

## Step 1. I am experiencing financial hardship

**If you are insured** (comprehensive or third party property insurance), and are experiencing financial hardship in relation to the damage you agree you caused, you should consider lodging a claim with your insurer immediately. . If you cannot afford to pay your excess, click **“I can’t afford my excess”** below. **If you are being chased directly by the other party (no insurance company is involved)** 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 (see the links at the bottom of this page). **If you are being chased by an insurance company and cannot claim on your own insurance** If you are experiencing financial hardship in relation to the damage you agree you caused and you cannot afford to repay, you should make an appointment to see a Financial Counsellor or legal service. Call the free National Debt Helpline on 1800 007 007. 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. See:

- [Requesting a payment arrangement](#) sample letter generator on our website.

If you cannot afford to pay at all for the foreseeable future (and have no significant assets), use our:

- [Request a release from the debt](#) sample letter generator on our website.

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 should also email the Code Compliance Committee at alleging that there has been a breach of the General Insurance Code of Practice and request that the Code Compliance Committee investigate the complaint. Note: Code Compliance cannot make the insurer accept a repayment arrangement.

For a sample letter on making a complaint about the insurer's failure to respond to hardship request see:

- [Insurance Code complaint](#) on our website

You will need to attach copies of any letters or emails between you and the insurer. You should also include details of any phone conversations, for example, the date, the name of the person you spoke to and what was said to the best of your recollection. 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. To find the insurance company details, see:

- [Find a financial firm or superannuation fund](#) on the [Australian Financial Complaints Authority \(AFCA\) website](#).

Ultimately, if a negotiated outcome cannot be reached, the insurer 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 may make orders that one party pay the other party's costs – for instance, the Courts may order the losing party pay the reasonable legal costs of the winning party. 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. For legal advice, start by contacting LawAccess NSW on 1300 888 529. You may be able to obtain free legal assistance from [Legal Aid NSW](#) or your local [Community Legal Centre](#). If you are unable to obtain free legal assistance, you may need to speak to a private lawyer. To find a private solicitor, contact the [NSW Law Society](#). You can also visit the [LawAccess NSW website](#) for practical guidance on [how to respond to a Statement of Claim](#) in the Small Claims Division of the Local Court, which deals with claims for \$20,000 or less. Note: The insurer or other party has 6 years to commence recovery action in court for an accident in NSW. You should speak to a lawyer if you receive court documents (such as a statement of claim).