



# Financial Rights

LEGAL CENTRE

FACT SHEET



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## MAKING A CLAIM ON MY HOME AND/OR CONTENTS INSURANCE

This fact sheet is for information only. It is recommended that you get legal advice about your situation.

### CASE STUDY

Lakana and Lang had a home loan with BIG BANK. They had to insure their home building because they had a mortgage. They also decided to insure their contents.

There was an awful storm with heavy rain and hail. Their roof is leaking and their floor and furniture are damaged. They have made a claim with BIG INSURANCE COMPANY.

BIG INSURANCE COMPANY has refused the claim and says the damage is not covered by the policy. It says the damage is Lakana and Lang's fault as the leak was caused by fair wear and tear and an existing structural problem, and they did not have their house properly repaired.

Making a claim on a home and/or contents insurance can sometimes be tricky. **There can be exclusions.**

It is worth checking what you are covered for when you get a home and/or insurance policy.

For example,

1. If you live in an area where floods may be a problem check whether your policy covers flood or excludes damage caused by flood;
2. If you live in a fire prone area (e.g. bushfires) then check whether you are covered.
3. If you live in a high crime area, you may want to check when you will be covered against burglary or theft, and whether any special conditions apply.

### HAVE YOU INSURED YOUR HOME FOR ITS CORRECT VALUE?

Beware of being underinsured. Underinsurance is when the amount you are insured for is not enough to cover the costs of rebuilding your home or replacing your lost contents.

It can cost more than you think to rebuild your home. This figure is different from what it cost to buy your home or the valuation in any rates notices. For further information about how to avoid being underinsured, check with your insurer. Many websites have

[www.financialrights.org.au](http://www.financialrights.org.au)



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calculators that let you estimate the rebuilding costs; the most accurate calculators ask about 20 detailed questions about your home. You can also take out total replacement policies – under these policies the insurer agrees to rebuild your home to a similar standard and quality, rather than paying an agreed amount. This means you cannot be underinsured.

ASIC (the government agency responsible for insurance companies) also has detailed information at [www.fido.gov.au](http://www.fido.gov.au)

Unfortunately, if you are at the point of making a claim you cannot change the amount you are covered for, or the events you are covered for, in relation to that claim. You can only improve your cover for the future.

## TO CLAIM OR NOT TO CLAIM?

Before claiming you need to think about whether you should claim at all.

### Making a claim can affect:

1. Your ability to get insurance later
2. The cost of future premiums

You may also have an “excess”. An excess is the amount of money you agree to pay in the event of a claim.

### Consider not claiming:

1. Where there is very minor damage; and
2. The cost of repairing the total damage is less, equal to or just over the amount of the excess.

## HOW TO MAKE A CLAIM

Ring the insurer to make a claim.

**BEFORE** you ring, work out what you are going to say. It is important to keep your descriptions simple and accurate.

If English is your second language you should not buy insurance or make a claim over the telephone. Instead speak to the insurance company over the counter with the assistance of an interpreter.

**DO NOT** ring the insurer if you are upset or still in shock. Wait till you are calm and can clearly describe what happened. If possible, get a claim form so you have time to think about what happened so you can describe it clearly.

.....  
**IMPORTANT:** If the insurer tells you over the phone that you cannot claim or your claim will be rejected, this may not be right. YOU MIGHT STILL HAVE A CLAIM YOU CAN PURSUE.  
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## HOW LONG DOES THE INSURER HAVE TO RESPOND TO THE CLAIM?

Insurers are required to comply with the General Insurance Code of Practice. Section 3.1 of the Code states that an insurer must decide to accept or deny your claim within 10 business days of receiving the claim. If the insurer decides it needs further information or an assessment to decide your claim, then the insurer must notify you within 10 business days of receiving the claim:

1. What further information is required;
2. If a loss assessor needs to be appointed; and
3. An estimate of the time required to make a decision.

So if the insurer is not making a decision and not informing you whether further information is required or why there is a delay try sending the following letters to the Insurance company:

### SEE SAMPLE LETTER (TO THE INSURANCE COMPANY)

*[Insurance company]*

*[Address]*

*Re: Home and/or Contents insurance claim*

*Policy number: \_\_\_\_\_*

*I refer to the claim I made on \_\_ / \_\_ / \_\_ (by telephone/in writing).*

*To date, I have not received a reply.*

*S.3.1 of the General Insurance Code of Practice requires that you respond in 10 business days. I wish to raise a dispute about the delay.*

*I seek a decision on my claim, or a detailed statement of any further information required to decide the claim and an indication of the time it will take to decide.*

*I look forward to your urgent response in writing.*

If this does not work you can send a letter of complaint to Insurance Code Compliance at:

### SEE SAMPLE LETTER (TO INSURANCE CODE COMPLIANCE)

*Code Compliance  
General Insurance Division  
Financial Ombudsman Service  
GPO Box 3  
Melbourne VIC 3001*

*Re: Home and/or Contents insurance claim with [insurer]*

*Policy number: \_\_\_\_\_*

*I made a claim with [insurer] on \_\_ / \_\_ / \_\_ (by telephone/in writing).*



*I have tried to follow up my claim on the following occasions [give details of the delay or your concerns].*

*I believe this delay is unreasonable.*

*S.3.1 of the General Insurance Code of Practice requires that the insurer respond to my claim within 10 days. I contend that [insurer] has breached the Code.*

*Please investigate the issues raised.*

The above complaint should assist in getting a response. However, if this is unsuccessful you should lodge your dispute with the Financial Ombudsman Service.

## HOW TO LODGE A DISPUTE WITH THE FINANCIAL OMBUDSMAN'S SERVICE

You need to lodge a dispute in writing with FOS. DO NOT just ring FOS as your dispute will not be lodged. You should lodge the dispute online ([www.fos.org.au](http://www.fos.org.au)) and it will be received straightaway.

Keep the information in your dispute simple to start with as you can add further information later. Keep a copy of your dispute form.

For more information see our Dispute Resolution Factsheet on our Credit and Debt website at [www.cclcnsw.org.au](http://www.cclcnsw.org.au).

## WHAT IF I CAN'T PAY THE EXCESS?

The excess is the amount you have agreed to pay in the extent of a claim. In a way the insurer is asking you to contribute an amount to the costs of the claim.

If you are in financial difficulty you may not be able to pay the excess.

If this is the case, ask the insurer to take the excess out of any claim you are to be paid. In the alternative, ask to make payments by instalments. It is unreasonable for an insurer to not agree to do this. The insurer cannot refuse your claim just because you cannot pay the excess up front. If the insurer won't be reasonable – GET ADVICE.

See [Sample Letter: Can't Pay My Excess](#).

## HOW DO I PROVE MY LOSS?

You need to be able to prove your loss. This means that you need to get evidence to show what you owned. Some evidence that would be useful to prove this:

- a. Receipts
- b. Credit card/bank statements showing the purchase
- c. Warranties



- d. Photos or dvd's/videos in which the items appear
- e. Declarations from people who had seen the items

How much evidence will be required will depend on the nature and the value of the claim. For building claims, expert reports might be required about the cause of the damage, the extent of the damage and/or the appropriate method of rectification. This will usually only become relevant in the event of a dispute over your claim.

## ASSESSORS/ADJUSTERS

The insurer may send out an assessor or an adjuster to examine your claim. This will usually happen in claims on home and/or contents insurance.

The assessor may interview you, neighbours, witnesses and review police reports. If you feel you are being unfairly treated by the assessor you should seek advice or help – for example, you may want to ask for an interpreter, or a friend to sit in on any interviews or set out your complaint in writing to the insurer if that would be easier. You should not be intimidated by the assessor into dropping your claim if you still think you should be paid.

## EMERGENCY REPAIRS

If possible, talk to your insurer before touching or moving anything in your home after an insurable event (such as a fire, storm or theft). In the event of criminal activity (such as a break and enter) you should also contact the police. If your home is exposed to further damage from the weather, or because the premises can no longer be secured (for example, locks, windows or doors have been broken) you should do only what is necessary to prevent further damage or loss. Your insurer will want an assessor to examine the damage before making a decision in relation to your claim, and will also want to approve the repairer.

See also [Fact Sheet: What can I do if my home and/or contents insurance claim is refused.](#)

## IF YOU ARE IN URGENT NEED OF THE BENEFITS OF YOUR CLAIM

Where you can demonstrate to the insurer that you are in urgent financial need of the benefits you are entitled to under your policy, Clause 3.7 of the General Insurance Code of Practice requires the insurer to fast track the assessment and decision making process of your claim.

The insurer must also make an advance payment to assist in alleviating your immediate hardship within 5 business days of you demonstrating your urgent need.

## NEED SOME MORE HELP?

See [Fact Sheet: Getting Help](#) for a list of additional resources.