

## Step 1. I am experiencing financial hardship (insured)

If you are experiencing financial hardship in relation to the damage you agree you caused and you cannot afford to repay, you can make an appointment to see a Financial Counsellor or legal service. Call the free National Debt Helpline on 1800 007 007. This next section applies when you are being chased for money by the other party's insurance company. If you are being chased directly by the other driver or owner of the vehicle, you can tell them that you can't afford to pay and try to negotiate for a repayment arrangement and/or lesser amount. It will be up to the other party to decide whether to take you to court if you do not pay. You should get legal advice if this occurs. **You are being chased by an insurance company** You have a right to request an affordable repayment arrangement. Under the General Insurance Code of Practice, the other party's insurance company must work with you in relation to your financial hardship. You should contact the insurer or their debt collector, preferably in writing, and ask to make an arrangement to pay in amounts that are affordable for you. A sample letter requesting a payment arrangement can be obtained [here](#). **REMEMBER: If you are arguing that the amount claimed is too much, this means you still owe some of it. Be prepared to pay, or start paying, the amount you know you owe.** If you cannot afford to pay at all for the foreseeable future (and have no significant assets), use our [sample letter to request a release from the debt](#). If you do not get a response or your request is rejected (and you are forced into an arrangement that you cannot afford or if you are forced to pay a lump sum amount by a certain date which you cannot afford to do) get legal advice. You can also email the Code Compliance Committee alleging that there has been a breach of the General Insurance Code of Practice and request that the Code Compliance Committee investigate the complaint. A sample letter to the Code Compliance outlining a complaint about the insurer's failure to respond to hardship request can be obtained [here](#). Attach copies of your previous correspondence with the insurer, and details of any phone conversations, including if possible the date, the name of the person you spoke to and what was said to the best of your recollection. Note: Code Compliance cannot make the insurer accept a repayment arrangement.

You should send a copy of your complaint to the insurer's internal dispute resolution department. This may help you negotiate an outcome with the insurer. Find your insurer's IDR details [here](#). **What if we don't come to any agreement?** Ultimately, if a negotiated outcome cannot be reached, the insurer (or other driver/vehicle owner) can start court action for the amount they believe is justified. A court would then decide the correct assessment of damages based on the available evidence. Legal costs and court costs will generally be added onto the amount claimed if this happens. You can choose to lodge a defence, but you must be careful and get legal advice first. The court, depending in which jurisdiction you are in, may make orders that one party pay the other parties costs – for instance, the courts may order the losing party pay the reasonable legal costs of the winning party. Depending on what jurisdiction you are in, the court may make orders that one party pay the other parties costs – for instance, the courts may order the losing party pay the reasonable legal costs of the winning party. You can choose to lodge a defence if you dispute the amount being claimed, but you must be careful and get legal advice first. Note: The insurer or other party has 6 years to commence recovery action in court (except in the Northern Territory, where it is 3 years). You should speak to a lawyer in your own state if you receive court documents (such as a statement of claim or summons).