



# Financial Rights

LEGAL CENTRE

FACT SHEET



Financial Rights Legal Centre Inc.  
ABN 40 506 635 273

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## HELP! MY INSURANCE CLAIM IS TAKING FOREVER!

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

### CASE STUDY

Darren has a comprehensive car insurance policy. She lodged a claim when her car was stolen. Darren has been calling BIG INSURANCE COMPANY every couple of days, but nothing has happened for weeks. They promise to get someone to ring him back but he doesn't hear back. They keep asking him for information and documents and they haven't made a decision.

### WHAT TO DO WHEN YOU ARE IN INSURANCE CLAIM LIMBO

Sometimes, like Darren in the case study, you can get stuck in limbo where you have made the claim but have not had a decision on your claim.

If the insurer is not making a decision and not informing you whether further information is required or why there is a delay try lodging a dispute. As a guide, if your claim has not been paid after two weeks you should ring the insurer and lodge a dispute. The dispute process is:

#### FIRST STEP: INTERNAL DISPUTE RESOLUTION (IDR)

This is the dispute handling department within the insurance company. You lodge a dispute by calling the insurer and saying that you have a **dispute or complaint** about the delay in making a decision on your claim. Insurers have to comply with timeframes in the General Insurance Code of Practice:

If IDR have all necessary information and completed their investigation, they have a maximum **15 business days** to respond to your dispute. If more information is needed, IDR will agree on an alternative time frame. If no agreement can be reached about timeframes, you can lodge in EDR (see below). IDR have to keep you informed of the progress of their review at least every 10 business days.

**If your dispute is not resolved within 45 days from the time you first raised a complaint or dispute to the insurer you can lodge in the Financial Ombudsman Service (see below).**

You can also send a letter using our [Sample Letter: Raising a Dispute](#)

#### SECOND STEP: FINANCIAL OMBUDSMAN SERVICE (FOS)

An insurance company is required to be a member of an external dispute resolution scheme such as the Financial Ombudsman

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

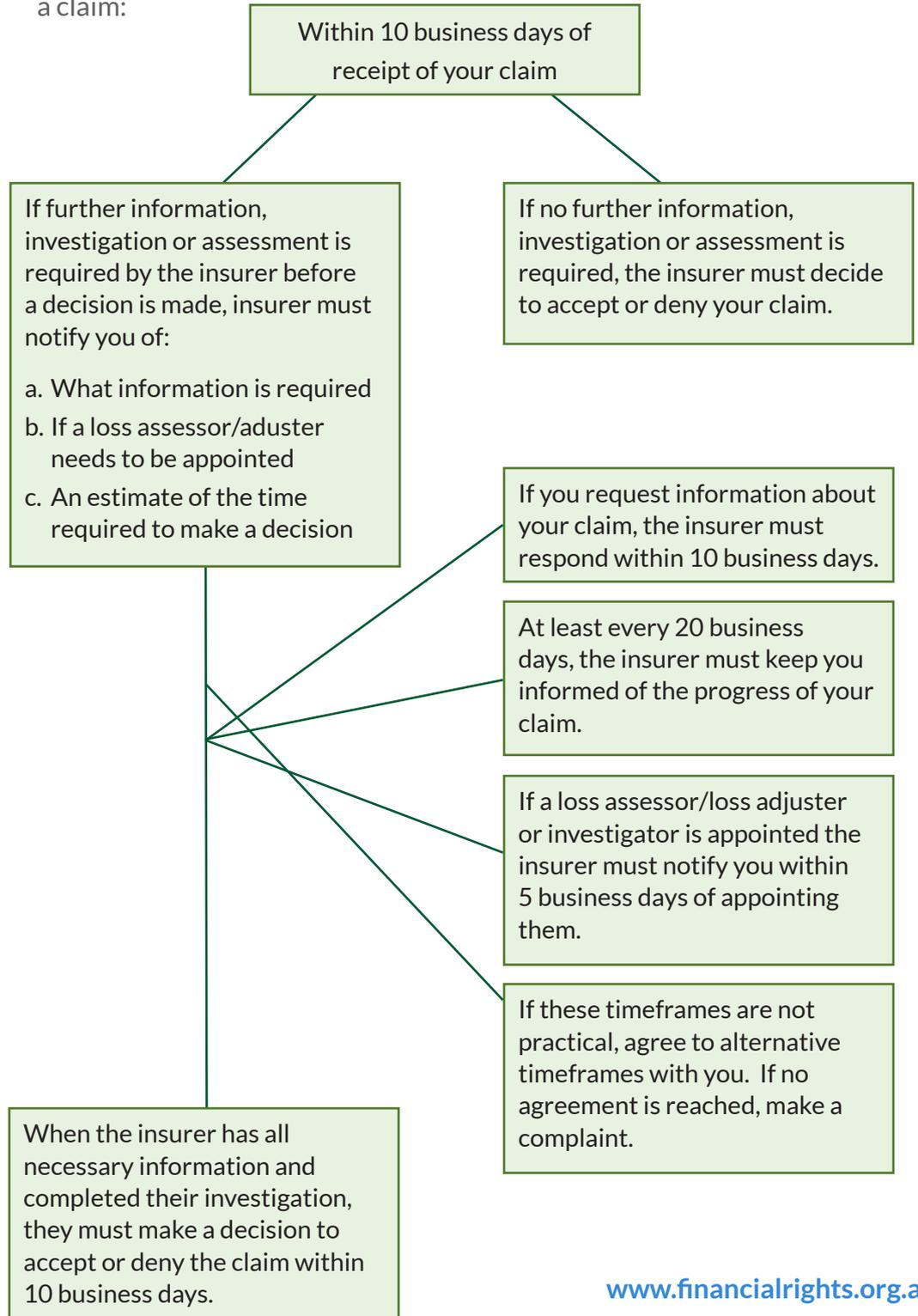


Service (FOS). Check the FOS website [www.fos.org.au](http://www.fos.org.au) or phone 1800 367 287 to find out if the insurer is a member of the scheme.

## SUMMARY: GETTING OUT OF INSURANCE CLAIM LIMBO

1. After 14 days tell the insurer you have a dispute.
2. If not resolved 45 days from the date you complained, then you can lodge in FOS.
3. Lodge in FOS.

The flow chart below gives an idea of the timeframes that apply to insurers under the General Insurance Code of Practice when they receive a claim:



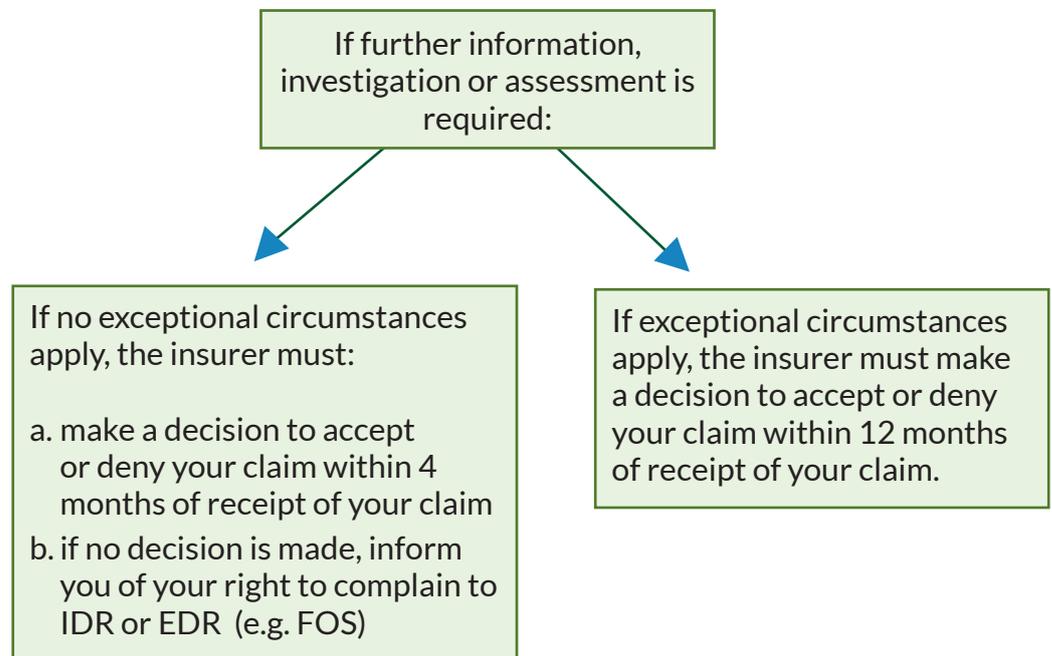


**IMPORTANT:** The above information is a guide to the timeframes under the Code. The insurer has 45 days from the date you stated you had a complaint/dispute to respond or resolve it. After 45 days you can lodge in FOS.

In addition to the above, where a claim is made under one of the following classes of insurance policies:

- a. Motor vehicles
- b. Home building
- c. Home contents
- d. Sickness and accident
- e. Consumer credit; or
- f. Travel

The following deadlines apply to making a decision on a claim



This does not mean that you have to wait four months (or twelve months) before lodging a complaint! It does mean that the insurer has breached the General Insurance Code of Practice if they fail to meet these deadlines and you can point this out in your complaint.

Exceptional circumstances include:

1. the claim arises from an extraordinary catastrophe or disaster as declared by the Board of the Insurance Council of Australia;
2. the claim is fraudulent or the insurer suspects fraud;
3. there is a failure by you to respond to the insurer's reasonable inquiries or requests for documents or information concerning your claim;



4. there are difficulties in communicating with you in relation to the claim due to circumstances beyond the insurer's control; or
5. you request a delay in the claims process.

## **IF AN INSURER ENGAGES AN EXTERNAL EXPERT TO PROVIDE A REPORT TO ASSESS YOUR CLAIM:**

The insurer will instruct the expert to provide a final report within 12 weeks. If no report is provided in this period, insurer will keep you informed of the progress of obtaining the expert report.

You have a right to request a copy of information and reports relied on in assessing your claim.

In special circumstances or where a claim is or has been investigated, insurer may decline to release information but should not do so unreasonably.

If your claim is denied and you request copies of external reports relied on by the insurer, they must send you the reports within 10 business days of your request.

## **INTEREST**

If you believe that your insurer has caused an unreasonable delay when they have all the information they need to make their decision, then you may be able to seek interest if you are ultimately successful with your claim. Ask for interest to be paid from the date the insurer reasonably should have made the decision.

## **NEED SOME MORE HELP?**

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

*Last Updated: February 2017*