefit from £6 billion of investment in local road maintenance between 2015 and 2021;
- The Government would increase their help to councils to deliver better results by sharing best practice on maintenance, streamlining their work and partnering with their neighbours; and
- The introduction of more flexible arrangements on funding, meaning that councils would need fewer approvals from Whitehall before taking action.¹⁴

Other policy developments since the beginning of the 2015 Parliament relevant to the local roads sector, include the publication of the:

¹³ In June 2014, the Government introduced the [Infrastructure Bill announced in the Queen's Speech in June 2014](#). This proposed the legislation needed to turn the [Highways Agency](#) into a government-owned company and provide funding for strategic road investment. In February 2015, the Infrastructure Bill became the [Infrastructure Act](#). The act will allow for the creation of Highways England, the new government-owned company.

¹⁴ DfT, [Action for Roads](#), July 2013, p62

- Road safety statement in December 2015, which has a manifesto commitment to reduce the number of cyclists and other road users killed or injured on our roads every year;¹⁵
- Roads Funding Pack in November 2016, which set out the further roads funding that the government committed to delivering in the 2015 Parliament; and¹⁶
- Proposals for the creation of a Major Road Network in December 2017, which would allow for dedicated funding from the National Roads Fund to be used to improve this middle tier of England's busiest and most economically important local authority 'A' roads (see Section 6).¹⁷

2018 Budget announcement

The Government announced a £28.8 billion cash injection to upgrade major routes across England in the Budget statement in October. It will be part of a programme to run over five years from 2020 to 2025 and will be part funded by revenue from vehicle excise duty. It will outstrip the £17.6 billion invested over the previous five-year period and increase the budget of Highways England by 40 per cent. £25.3 billion of this funding will be spent on the Strategic Road Network run by Highways England. Mr Hammond said that £3.5 billion would be devolved to local authorities to upgrade the busiest council-maintained A roads specified as part of the Major Roads Network (see below).

The Government also allocated a further £420 million to councils to fix potholes, repair bridges and carry out other repairs; as well as another further £150 million to be used to help councils improve local road junctions to provide better access to workplaces, high streets and other community facilities.

The DfT published its [Roads Funding: Information Pack](#) in November 2018, which contains the detail of how the £420 million was allocated to individual local highways authorities.

Central government, through the DfT, also has a role in the governance of local roads through:

- **Ensuring coordination across the local and strategic road networks** – including that they work smoothly alongside one another and to ensure that local authorities continue to work in partnership with Highways England.¹⁸
- **Monitoring and improving efficiency** - The Department's Highways Maintenance Efficiency Programme, launched in April 2011, developed a range of tools and guidance, referred to as Efficiency Resources, that are freely available to all local authorities to help make their activities more efficient (see Section 2).
- **Reviewing guidance and standards relating to local authority highway maintenance** - this involves reviewing the Codes of Practices for highways, structures and street lighting and updating them to reflect current best practice and identifying areas where there could be efficiency savings.

¹⁵ DfT, [Road safety statement: building a safer road system](#), 21 December 2015

¹⁶ DfT, [The roads funding package](#), 28 November 2016

¹⁷ DfT, [Proposals for the creation of a Major Road Network](#), 23 December 2017

¹⁸ DfT, [Action for Roads](#), July 2013, p63

- **Understanding the value for money and wider benefits of investing in highway maintenance** –this work is important to understand the implications of investment decisions on the condition of the highway network, as well as the socio-economic outcomes such as safety, journey times and vehicle operating costs.¹⁹

¹⁹ DfT, [Local authority highways maintenance funding: 2015/16 - 2020/21](#), November 2014

2. Road management standards and methods

Like any physical asset, the highway network requires maintenance and renewal to counter deterioration. Planned, preventative maintenance, which involves resurfacing at regular intervals, is the most cost-effective method of keeping the road surface in good repair.²⁰ The consequence of delaying essential work on roads is often to increase the bill for fixing the problem in the future. In other words, savings on maintenance work are often a false economy.²¹ The Asphalt Industry Alliance estimated that it is at least twenty times more expensive to patch and mend than it is to undertake long lasting repairs, with preventative treatments postponing such costly interventions and providing the option for more financially sustainable options to be planned.²²

Set up in 2011, the UK Roads Liaison Group (UKRLG) brings together national and local government from across the UK to consider roads infrastructure engineering and operations matters. The standards that must be followed for local highway authorities are set out in *Well-managed highway infrastructure: a code of practice*, which was published in October 2016.²³ This Code of Practice is not statutory but provides Highway Authorities with guidance on highways management. Adoption of the recommendations within this document is a matter for each Highway Authority, based on their own legal interpretation, risks, needs and priorities. The UKRLG also published the *Highway Infrastructure Asset Management Guidance* (HIAMG) in May 2013, which is aimed at local highway authorities and provides advice on how asset management principles may be used to support a more efficient approach to maintaining highway infrastructure assets. It includes 14 recommendations which should be considered in their entirety as the minimum requirements to achieve an appropriate level of benefit from asset management.²⁴

The HIAMG stemmed from the Highways Maintenance Efficiency Programme, carried out on behalf of the DfT in April 2012, and recognised that better advice and information is required if local authorities are to benefit consistently from the potential that asset management offers. It made several key recommendations for improving road maintenance, under three broad principles:

- 1 **Prevention is better than cure** – intervening at the right time will reduce the amount of potholes forming and prevent bigger problems later.

²⁰ For more info, see: All Party Parliamentary Group on Highway Maintenance, [Managing a valuable asset: improving local road condition](#), October 2013

²¹ DfT, [Action for Roads](#), July 2013

²² Asphalt Industry Association, [Key Facts](#), accessed 9 October 2018

²³ UK Roads Liaison Group, [Well-managed highway infrastructure: a code of practice](#), 28 October 2016; This supersedes the previous Codes '[Well-maintained Highways](#)', '[Well-lit Highways](#)' and '[Management of Highway Structures](#)'.

²⁴ UK Roads Liaison Group, [Highways Infrastructure Asset Management – Guidance Document](#), May 2013

- 2 **Right first time** – do it once and get it right, rather than face continuous bills. Guidance, knowledge and workmanship are the enablers to this.
- 3 **Clarity for the public** – local highway authorities need to communicate to the public what is being done and how it is being done.²⁵

The report recognised that there was more to do to really embed best efficiency practices equally across all 153 local highway authorities, with the programme delivering several other key initiatives (see box below).

Highways Maintenance Efficiency Programme – initiatives delivered

- **Potholes Review** – A best-practice guide for how local authorities can deal with potholes, both in terms of engineering and wider roads management.
- **Local Highway Authority Collaborative Alliance Toolkit** – Guidance and selected case studies to help the development of new alliances between authorities and identification of the areas where they can achieve efficiencies.
- **Shared Service Toolkit** – Guidance for local highway authorities on how to share the delivery of their road maintenance services, with case studies showing their operation. Also identifies the level of efficiencies that can be achieved.
- **Procurement Route Choices Toolkit** – Web-based tool to guide authorities on the procurement options available, including their advantages and disadvantages.
- **Standard Specification and Details** – Advice on identifying common ‘best value’ maintenance materials and specifications for road maintenance, including resurfacing.
- **Standard Form of Contract** – A suite of documents to help local authorities tender and procure services without having to produce their own one-off document.
- **Asset Management Lifecycle Planning Tool** – A network-level analysis tool for all local authorities assessing how best to approach maintenance, factoring in challenging topics such as carriageway deterioration.
- **Highway Infrastructure Asset Management Guidance** – Guidance on how to promote better use of limited resources by taking a long-term view and preventing expensive short-term repairs.
- **Guidance on the Management of Highways Drainage Assets** – Provides an understanding of how to manage drainage to reduce the unit costs of maintenance and make better use of the assets.

More material can be found online at: <http://www.dft.gov.uk/hmep/>

Source: Department for Transport, *Action for Roads*, July 2013

²⁵ HMEP for DfT, *Prevention and a better cure: potholes review*, April 2012, pvi

3. Condition of local roads in England

There are ongoing concerns about the general state of the road network,²⁶ the backlog of repairs and the cost of bringing these defects up to standard. From the National Highways and Transport Public Satisfaction Survey,²⁷ which includes responses from more than 790,000 members of the public, it was revealed that only 35% of respondents were satisfied with the conditions of their local highways.²⁸ The RAC's annual Report On Motoring revealed that the condition of local roads was felt to be the most pressing issue of the 2,000 drivers surveyed. 41% of respondents put it at the top of their list of concerns, up 33% from the previous year.²⁹

The DfT, in the latest annual road conditions paper published in January 2018,³⁰ found that 'A' roads and 'B' and 'C' roads combined have seen a gradual improvement (i.e. fewer roads should have been considered for maintenance) in the last five years, while unclassified roads have not seen the same improvement over this period.³¹ The main indicator used by the DfT to determine road condition is by determining the Proportion of LA managed roads that 'should have been considered for maintenance' (i.e. roads that will not necessarily require immediate treatment, but they should be inspected to determine whether maintenance is required). The DfT caution that, because of a limitation in data availability, their assessment "should only be taken as an indication of whether condition is improving or worsening."³²

How Department for Transport national roads condition data is collated?

The condition of the local A, B and C roads in England, Scotland and Wales is measured using a long-established technology called SCANNER (Surface Condition Assessment for the National Network of Roads). SCANNER involves a specially adapted vehicle driving the network, with lasers and video equipment measuring a range of parameters, such as cracking of the road, and ruts. A number of these parameters are then combined to give an overall score that indicates the condition of each section of the road – the Road Condition Indicator (RCI).

SCANNER brings the benefits of coverage, objectivity, consistency and it has a nationally recognised Quality Assurance regime that helps Local Authorities assure National Audit Office/DfT of the robustness of their data and the comparability with other local authorities.

²⁶ [HC Deb 5 June 2018, c56WH](#)

²⁷ The National Highways and Transport Public Satisfaction Survey (NHTPSS) is an annual survey benchmarking public perspectives on, and satisfaction with, local authority highway & transport services.

²⁸ NHT Networks, [NHT Public Satisfaction Survey - Key Results of the 2017 Survey](#), accessed 9 October 2018

²⁹ RAC, [RAC Report on Motoring 2018](#), September 2018

³⁰ For background info about this publication, see: DfT, [Road Conditions in England – a basic guide](#), 31 March 2017

³¹ DfT, [Road Conditions in England 2017](#), 18 January 2018

³² DfT, [Road Conditions in England 2017](#), 18 January 2018

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Once the roads have been inspected, UK Pavement Management System (UKPMS)-accredited systems are used by English local authorities to submit road condition data to central government.

The picture portrayed in the DfT's annual road conditions release paper contrasts with other reports across industry. A 2018 report by the Association for Consultancy and Engineering (ACE), concluded that local roads "are falling into a state of disrepair because local authorities are struggling to find funding to pay for their upkeep, particularly considering the UK Government's cuts to local authority grants since 2010."³³ Other industry groups also report on the condition of local roads in England. The most notable of these is the Asphalt Industry Association (AIA), which publish their *Local Authority Road Maintenance Survey* report annually.³⁴ The most recent report from the AIA, which was published in March 2018, found that:

- 54% of local roads in England remain in good condition (i.e. 15 years or more life remaining), 28% are in adequate condition (5-15 years' life remaining) and 18% are in poor condition (less than 5 years' life remaining).³⁵
- Almost 40% of the local road network, or 77,570 miles – is currently classified as AMBER or RED. This includes over 24,400 miles of road identified as RED – requiring maintenance within the next year or so (see figure below).³⁶
- The maintenance cycle, in terms of how frequently roads are maintained, has become stretched. The AIA recommends that the frequency of road resurfacing should be between 10 and 20 years.³⁷ According to the latest AIA report, "English councils have seen a marked decrease in road surfacing frequency reporting, on average, for all classes of road a jump from once every 55 years, to once every 92 years. For unclassified roads the leap is even more pronounced – going from 87 years, last year, to once every 132 years."³⁸
- It would take 14 years, at a cost of £9.31 billion, to get local roads back into a reasonable steady state.³⁹ This is an improvement on

³³ ACE, [Funding Roads for the Future](#), January 2018, p19

³⁴ Every year the Asphalt Industry Alliance (AIA) publishes its Annual Local Authority Road Maintenance (ALARM) survey, based on returns from local authorities in England and Wales.

³⁵ AIA, [Annual Local Authority Road Maintenance Survey](#), March 2018

³⁶ The RCI features three condition categories – GREEN, AMBER and RED – across three road classes – principal, classified (non-principal) and unclassified. In general, GREEN defines lengths where the carriageway is in 'a good state of repair'; AMBER is for lengths where 'some deterioration is apparent' which should be investigated to determine the optimum time for planned maintenance and RED is for lengths of carriageway 'in poor overall condition', likely to require planned maintenance within a year or so.

³⁷ This is not a hard and fast rule and will ultimately vary by the type of road and the level and nature of its traffic

³⁸ AIA, [Annual Local Authority Road Maintenance Survey](#), March 2018

³⁹ AIA, [Annual Local Authority Road Maintenance Survey](#), March 2018

the previous year's survey in which the backlog was estimated to cost £12.1 billion.⁴⁰

3.1 Potholes

The less frequently a road surface is replaced or “re-carpeted” with a new surface dressing the more prone it will be to degradation and the breaking up of patches resulting in potholes. *The Potholes Review - prevention and a better cure* found that effective asset management had previously not been embraced consistently across all authorities in England.⁴¹

Defining a ‘pothole’

There is no definition of a ‘pothole’ in legislation.

The AIA reported that in 2016 just under three quarters (70%) of authorities responding to the ALARM survey used the guideline depth of 40mm to define a pothole.⁴²

There have been calls for a ‘pothole’ to be defined in legislation or in statutory guidance that would apply across the whole country. For example, in August 2016 the chief executive of the Road Surface Treatments Association (RSTA), Howard Robinson, said: “The lack of a national pothole definition means that we have a postcode lottery of road repair as different local authorities take different approaches – there is no consistency”.⁴³

Appendix B to *Well-maintained Highways* sets out deficiencies and risks, based on a system of categorisation – category 1 is the highest priority. It suggests that whether a defect should be treated as category 1 in particular circumstances and the nature and speed of response will depend, amongst other things, upon the assessed risk posed by:

the depth, surface area or other degree of deficiency of the defect or obstruction;

the volume, characteristics and speed of traffic;

the location of the defect relative to highway features such as junctions and bends;

the location of the defect relative to the positioning of users, especially vulnerable users, such as in traffic lanes or wheel tracks;

the nature of interaction with other defects; and

forecast weather conditions, especially potential for freezing of surface water.⁴⁴

It gives examples from across the UK of local practice and the definitions used. The example from England is from Westminster Council, which recommends that a pothole should be investigated if it is 20mm or more in depth on the carriageway or 15mm on a pedestrian crossing or footway.⁴⁵

The figure below shows the number of potholes filled annually in England from 2009 to 2018. In 2015, local highways authorities in

⁴⁰ AIA, [Annual Local Authority Road Maintenance Survey](#), March 2017

⁴¹ Highways Maintenance Efficiency Programme, [Potholes Review – Prevention and a better cure](#), April 2012

⁴² AIA, [Annual Local Authority Road Maintenance Survey 2016](#), March 2016, p10

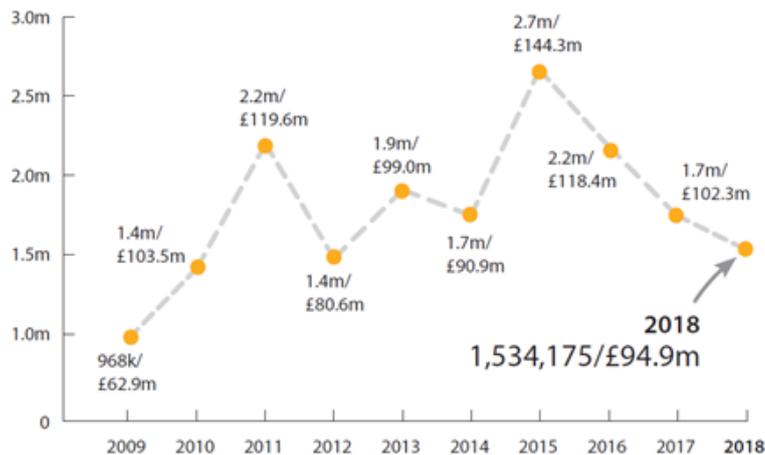
⁴³ “Define a pothole in law – industry”, *Local Transport Today* (LTT 703), 5 August 2016

⁴⁴ UK Roads Liaison Group, [Well-maintained Highways: Code of Practice for Highway Maintenance Management](#), July 2005, section B3.1, pp281-2

⁴⁵ *Ibid.*, table B1, p282

England (including London) filled in over 2½ million potholes, around 7,000 a day, at a cost of £144m/year. Since 2015, the number of potholes filled each year has steadily declined. This is a positive move, according to AIA, as it may “reflect a shift towards more efficient whole life asset management.”⁴⁶

Number and cost of potholes filled 2009-2018⁴⁷



Nevertheless, the existence of potholes across the country incurs direct and indirect costs to local authorities, motorists and other road users. In addition to the cost of repairing with potholes and other maintenance issues, there are the costs of damage to road vehicles from poorly maintained local roads. The damage caused to vehicles from potholes in 2017 cost £915 million to repair, according to research from Kwik Fit. An increase of 34% on the £684m repair bill in 2016.⁴⁸ Vehicle damage, insurance claims and accidents have all increased in recent years. The AA reported in May 2018 that the number of pothole claims made to the AA during the first 4 months of 2018 is more than for the whole of 2017.⁴⁹ This concern was echoed by the RAC, which recorded a three-year high between April and June 2018 for breakdowns related to potholes, with almost 4,100 vehicles suffering damaged shock absorbers, broken springs or distorted wheels, a 15pc rise from last year's figures.⁵⁰

Potholes are also a major safety issue and according to Cycling UK, 390 cyclists killed or seriously injured since 2007 due to potholes.⁵¹ It was reported, using figures sourced from the DfT, that 71 cyclists were killed or seriously injured in accidents linked to poorly maintained roads in 2016, up from 22 in 2006. The increase far outstrips the general rise in cycling over the same period; it is estimated that the distance covered by bicycles increased by 50 per cent.⁵² A survey by Cycling UK revealed that 56% more people would cycle more if the UK's roads were in a better

⁴⁶ AIA, [Annual Local Authority Road Maintenance Survey](#), March 2018

⁴⁷ AIA, [Annual Local Authority Road Maintenance Survey](#), March 2018

⁴⁸ 'Kwik Fit estimates pothole vehicle damage bill at £915m', *FleetNews*, 21 March 2018

⁴⁹ AA press notice, [Road pothole epidemic a national disgrace](#), 11 May 2018

⁵⁰ The Telegraph, [Why are there so many potholes on UK roads?](#), 24 August 2018

⁵¹ Cycling UK, [390 cyclists killed or seriously injured since 2007 due to potholes](#), 8 March 2018

⁵² 'Cycling deaths and injuries soar as potholes go unfixed', *The Times*, 8 March 2018

condition; it was the joint second most common reason for avoiding travel by bike.⁵³

In terms of Government policy to deal with potholes, it was announced in April 2016 that £250 million would be made available through the Pothole Action Fund to improve local roads and deliver better journeys.⁵⁴ In his recent party conference speech, Secretary of State Chris Grayling signaled his intention to lay out “further plans” to improve the pothole situation:

I’m also acutely aware that we have problems with the conditions of our roads in many areas. Potholes are a blight on every motorist. And too many are caused by poor road repairs.

We’re already spending record amounts on fixing potholes. But I will be setting out further plans in the coming weeks to tackle this blight.⁵⁵

The Government also allocated a further £420 million to councils to fix potholes, repair bridges and carry out other repairs in the 2018 Budget; as well as another further £150 million to be used to help councils improve local road junctions to provide better access to workplaces, high streets and other community facilities.⁵⁶

⁵³ [‘Dangerous conditions put more than half of people off cycling on UK roads, new study finds’](#), *London Evening Standard*, 31 May 2018

⁵⁴ DfT, [‘Pothole fund boosted to repair roads after winter damage’](#), 26 March 2018

⁵⁵ [‘Grayling unveils major road schemes and gives a pothole teaser’](#), *Highways Magazine*, 2 October 2018

⁵⁶ HM Treasury, [‘Budget 2018’](#), 29 October 2018

4. Liability

MPs are often contacted by constituents who are, in one way or another, concerned about liability for accidents, injuries or damage caused to them or their property because of a perceived failure by the local authority to maintain the highway. Others are concerned that if they clear snow or ice or undertake some other form of repair or maintenance of the highway or pavement they could be sued. In all instances those who are or think they may be affected should consult a suitably qualified legal professional.⁵⁷

4.1 Local highway authorities

There are two defences available to a highway authority faced with claims under section 41 of the 1980 Act for failure to maintain the highway: a common law defence and a statutory defence as provided for in section 58 of the 1980 Act.

The common law defences available to the highway authority are listed in the *Encyclopaedia of Highways Law & Practice* as follows:

Act of God or inevitable accident. A cloudburst (as in *Nicholas v. Marsland* (1876) 2 Ex.D. 1) or other natural calamity may avail a highway authority in exceptional circumstances.

Act of a third party. Clearly if another driver forces the plaintiff's vehicle off the road, he cannot sue the highway authority for damages sustained as a consequence of the condition of the grass verge. Similarly, no action would appear to lie against the highway authority if the cause of the plaintiff's injury was a sudden subsidence of the road surface due, for example, to mining operations by the National Coal Board.

Contributors negligence. It used to be thought that this defence could not be established in reply to an action on a statute; it seemed logical that it could be used as an answer only to an action in negligence. However, it was clearly established in *Caswell v. Powell Duffryn* [1939] 3 All E.R. 722 (a decision of the House of Lords), that contributory negligence could be pleaded as a defence (or as a partial defence since the Law Reform (Contributory Negligence) Act 1945 (8 & 9 Geo. 6.c. 28)) in an action for breach of statutory duty. It was made clear that this did not apply only in the context of employers and workmen in *Sparks v. Edward Ash Ltd.* [1943] 1 All E.R. 1, and the draftsman of the present statute clearly thought the defence may be available in this context, in view of his passing reference to the defence in subs. (2). It seems therefore that if the plaintiff is not keeping a proper look-out when using the highway, (either as a pedestrian or when driving a vehicle), the highway authority will have at least a partial defence if he is injured as a consequence of the non-repair of the highway. This view is supported by *Burnside v. Emerson* [1968] 11 W.L.R. 1490, in which the plaintiffs were injured when their car, travelling at about 25 mph in very wet conditions, was struck by another car, which swerved on entering a pool of water on the road. There was evidence that this other car must have been travelling at approximately 50 mph at the

⁵⁷ Information on how to seek and pay for legal help can be found in HC Library briefing paper [SN3207](#)

time of collision; its driver was killed in the collision. There was also evidence that the particular part of the road was frequently flooded in wet weather and that this was due both to a drain not being placed at the lowest part of the road (there was a dip in the road at the place of collision) and to a lack of cleaning of the drain by the servants of the second defendants (the highway authority). The trial judge held that the plaintiffs had established a cause of action against the second defendants under s.1(1) of the Highways (Miscellaneous Provisions) Act on the basis of failure to maintain the highway, and he held that the second defendants were wholly to blame. On appeal, *held* (1) that the plaintiffs had established such a case of action; but (2) that, on the facts, the deceased driver was two-thirds to blame for the accident.

Volenti non fit injuria. It is not clear how far this principle is a defence open to a highway authority. Obviously it could not be argued that a plaintiff could not recover damages simply because he had taken upon himself the "risk" of walking (or driving) on the defendant's highway, for he is entitled to assume a reasonable standard of maintenance. However, if a danger is obvious (e.g. a plank placed across an excavated trench), and there is no evidence of negligence, the highway authority may be able to escape liability if they can show the plaintiff voluntarily undertook the risk was the "author of his own misfortune". Knowledge of itself may not be sufficient to establish this defence (*Smith v. Baker* [1891] A.C. 325) but knowledge may be of value in establishing contributory negligence on the part of the plaintiff.⁵⁸

Section 58(1) of the 1980 Act provides the highway authority with a complete defence if it can *prove* that it had taken such care as was reasonably required to ensure that the part of the highway to which the action relates was not dangerous to traffic ('traffic' being defined in section 329(1) of the 1980 Act to include pedestrians and animals). In assessing whether such care had been taken in any particular case, the court must have regard to the matters specified in section 58(2), not all of which will be relevant in every case:

(2) For the purposes of a defence under subsection (1) above, the court shall in particular have regard to the following matters:—

- (a) the character of the highway, and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a highway of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the highway;
- (d) whether the highway authority knew, or could reasonably have been expected to know, that the condition of the part of the highway to which the action relates was likely to cause danger to users of the highway;
- (e) where the highway authority could not reasonably have been expected to repair that part of the highway before the cause of action arose, what warning notices of its condition had been displayed;

but for the purposes of such a defence it is not relevant to prove that the highway authority had arranged for a competent person

⁵⁸ Sweet & Maxwell, *Encyclopaedia of Highways Law & Practice*, para 2-111

to carry out or supervise the maintenance of the part of the highway to which the action relates unless it is also proved that the authority had given him proper instructions with regard to the maintenance of the highway and that he had carried out the instructions.

Generally speaking, a highway authority is expected to take reasonable care of the highway and should have procedures laid down for inspection and repair (see Section 2). In essence, a judge must be satisfied that a council did all that was reasonably required to avoid there being any danger to pedestrians and motorists if a council is to succeed in using the special defence provided by section 58.

New guidance on managing highways liability risk has been released by the Institute of Highway Engineers - titled *Well Managed Highway Liability Risk* - providing a comprehensive framework for authorities across the UK.⁵⁹ The document:

Aims to provide a reference source and practical guidance on best practice in the management of highway liability risk exposures. In particular how to apply the principles of risk management and a risk based approach to highway liability claims exposure which will be beneficial to all levels of performance.⁶⁰

4.2 Private individuals and householders

In recent years there have been concerns about local authorities apparently telling individuals and householders not to clear the pathways outside their homes (i.e. in the event of snow or ice) as they would be liable if there were an accident. MPs expressed concerns about these reports and about the lack of legal clarity.⁶¹

The issue of householder liability was addressed as part of David Quarmby's review of winter resilience back in 2010. The interim report recommended that the Government develop a code "setting out good practice for members of the public, including business owners, in clearing snow and ice from footways".⁶² The then Secretary of State for Transport, Philip Hammond, accepted the recommendation and indicated that the code would be published by the end of October.⁶³ David Quarmby's final report, published in October 2010, welcomed the work that had progressed to date on the 'snow code'.⁶⁴ The code is available to view in its entirety on the Met Office website. Amongst other things, it states:

Don't be put off clearing paths because you're afraid someone will get injured. Remember, people walking on snow and ice have a responsibility to be careful themselves.

⁵⁹ Institute of Highway Engineers, [Well Managed Highway Liability Risk](#), March 2017

⁶⁰ Institute of Highway Engineers, [Well Managed Highway Liability Risk](#), March 2017

⁶¹ see, e.g.: [HC Deb 11 January 2010, c415](#); [HC Deb 2 February 2010, c172](#); and [HC Deb 8 March 2010, c132](#)

⁶² DfT, [The Resilience of England's Transport Systems in Winter - An Independent Review: Interim Report](#), July 2010, p17

⁶³ [HC Deb 26 July 2010, c73WS](#)

⁶⁴ DfT, [The Resilience of England's Transport Systems in Winter - An Independent Review: Final Report](#), October 2010, p117

Follow the advice from the Department for Transport ... to make sure you clear the pathway safely and effectively.

And don't believe the myths - it's unlikely you'll be sued or held legally responsible for any injuries if you have cleared the path carefully.⁶⁵

The Coalition Government cited the 'snow code' as a 'Big Society' initiative, supporting "the overwhelming majority of people [who] want to take social action in a common-sense way, whilst showing neighbourliness and generosity of spirit in these circumstances".⁶⁶

⁶⁵ Met Office/DfT, [The Snow Code](#) [accessed 28 December 2016]

⁶⁶ [HC Deb 3 February 2011, cc876-77W](#)

5. Maintenance expenditure and funding

Highway maintenance expenditure can be classified as ‘capital’ or ‘revenue’ – this is significant because the funding comes from different sources and applies to different types of works:

- **Capital maintenance** expenditure is primarily devoted to the structural renewal of highway assets (including roads, footways, bridges, drainage and lighting); essentially extending the life of the asset. Preventative treatments such as surface dressing is also treated as capital.
- **Revenue maintenance** expenditure mainly covers the routine works required to keep the highway serviceable and reactive measures to rectify defects. In addition to maintenance of the road surface itself, it also includes the cost of providing street lighting, footway repair and cyclical maintenance such as cleaning activities (of assets such as the drainage system), grass cutting and vital services such as snow and ice clearance, and salt spreading.⁶⁷

Both capital and revenue expenditure are covered by a combination of local government own revenues and central government grants, the details of which are presented below.

5.1 Capital expenditure and funding

Capital expenditure is financed from a range of sources including borrowing and capital receipts, as well as central government grants distributed by the DfT. Although central government funding is significant, local authorities typically spend more capital money on highways maintenance than the sum provided to them through the DfT.

The DfT capital funding to local authorities for highways maintenance for English authorities was around £1.2 billion in 2017/18.⁶⁸ The current funding regime stems from the announcement made in December 2014 that £6 billion will be made available between 2015/16 and 2020/21 for local highways maintenance capital funding.⁶⁹ Individual elements of the DfT capital funding are outlined below:⁷⁰

- **Local Highways Maintenance Funding (Needs Element)** – £801 million in 2017/18⁷¹ – £4.7 billion was made available across the six-year period under this fund between 2015/16 to 2020/21 and excludes the funding for the Incentive element and the Challenge Fund. The funding allocated to each local highway authority in England is based on a formula using data provided by

⁶⁷ DfT, [Gearing up for efficient highway delivery and funding](#), January 2014, Para 1.9

⁶⁸ Calculated based on the individual elements listed below.

⁶⁹ DfT, [£6 billion funding to tackle potholes and improve local roads](#), 23 December 2014

⁷⁰ DfT, [Roads Funding: Information Pack](#), January 2017

⁷¹ For full detail of the fund, including individual allocations, see: DfT, [Highways maintenance funding allocations](#), 23 December 2014

each authority regarding the assets for which they are responsible.⁷²

- **Local Highways Maintenance Challenge Fund** - £75 million in 2017/18 –£575 million was made available through this challenge fund to help repair and maintain local highway infrastructure such as junctions, bridges and street lighting.⁷³
- **Local Highways Maintenance Incentive/Efficiency Element Funding** - £75 million in 2017/18 – £578 million was set aside for this scheme, to reward councils who demonstrate they are delivering value for money in carrying out cost effective improvements. Each local highway authority in England (excluding London) are invited to complete a self-assessment questionnaire, in order to establish the share of the Incentive fund they will be eligible for in a given year. Local authorities are not competing with each other for funding but are demonstrating that efficiency measures are being pursued in order to receive their full share of the funding.⁷⁴
- **Pothole Action Fund** - £70 million in 2017/18 – In Budget 2016 the Government published details of a £250 million Pothole Action Fund.⁷⁵ As a condition of receiving the money local authorities would be required to publish quarterly progress updates on how many potholes had been repaired.
- **National Productivity Investment Fund** - £185 million in 2017/18 – this fund aims to reduce congestion at key locations, upgrade or improve the maintenance of local highway assets across England.⁷⁶
- **Safer Roads Fund** - £25 million in 2017/18 – this fund totals £175m between 2017/18 and 2020/21 and invites proposals from eligible local highway authorities to improve the safety of 50 specific sections of local A' roads, where the risk of fatal and serious collisions is highest, based on the analysis by the Road Safety Foundation.

5.2 Revenue expenditure and funding

Revenue expenditure on local highway authority roads maintenance is funded through council tax receipts and business rates, as well as through the Revenue Support Grant provided by the Ministry of Housing Communities and Local Government (MHCLG; formerly Department of Communities and Local Government), which can be used to finance revenue expenditure on any service. The amount of Revenue Support Grant to be provided to authorities is established

⁷² For details of this calculation, see: DfT, [Explanatory note: calculation of Highways Maintenance Block 'needs' funding](#), 2015/16 to 2020/21, accessed 12 September 2019

⁷³ For detail about the Challenge Fund and the application process, see: DfT, [Local Highways Maintenance Challenge Fund - Guidance on the Application Process](#), December 2014

⁷⁴ DfT, [Local highways maintenance incentive fund](#), accessed 12 September 2018

⁷⁵ DfT, [Cash for councils to fill almost 1 million potholes](#), 7 April 2016

⁷⁶ DfT, [Roads Funding: Information Pack](#), January 2017

through the local government finance settlement.⁷⁷ Highway maintenance is a component of the local needs calculation of the MHCLG grant, though it is not ring fenced and so does not have to be used for roads purposes.

The current revenue funding framework stems from changes made as part of the Conservative-Liberal Democrat Coalition Government's localism agenda. Specifically, it amalgamated many ring-fenced budgets into the single Formula Grant pot so that local authorities are free to spend money on their priorities, rather than being forced by central government to spend it in particular areas.⁷⁸ It also encouraged local authorities to manage their budgets more independently of central government and to look at other avenues to raise money for local investment, particularly for transport projects and schemes.⁷⁹

With growing demands for other local services some, such as child and adult social care, highways maintenance budgets are being squeezed between funding for these and reductions in overall revenue spending (see figure below).⁸⁰ Highway maintenance is just one area of local authority responsibility and feedback to the AIA suggests the proportion of total expenditure allocated to this sector in 2017/18 is 6.3% in England, 10.5% in London and 3.5% in Wales.⁸¹

5.3 Recent trends in local road expenditure

According to statistics reported by the DfT, total local authority road maintenance expenditure was £3.3 billion in 2016/17.⁸² Local authority road maintenance expenditure has been trending down in recent years, with spending have reached a high over the reporting period of £3.8 billion in 2009/10 (figure below).

⁷⁷ DCLG, [A guide to the local government finance settlement in England](#), December 2013; The 2018/19 Local Government finance report is available [here](#).

⁷⁸ [HC Deb 15 December 2010, c814W](#)

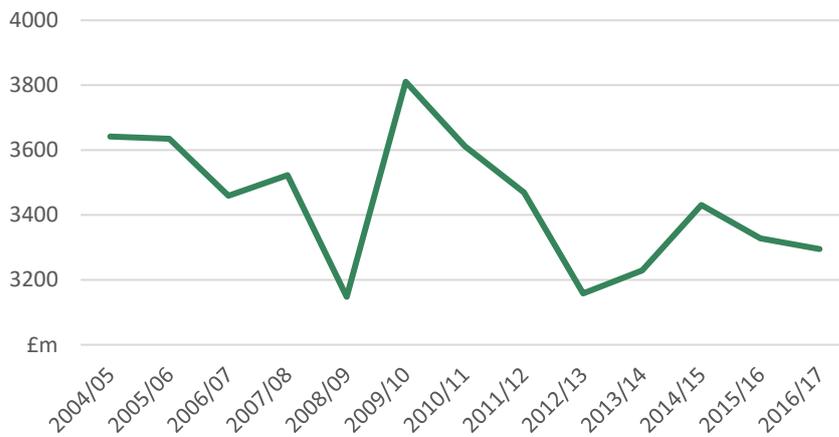
⁷⁹ Further details can be found in HC Library briefing paper [SN5735](#)

⁸⁰ For background around the wider local government financial situation, see: NAO, [Financial sustainability of local authorities 2018](#), 8 March 2018

⁸¹ AIA, [Annual Local Authority Road Maintenance Survey](#), March 2018

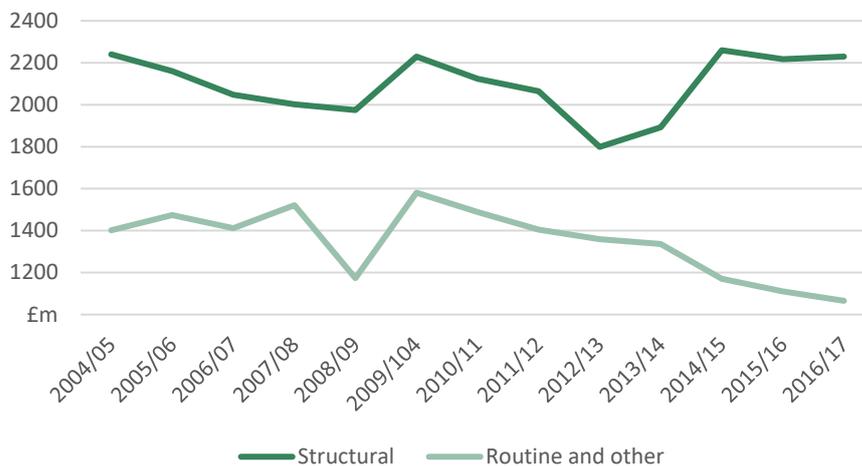
⁸² DfT, [Maintenance expenditure by road class in England](#), Table RDC0310, 18 January 2018

Overall local authority road maintenance expenditure in England, 2016/17 prices⁸³



Structural maintenance expenditure has fluctuated over the last decade, but its levels remain broadly consistent with those seen previously. Routine maintenance expenditure, on the other hand, has been in steady decline in recent years (figure below). This is important because effective asset management requires planned, preventative maintenance, which involves resurfacing at regular intervals. The consequence of delaying essential work on roads is often to increase the bill for fixing the problem in the future.

Local authority road maintenance expenditure in England, by treatment type, 2016/17 prices⁸⁴

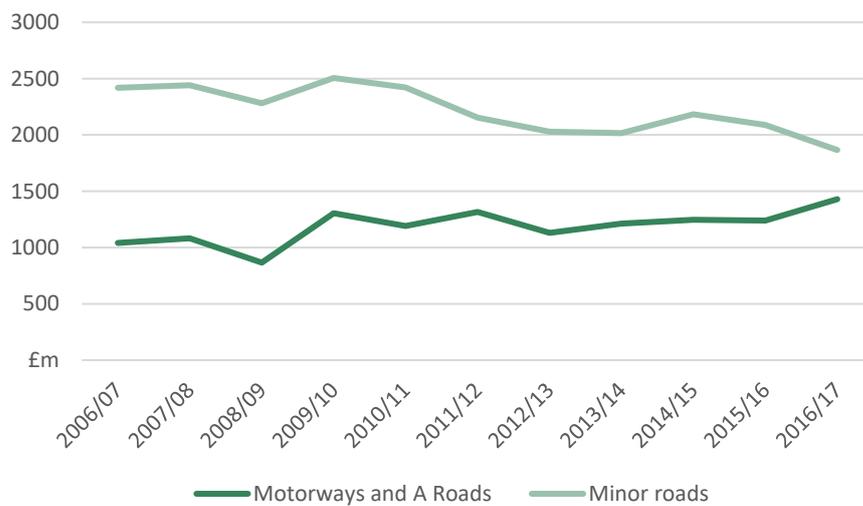


The total expenditure can be broken down by spending on road class. The figure below shows that while motorway and A road local road maintenance expenditure has increased but at the expense of expenditure on minor roads (figure below).

⁸³ DfT, [Maintenance expenditure by road class in England](#), Table RDC0310, 18 January 2018

⁸⁴ DfT, [Maintenance expenditure by road class in England](#), Table RDC0310, 18 January 2018

Local authority roads maintenance expenditure, by road class, in England, 2016/17 prices⁸⁵



The AIA 2018 ALARM report states that “local authorities have reported an increase in average highway maintenance budgets” in the past year – up from £17.1 million in ALARM 2017 to £20.6 million. Although local authority highway teams in England and Wales report that the gap between the funds they received in 2017/18 and the amount they actually needed to keep the carriageway in reasonable order is approaching £556 million – a shortfall of £3.3 million for every authority. The latest figures, according to the AIA, “also hide a wide disparity between the winners and losers, with some councils spending £100 million and others less than £1 million.”⁸⁶

Spending by region

The table below, with data sourced from the HM Treasury Publication Country and Regional Analysis series, shows that total public spending on local roads in 2016/17 was highest in North West and East of England, followed by the South East and the South West. The total public spending on local roads in 2016/17 was lowest in the North East of England.

Public spending on local roads by English region, £m, 2015 prices⁸⁷

	12/13	13/14	14/15	15/16	16/17
East	405	444	549	529	611
East Midlands	278	312	294	298	320
London	525	468	397	460	358
North East	148	166	203	227	265
North West	454	494	613	582	616
South East	494	584	636	569	553
South West	416	433	486	492	512

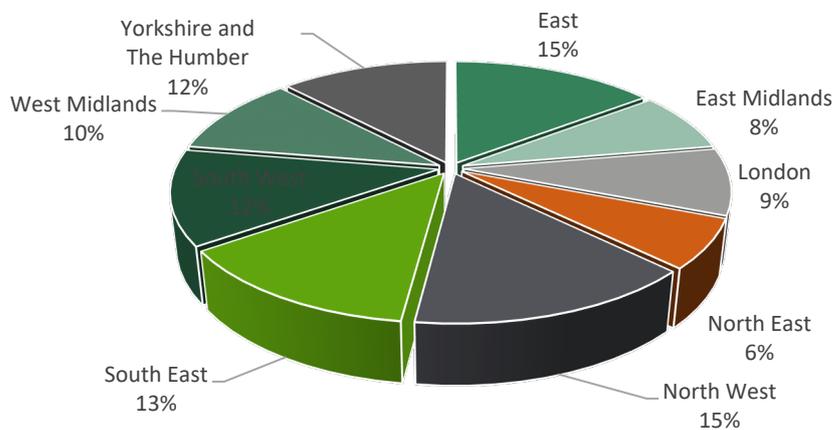
⁸⁵ DfT, [Maintenance expenditure by road class in England](#), Table RDC0310, 18 January 2018

⁸⁶ AIA, [Annual Local Authority Road Maintenance Survey](#), March 2018

⁸⁷ HM Treasury, [Country and regional analysis](#), 9 November 2017

West Midlands	387	389	408	410	429
Yorkshire and The Humber	379	400	434	406	505
ENGLAND	3,488	3,690	4,020	3,974	4,170

Distribution of public spending on local roads by English region, 2016/17⁸⁸



⁸⁸ HM Treasury, [Country and regional analysis](#), 9 November 2017

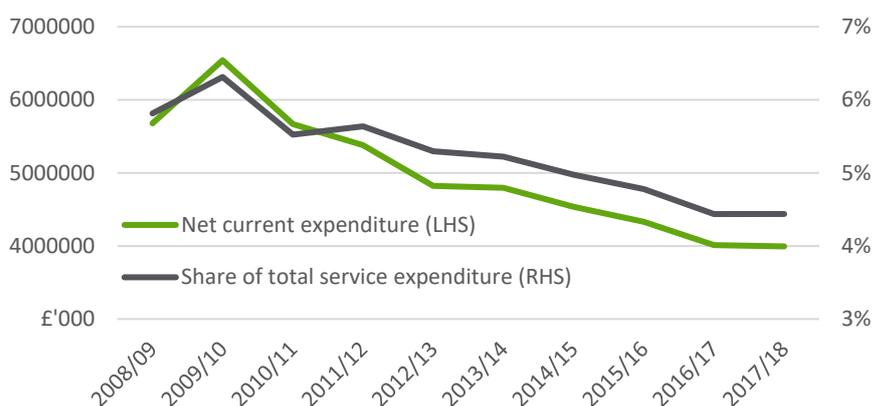
6. Local roads funding and governance debate in England

6.1 Key issues

As discussed in Section 3, the condition of the local road network is below standard across many parts of the country and current estimates suggest that it would take 14 years, at a cost of £9.31 billion, to get local roads back into a reasonable steady state.⁸⁹ Many representatives within industry believe that the current allocation of funding to local roads maintenance is inadequate. The AIA recently commented that “local roads have been underfunded for many years and the result is that more than 24,000 miles of the network is classed as poor and may need to be repaired in the next 12 months” and that an additional £1.5 billion a year into road maintenance is needed to bring local roads up to target conditions.⁹⁰ The Chartered Institution of Highways and Transportation commented that local roads have been “underfunded and unrecognised for the fundamental role they play in the economic, social and environmental wellbeing of our nation.”⁹¹

The squeeze on local authority budgets has meant that spending is being allocated to other core services at the expense of local roads maintenance. The figure below reveals that local roads expenditure has declined in absolute terms and as a share of total local authority expenditure.

Local authority highways and transport expenditure, net current expenditure and as a share of total net current expenditure⁹²



It now only accounts for just over 4% of total expenditure, having fallen from around a 6% share in total expenditure in 2009/10. Councils are concerned that a basic ‘core offer’ of local services could be become the

⁸⁹ AIA, [Annual Local Authority Road Maintenance Survey](#), March 2018

⁹⁰ AIA, [AIA calls for significant boost to local roads' budgets to improve conditions](#), 4 October 2018

⁹¹ Transport Network, [Transport bodies call out 'perverse' local roads funding gap](#), 9 October 2018

⁹² Ministry of Housing, Communities and Local Government, [Local authority revenue expenditure and financing](#), 23 August 2018

norm without additional resources, with highways facing the prospect of greater cuts.⁹³

The fall in spending on local roads needs to be considered in the context of the increase in traffic that is being realised on local roads across the country. Between 2013 and 2017, traffic grew by 7% on local roads in England.⁹⁴ Routine maintenance expenditure has also been declining and an increasing share of spending is being allocated to A roads compared with minor roads across the country.⁹⁵

Since the establishment of the Strategic Road Network (SRN), debate has heightened around the disparity of funding and maintenance standards between the local roads network and SRN. The Local Government Association has been particularly vocal in making this point, highlighting that the Government will invest £21,606.83 per mile, compared to £1,123,382.60 per mile for maintenance of the SRN over the five-year period to 2020.⁹⁶ They also commented:

Very few journeys begin and end on a motorway or trunk road yet government funding on the strategic road network is 52 times higher than for local roads. Spending more on improving our national roads will only serve to speed vehicles up between increased delays and congestion on local roads.

When considering the different funding needs of the strategic and local roads network, it is important to note that the latter can be more complex to manage. It often has a multiplicity of functions and users, sometimes passing through town centres, and face different demands in rural and urban areas. Clearly, the needs of the local road network extend beyond laying bitumen, which give rise to design and management issues that get bigger as roads become more local and multi-purpose.⁹⁷ For example, any road design or capacity changes will have to go hand in hand with measures designed to reduce demand for road space.⁹⁸ There is a wider discussion here, which is beyond the scope of this paper, but these are important considerations in the discussion around the funding requirements on the local roads network.

The governance of local roads is also generally considered much more complex when compared with the SRN.⁹⁹ The SRN is now characterised by a five-year planning cycle for Highways England, with clarity over both capital enhancement and capital maintenance budgets, plus a suite of so-called discretionary funds. On the other hand, the funding picture is much less clear and far-less certain for many local authorities when compared with the SRN. Local authorities often must pay for the maintenance of their local roads by tapping into multiple pools of own

⁹³ '[Local government funding crisis could put highways back a decade](#)', *Highways Magazine*, 9 August 2018

⁹⁴ DfT, [Motor vehicle traffic \(vehicle miles\) by road class, region and country in Great Britain](#), 5 July 2018

⁹⁵ DfT, [Maintenance expenditure by road class in England](#), Table RDC0310, 18 January 2018

⁹⁶ LGA, [LGA responds to AA poll of drivers on the condition of roads](#), 26 February 2018

⁹⁷ Local Government Association, [Better Roads](#), September 2014, p13

⁹⁸ Local Government Association, [Better Roads](#), September 2014, p13

⁹⁹ For a complete discussion on this, see Chapter 2 of the Rees Jeffreys Road Fund Study - [A Major Road Network for England](#)

and central government funds, the availability of which can vary year-on-year. According to the RAC:

the difference between the planning and development of the national road network and that for local roads has never been starker [...and that] local highway authorities are still operating in a somewhat bewildering framework of expectations, duties, and funding mechanisms. It is hard to see how this will achieve the coherent and efficient operation of the road system as a whole, which is what road users really need.¹⁰⁰

With respect to the complexity of the funding arrangements, the LGA commented:

Simply listing the different sources of funding available for transport projects undertaken by local authorities reveals a system verging on the dysfunctional...There is a myriad of funding pots available (20 have been identified during this study) from local and central Government, and Europe, which have different legal frameworks, different assessment criteria and different business case requirements. This leads to inflexibility, duplication and waste.¹⁰¹

Further, local roads are still managed by individual local highways authorities. The patchwork devolution that has occurred in England has given rise to inconsistencies in the powers available to local authorities in being able to manage their transport networks and raise the financing to pay for their upkeep and enhancement.¹⁰² The skills and capabilities of local highways authorities can also vary across the country, resulting in varying local road conditions. Consequently, one other issue that gets raised regularly and has been highlighted by a July 2017 Highways Magazine survey in July 2017 is the number of highways authorities that have responsibility for the local roads network. Many in the sector feels savings could be made by rationalising the 153 highway authorities in England; however according to Dominic Browne of Highways Magazine, "there seems to be little political appetite for this."¹⁰³ In lieu of this reform, there are calls for greater collaboration and the sharing of best practices between highways authorities. George Lee, chief executive of the Highways Term Maintenance Association, recently commented:

The growth in best practice alliances between authorities and collaborative approaches covering clients and contractors, has driven significant efficiencies, innovation and improvements in highways maintenance... alliances of the two will have to look to consolidate further the development and sharing of innovative solutions and best practice. There is a role for the various best practice groups to collaborate and share their approaches to securing value for money and related management and operational efficiencies.

¹⁰⁰ RAC Foundation, [The Condition of England's Local Roads and how they are Funded](#), November 2015

¹⁰¹ LGA, [Better Roads](#), September 2014

¹⁰² Rees Jeffreys Road Fund, [Major Roads for the Future](#), October 2016

¹⁰³ [How do you solve a problem like local roads?](#), *Highways Magazine*, 17 August 2018

6.2 Options for reform to local roads funding and governance

Proposals have been put forth in recent years to change the way in which local roads are funded and governed. The most notable of these is the proposal for a Major Road Network. Others believe more far-reaching reform is required in the form of a Local Roads Fund paid for by redirecting a share of the existing fuel duty to be reinvested in local road maintenance.

Proposal for a Major Road Network

As part of the July 2017 Transport Investment Strategy, the Government committed to creating a Major Road Network (MRN)¹⁰⁴ across England and in December 2017 published its proposals for consultation for this network. In short, the MRN will consist of the most strategic local routes in England and is in line for more than £1bn a year in dedicated funding from the planned National Roads Fund created by ringfencing vehicle excise duty.¹⁰⁵ The Government believe that the MRN will:

- Form a consistent, coherent network, alongside the SRN, to allow better coordination of road investment.
- Provide funding certainty for roads in the network through use of the National Roads Fund, and raise standards and performance across the new network.
- Provide clear roles for local and regional partners, who will support the Government to develop and deliver MRN schemes.¹⁰⁶

Under the proposals, local highways authorities would retain their existing responsibilities and submit proposals for transformative schemes of between £20m and £50m – rising to a maximum of £100m in exceptional circumstances – to sub-national transport bodies or equivalent regional groups. These bodies would then select appropriate schemes to be developed under Regional Evidence Bases, which would then in turn be passed on to the transport secretary to allocate funds under a MRN Investment Programme. The Investment Programme and the Regional Evidence Bases would be updated every two years, with the MRN itself reviewed every five years in line with the existing Road Investment Strategy cycle. Once schemes are in the MRN Investment Programme it would fall to local authorities, in consultation with their region, to be responsible for their continued development.¹⁰⁷

The Local Government Association believes that “the creation of the Major Roads Network is a step in the right direction” and it welcomed the “new money being made available from the national roads fund [and] recognition that longer-term funding certainty will benefit local authority roads.”¹⁰⁸

¹⁰⁴ For more background about the proposal, see: Rees Jeffreys Road Fund, [Major Roads for the Future](#), October 2016

¹⁰⁵ DfT, [Proposals for the Creation of a Major Road Network](#), December 2017

¹⁰⁶ DfT, [Proposals for the Creation of a Major Road Network](#), December 2017

¹⁰⁷ Transport Network, [Major Road Network plans unveiled](#), 2 January 2018

¹⁰⁸ LGA, [LGA response to Major Road Network proposal](#), 19 March 2018

The Transport Secretary announced in October 2018 the the first of the major road schemes to receive investments from the £100m Major Road Network fund. In his Conservative Party conference speech, Mr Grayling said:

We're also upgrading the Major Road Network – the next tier down of roads which play such an important part in good regional connections.

I can announce the details of the first five schemes which will now start in development: A new section of the York Outer Ring Road. Modernising Gallows Corner in East London. The infamous farmyard bottleneck, Grizebeck Bypass, near Barrow in Furness. The A614 near Ollerton in Nottinghamshire. And new slip roads in Thurrock.¹⁰⁹

Proposal for a Local Roads Fund

There have been calls from the AA,¹¹⁰ the Local Government Association,¹¹¹ the AIA¹¹² and others¹¹³ to establish a new Local Roads Fund to replace the current complex web of funding programmes for England's local roads. A Local Roads Fund, structured in a similar way to the National Roads Fund for the SRN and the proposed MRN. According to the Association for Consultancy and Engineering:

Funding from a Local Roads Fund would need to be split between road improvements and road maintenance. For road improvements, the Government could structure the fund in a way that encourages local authorities to bid for funding by demonstrating how the investment will unlock productivity and ease congestion. For road maintenance, a funding model could be established based on the number of miles of local roads in a local authority or similar measurements.

To ensure the Local Roads Fund is effective, the Government could follow a similar model as the Local Highways Maintenance Incentive Fund where local authorities are to complete self-assessments to demonstrate their need and how they spend funding in a value for money way.

A proportion of Fuel Duty would be an ideal revenue stream for the Government to ringfence for the Local Roads Fund, particularly as this is a tax collected from the use of vehicles predominately on local roads.

Lastly, as is the case for VED, any ringfenced funding from Fuel Duty will need to consider reductions in revenue from Fuel Duty in the future, and look into alternate sources of funding, such as road user pricing.¹¹⁴

¹⁰⁹ 'Grayling unveils major road schemes and gives a pothole teaser', *Highways Magazine*, 2 October 2018

¹¹⁰ AA, [Roads much worse than 10 years ago](#), 4 May 2018

¹¹¹ LGA, [LGA responds to ALARM survey on the state of local roads](#), 20 March 2018

¹¹² AIA, [AIA calls for significant boost to local roads' budgets to improve conditions](#), 4 October 2018

¹¹³ ACE, [Funding Roads for the Future](#), January 2018

¹¹⁴ ACE, [Funding Roads for the Future](#), January 2018

6.3 Recent work of Parliament

The Transport Select Committee launched an inquiry into governance and funding of the local roads network in England in August 2018.¹¹⁵

The Committee's terms of reference are as follows:

- The condition of local roads in England and how they have fared over time, particularly compared with other parts of England's road network;
- The direct and wider economic and social costs of not maintaining local roads;
- The quality of monitoring and reporting of local road conditions;
- Whether the current approach to maintenance of local roads is appropriate and whether it needs to be improved;
- The suitability of governance structures for maintaining local roads and whether any changes are required;
- The funding requirements of local roads and the suitability of current funding streams for the immediate and longer-term future;
- Whether there is a role for alternative funding models for local roads maintenance and investment; and
- The regional distribution of local roads funding across England.¹¹⁶

The Committee is expected to take further oral evidence in early 2019, with the inquiry likely to conclude in the period after the Committee has taken oral evidence. Prior to this, a debate was held in Westminster Hall on *Potholes and Road Maintenance* on 5 June 2018.¹¹⁷

¹¹⁵ Transport Select Committee, [MPs launch inquiry into poor state of local roads](#), 1 August 2018

¹¹⁶ Transport Select Committee, [Local roads funding and governance](#), accessed 12 October 2018

¹¹⁷ [HC Deb 5 June 2018, c56WH](#)

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