

## Tree damage in a Storm

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

### **Main ideas**

- Different insurance policies cover different things. Read your Product Disclosure Document (PDS) carefully.
- If you suspect your tree is dangerous, you should deal with it. Otherwise you may have to pay for any damage it causes.
- Neither you nor your insurer have to pay if the falling tree was an 'act of God'.

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## **What your insurance policy covers**

Insurance does not cover all risks. That means there are some situations where you will need to pay for damage yourself.

Cover can vary significantly from insurer to insurer. Your cover is explained in your policy. There will be exclusion and condition clauses to limit what the insurer will pay for. Read your Product Disclosure Statement (PDS) carefully.

Some insurance policies will only cover the cost of removing the tree if it causes damage to the insured home and contents. If there is no damage to the home or contents, then you may have to pay your own removal costs.

When a tree falls and damages your property, who pays can be a straightforward application

of the policy wording.

## **If you are not liable, neither is your insurer**

If a tree on your property is strong and healthy and it falls over in a storm, you are usually not liable. This is considered an ‘act of God’.

### **You may be liable if your tree is ‘dangerous’**

If a tree on your property is dead, damaged or is a species of tree known to drop branches, you may be liable if it falls or causes damage.

You have to take care of trees on your property. If you suspect your tree may be dangerous, contact an arborist or your local council about whether the tree can be removed. Your insurer will not pay the cost for these preventative steps, but it is in your interests to address the problem.

Your insurance policy may have ‘legal liability’ cover for damage caused to another person’s property or for bodily injury, usually up to a limit (for example, \$20 million). Check your responsibilities under the contract and any exclusion clauses. For example, you usually have an obligation to act reasonably, prevent loss, and do maintenance – so your policy may not cover you if you don’t address the problem before an incident happens.

A common ‘legal liability’ exclusion is that the insurer will not be liable for damages to other people’s property when you or someone you hire are cutting or lopping trees. Make sure any contractor doing tree work has insurance cover. Otherwise, you may have to pay for any property they damage.

## **When your tree causes damage to your neighbour’s property**

### **You are not automatically liable if your tree falls on your neighbour’s property.**

If the tree was healthy and in good condition before it fell, you are usually not liable.

Your neighbour could claim on their own insurance policy.

If the tree damages a shared boundary fence, you and your neighbour usually pay half the repair each. You both may be able to claim on your insurance policies, each insurer would cover the share owned by their own customer.

However, if you knew the tree was dangerous, you may be liable. For example, the tree may be leaning over or look like it's dying, or an arborist may have recommended it be removed. If you think you could be liable, consider claiming on your insurance immediately.

## How it works out in practice – case study

Jane lives on a block with lots of trees. Jane recently had a landscaper out; he told her all the trees on her property were in really good condition. One night there was a huge storm and four trees on her property came down.

**Tree 1:** A big old eucalypt fell in the backyard. Thankfully, it did not hit anything, but she now has a massive fallen tree that is blocking her from getting to the back gate. Jane's policy covers her for storm, but not the cost of removing fallen trees where there is no damage to the insured property. This tree did not hit any property, so her insurer will not pay for the cost of removing the tree.

**Tree 2:** Another eucalypt crashed and damaged her shed. Jane's building insurance covered sheds and outbuildings, she is covered to remove the tree and fix the shed.

**Tree 3:** This tree crashed and landed on Jane's car that was parked on the street. Her car is not covered by her home and contents insurance. Luckily, she has comprehensive car insurance and so she can make a claim on the car insurance. Her car will be repaired, but the tree removal costs will be up to her.

**Tree 4:** This tree was close to the boundary and landed on the house next door. It knocked down the boundary fence and damaged the neighbour's guttering. Jane's neighbour has sent her an angry letter demanding she pay to remove the tree, and claiming money for the damage to the gutters. Jane's insurer says she is not liable and to ignore the letter. Jane's insurer says they will pay for 50% of the fence repair, and tells her the neighbour must pay for the rest. That's because the severity of the storm meant lots of trees blew down, and there was nothing she could have done (an act of God). Jane writes to her neighbour and explains that as the tree was healthy, her insurer says she is not liable, and she suggests they claim on their own insurance. She sends them the invoice for 50% of the fence repair.

## Need more help?

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

*Last updated: October 2022*