

## Insurance Complaints to AFCA

This fact sheet is for information only. You should get professional advice about your personal situation.

### Main ideas

• Try to solve the problem with the company first.

• If you can't resolve with the company, you can complain to the Australian Financial Complaints Authority (AFCA). Complaining to AFCA is free.

• You can still go to court after AFCA, if you want to. Time limits apply.

• Financial counsellors can help. Their services are free.

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This fact sheet is for complaints against an insurance company or insurance broker. If your dispute is about a loan, debt or financial issue, [read our fact sheet about Financial Complaints to AFCA](#).

## AFCA is usually better than going to court

AFCA is the main way to resolve complaints about insurance (in most circumstances). AFCA is usually better than going to court because:

- it is free for consumers
- it is independent (despite being funded by industry)

- AFCA may try to help the parties negotiate an outcome
- AFCA can make a decision that the insurance company has to follow – if you accept the decision. If you don't accept the decision, you can still go to court (but check your time limit to go to court).

AFCA can consider a wide range of complaints such as:

- your claim was rejected, in part or in full
- you've had problems with repairs organised by the insurer
- you're not happy with the scope of works proposed by the insurer
- you've had problems with the claims process – such as investigations or delays
- you don't agree with the cash settlement amount being offered
- you were misled or lied to by the company
- the company didn't act fairly towards you.

AFCA can investigate:

- general insurance (such as motor vehicle insurance, home and contents insurance, life insurance, travel insurance) if you are a policyholder or a beneficiary
- superannuation, including insurance claims
- complaints where you do not have comprehensive insurance, and are chasing the at-fault person's insurer for under \$19,000\* for damage to your car. The at-fault person must have made a valid claim, or have died or cannot be found. [Read our fact sheet about having a Car Accident when Uninsured.](#)

There are limits to the amount AFCA can award, get legal advice if your claim involves:

- An amount in dispute of over \$631,500\*. For instance, if you are claiming a \$700,000 total loss payment but the insurer has already offered \$400,000, AFCA can award the \$300,000 difference if they find in your favour. If the insurer has rejected your claim, AFCA may make an initial decision about the scope of what the insurer needs to cover you for, before they look at the amounts involved.
- Significant personal injury. AFCA can only award \$6,300\* in indirect or non-financial loss such as excessive stress or delay
- Income protection claims with benefits over \$16,900\* a month
- General insurance broker complaints where the amount in dispute is above \$316,000\*

[\\*These amounts can change over time – check the AFCA website for updates.](#)

## **Try to resolve the complaint with the company first**

[Complain to the insurance company. You can find contact details on the AFCA website.](#)

Your complaint does not have to be in writing, you just need to phone and say:

- what the problem is
- what you want them to do to fix the problem.

Don't worry about exactly what you say. It does not have to be perfect, you just need to make it clear you have a problem. For example, you think a delay is unreasonable, or the amount they are offering is not enough, or you are not happy with the quality of the repairs.

Usually, the insurance company has 30 days to respond to your complaint, or 45 days for superannuation trustee complaints.

You do not have to accept any resolution they offer if it does not fix the problem, but always consider a fair compromise. If you are not sure what to do, say you will get advice and ring back.

## **If you can't resolve with the company, go to AFCA**

If you are not happy with the response from the insurance company, or they have not responded in the required timeframe, you can complain to AFCA.

### **1. Complain to AFCA**

[AFCA's online complaint form is usually the easiest and quickest way to complain.](#) You can also do it over the phone, if you are not able to do it online. Make sure you get a confirmation with your case number.

Keep the information in your complaint simple to start. You can add further information later.

Write a simple description of the problem. For example:

- *I had a car accident. I was at fault. My insurer won't fix my car until I pay the whole excess. I can't afford to do this, as I'm out of work right now. The other driver is threatening to go to court against me.*

Write how you want the complaint resolved. For example:

- *I want the insurer to
  - go ahead with repairs on my car now
  - take responsibility now for dealing with the other driver, and any court action
  - let me pay my excess off in instalments of \$50/week. This is all I can afford at the moment.*

Read our other fact sheets for more information about different types of complaints, and what you can expect. Get legal advice if you want to discuss your situation.

**The AFCA process may take time.** If you are concerned about further damage happening

to the insured property, or fees that may be adding up over time (for example, while your car sits in storage waiting for repairs), get legal advice.

**Time limits apply to lodging in AFCA. Don't delay**, and get legal advice if you have any concerns.

## **2. Consider the company's response**

AFCA will send your complaint to the insurance company for it to respond – usually within 30 days.

The insurer will send you a response to your complaint. This may include how they would like to resolve the matter.

AFCA will ask you to respond back. Make sure you respond by any date set by AFCA, or ask for an extension if you can't respond by the date set. If AFCA gives you an extension, get it in writing.

**You don't have to settle.** If you are not happy with the insurer's response, say so!

This insurer responds then you reply process may occur again. Do not give up!

If you get an offer you are not sure about, get advice before deciding whether to accept or reject it. Once you reject it or it expires, it is gone – the insurer may not make the same offer again.

## **3. Ask for an investigation**

If you believe your complaint has not been resolved, tell AFCA why. Ask for an investigation.

AFCA will usually ask for more information from either you or the insurer to better understand the problem. It is up to you to provide evidence to support your complaint. For example:

- **If you disagree with the insurer's expert reports or opinions** (for example, about how repairs should be done, or how damage occurred), consider getting your own expert evidence; this should support your position and also point out any flaws in the insurer's evidence. AFCA relies heavily on expert reports.
- **If your complaint relies on your memory or word of mouth**, write a statutory declaration. Give as much detail as you can, preferably in time order. Consider getting statutory declarations from any other witnesses.
- **If you are arguing about fault in a car accident** and whether you should be liable for an excess, provide diagrams of how the accident happened. Also provide copies of road rules, police reports, CCTV or dash cam footage etc.
- **AFCA can award some compensation** up to \$6,300 for both consequential financial loss and non-financial loss (for example, excessive stress or inconvenience).

You need to ask for this type of compensation and provide solid evidence, such as medical certificates.

- **If your dispute is about delay**, consider writing up a statement about what happened each step of the way. Putting it into time order is helpful— for example, on 6/1/2022, I spoke to Anne in the complaints department and she said “! then on 9/1/2022”!
- **Consider using lists or spreadsheets.** If you have a long list of outstanding items, it may help to have a table listing each item that needs repair or replacement, what you want done, what evidence you have supplied, and where it is up to. This may make it easier for you, the insurer and AFCA to work out where everything stands.

The insurer may have evidence that could help your claim, or that you need to respond to. You can ask the insurer to provide copies of expert reports, policy documents, phone recordings/transcripts, interview transcripts, underwriting guidelines and the like.

If you are not sure what evidence you need, get legal advice.

#### **4. Consider AFCA’s recommendation**

After considering the arguments about your complaint made by you and the insurance company, AFCA may make a recommendation.

If both of you accept the recommendation, it becomes a binding agreement. If either of you rejects it, AFCA will accept further submissions and evidence from both sides and then make a determination.

It can take compelling new arguments or evidence for AFCA to change their position, get legal advice.

Sometimes AFCA will not make a recommendation, but go straight to a determination.

#### **5. Consider AFCA’s determination**

A determination is AFCA’s final decision and cannot be appealed.

You usually have 30 days to decide whether to accept or reject the determination.

If you accept the determination, the insurance company is bound by it.

You can choose to reject the determination, but it’s best to get legal advice first.

If you reject the determination, legal action is usually your only other alternative. Legal action can be expensive, and you may not have a better chance of success. You may end up having to pay the other side’s court and legal costs, if you lose or something else goes wrong. You should get legal advice before starting any legal action. Time limits apply.

## Need more help?

[For a list of other resources, visit our Useful Links page.](#)

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