



Small  
Business  
Commissioner

# Making an insurance claim

Tips for small business



**GET READY**  
For disasters

## Acknowledgement of Country

The NSW Small Business Commission acknowledges that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia, and recognises their continued custodianship of Country – land, seas and skies. We acknowledge the diversity of First Nations cultures, histories and peoples, recognise their enduring connection to our State, and we pay our deepest respects to Elders past, present and emerging.

## Nine steps to making an insurance claim

<b>Step 1</b>	<p>Gather as much information as possible about the claim, including:</p> <ul style="list-style-type: none"> <li>• a list of the items you want to claim and when they were purchased</li> <li>• a list of floorings or other furnishings that you have had to throw away (an assessor will look at your building, but it will help if you can provide this information)</li> <li>• photographic and video evidence.</li> </ul>
<b>Step 2</b>	<p>Make the claim as clearly as you can. It can be difficult to understand all the information the insurer has sent you particularly at a stressful time. Be sure to ask for support from family and friends and the insurance company itself so you can get your claim lodged.</p> <p>Your insurer may ask for other information. If you're unable to provide something, for example, a document that has been lost or destroyed, let the insurer know. If you're still unable to lodge the claim without this requested information, you should seek legal advice immediately.</p> <p>The insurer may send out an assessor or an adjuster to examine your claim. The assessor may interview you, neighbours and witnesses, and review police reports. If you feel you're being unfairly treated by an assessor make sure you speak up and seek support, you may want to ask for an interpreter or a friend to sit in on any interviews.</p> <p>Don't sign any documents until you understand what they mean. You should get legal advice about documents your insurer asks you to sign, such as an insurance release form. For more information, visit: <a href="http://www.clcnsw.org.au">www.clcnsw.org.au</a>.</p> <p><b>Getting a claim paid out faster</b></p> <p>Insurers must fast track your claim if you're in urgent financial need. This is in line with the General Insurance Code of Practice – the guidelines insurers need to follow when dealing with claims and complaints. You can find out more about the code at: <a href="http://www.codeofpractice.com.au">www.codeofpractice.com.au</a></p> <p>The code also states that the insurer must pay you an advance payment if appropriate within five days of you demonstrating financial need. Any advance payment will be taken off your claim's total value. Talk to your insurer about your situation. If you're not able to reach an agreement with your insurer you can make a complaint or request a review (see steps 5 – 7). You can also contact the Australian Financial Complaints Authority (AFCA). Visit: <a href="http://www.afca.org.au">www.afca.org.au</a> or ring 1800 931 678.</p>
<b>Step 3</b>	<p>Your insurer may have further reasonable questions that you'll need to answer. Aim to answer these questions as quickly and completely as you can and ask your insurer to clarify anything.</p>
<b>Step 4</b>	<p>Within 10 business days of receipt of your claim, your insurer must inform you of their decision to accept or deny your claim. If more information or assessments are required before your insurer can make a decision, your insurer must explain to you what additional information/assessment is required and how long it may take to reach their decision.</p>
<b>Step 5</b>	<p>If you haven't received a decision from your insurer to your claim within 10 business days of submitting the completed claim, you can complain to your insurer by letter or email and ask for an internal review into why a decision has not yet been made.</p>
<b>Step 6</b>	<p>If your claim is rejected, you should ask your insurer as soon as you can to internally review the decision.</p>
<b>Step 7</b>	<p>If your insurer does not respond to your complaint within 15 business days, or the complaint remains unresolved, you have the right to escalate your complaint to a more senior level. Your insurer can take up to 45 calendar days from the date they first received your complaint to provide you with their decision or failure to make a decision.</p>
<b>Step 8</b>	<p>If your complaint remains unresolved after 45 calendar days of the date you made the complaint to your insurer, you should contact AFCA to request an independent review. You must complain to AFCA within two years of receiving the insurer's written response to your request for an internal review. Go to: <a href="http://www.afca.org.au">www.afca.org.au</a></p>
<b>Step 9</b>	<p>Any decision that AFCA makes will be binding on your insurance company if you accept the decision. If you don't accept AFCA's decision you can still take court action (at your own cost).</p>

## Frequently asked questions

### What will my insurance company pay for? What does my policy cover?

Your insurance company will pay only what your insurance policy states. Your insurance policy is your contract with the insurance company. It states when, how and what the insurance company must pay for. Some policies state the insurance company will pay for damage caused by rainwater or stormwater, but will not pay for damage caused by floodwater. Be sure to check with your insurer what you're covered for and whether you need additional cover (e.g. flood insurance).

### What's the difference between rainwater and floodwater?

You'll need to look at the definition in your insurance policy, but generally:

- rainwater means water falling from the skies that runs off over the surface of the land (and may include water overflowing from stormwater drains).
- floodwater means the covering of normally dry land by water escaping or released from rivers, lakes, channels, dams or canals.

The insurance company cannot go beyond the words in the policy. For example, if your policy reads: "Floodwater is water escaping from a river or stream", and if the damage was caused by water running down gullies of a mountainside, it will not be defined as floodwater and the insurance company will have to pay your claim.

### How do I know if the water was floodwater?

Insurance companies obtain reports from experts (such as hydrologists) to determine if damage was caused by rainwater or floodwater. These reports recreate the events that led to the damage. They may calculate what the maximum level the water in your building would have risen to if it was just rainwater and, if the water level is much higher than this figure, then they will argue the water is partly floodwater.

It's important to collect photographic and video evidence, including working with people living in your area to collect as much evidence of the damage as possible to support your claim.

### Can experts get it wrong?

Yes. Hydrologists' reports are a re-creation of the events that led to the damage. They assess the direction the water flowed, whether the water came from a river or from stormwater runoff, and what level the rainwater would have reached on its own. Their findings are not conclusive, and may be based on false assumptions or be inconsistent with reliable eyewitness or video evidence.

For this reason, it is vital to collect and share photographic and video evidence to provide further proof as to the direction the water flowed, whether the water came from a river or from stormwater runoff, and what level the rainwater would have reached on its own.

### What if my building was damaged by rainwater and floodwater?

If your building was damaged by rainwater as well as floodwater, sometimes the insurance company will reject the claim. Sometimes the decision will be correct, but sometimes it may not. The insurance company may not have considered the following arguments:

#### 1. The rainwater came in first.

The water level in your building may have risen and then stopped. A second wave of water then entered the building. This may indicate the first wave was rainwater and the second surge was floodwater. The insurance company has to pay for damage caused by the rainwater.

#### 2. There was floodwater, but only a little.

If the floodwater amount was minimal compared to the rainwater volume, the insurance company may still have to pay.

### Do I get to ask for a new building?

The building policy will be for a 'sum insured' (the specific dollar amount you are insured for) or replacing the building. Most policies are for sum insured.

If your policy is for sum insured, usually you will only get the amount of money stated as the sum insured amount. However, some policies include other cover for items such as emergency accommodation, professional fees (e.g. for architects), compliance costs (changes to planning laws), and debris removal and clean up. These benefits will be on top of your sum insured and may apply even if you don't get the full sum insured for your claim. Ask your insurer about what other cover is provided.

If your policy is for replacing the building, the policy will let your insurer choose between paying for a replacement building or giving

a cash payout. The cash payout must cover the full cost of replacement as long as there are no improvements in quality or standards in the new building. You should be able to recover the full cost of rebuilding your property to the same standard as before the disaster. If your insurer gives you a cash payout but this is not enough to cover the cost of rebuilding, your insurer needs to reassess your claim. You need to ask for a review within certain time limits – ask your insurer about how much time you have.

### Should I accept the rebuild option or a lump sum payment?

You may be able to choose either option but think carefully about each one. If you choose the rebuild option, this means you have the money to rebuild when you are ready. If you choose a lump sum payment, this can take care of financial issues you face now, but you could easily spend the money and then have less money later. Some policies also take away certain benefits, such as the cost of removing debris or cost of permits, if you accept a lump sum payment. Check your policy carefully and talk to your insurer about this.

### If I rebuild, will my insurer cover extra costs from the new building codes?

If your policy was for a sum insured amount, the insurer will not cover extra costs such as changes to planning laws unless there was a specific additional cover in the policy. In this case, your insurer will only repair or replace your building to the condition it was in before the floods. You may, however, have cover for the new building code costs if your policy cover was to replace your building 'as new' or with a replacement benefit. Most policies do include extra amounts for changes to the planning laws. Check with your insurer.

## What if I don't agree with the insurance assessment?

Try to negotiate with your insurer. The insurer should have its own dispute resolution processes that you can use. AFCA can also help you find out whom you need to direct your complaint to within the insurance company.

If you have not been able to reach an agreement after trying to negotiate, send your complaint to AFCA and attach a copy of the final decision letter from your insurer. You must make the complaint within two years of receiving the final letter from your insurer reviewing your claim. AFCA will look at the conduct of your insurer as set out in the code but will also consider relevant laws and what is fair and reasonable in your situation. AFCA will then try to reach an agreement between you and your insurer. AFCA can also make a 'binding' decision (a decision that must be followed) on your case if an agreement between the insurer and yourself was not able to be reached.

## Are fences and debris removal and demolition included in my insurance cover?

Fencing replacement will depend on your policy's type and location (e.g. whether it is for a business, home or farm). You need to check the policy to see if fences are included in the cover and to what extent. Your policy may not include full costs to replace it. You should have debris removal and demolition included in your insurance policy but sometimes this is an extra benefit.

## What happens to insurance when a property is owned by two people?

If a property is owned by two or more people and all part owners are named in the insurance policy, each person is entitled to get part of the insurance payout. The payout amount depends on the interest each person has in the property. If the property is jointly owned, each person is entitled to get the full amount of the claim under the policy. If the property is owned by each person as tenants in common, the payout amount will reflect the interest each person has in the property.

Usually, an insurer will deal with all the people named in a policy at the one time. However, if one person is given the payout, then that amount is held 'in trust' for the other people named in the insurance policy. If you are named in a policy and are having trouble getting a payout that has been given to another person, get legal advice.

If you own a property with another person but your name is not on the insurance policy, the insurer can give the full payout to the person named in the policy. Be sure to seek legal advice quickly if this applies to you.

## My insurance claim has been finalised but I think it was wrong. Can I have my claim reviewed?

Yes. If you made a claim because of disaster and you think your loss assessment was wrong or incomplete, you can ask for a review. Usually, you have one month under the Code from the date your claim was finalised to do this. You have six months to do this when your insurance claim is because the damage resulted from a disaster.

## I am underinsured. Is there anything I can do?

If you cannot afford the costs to rebuild, and the sum insured was decided by your insurance company, mortgage company or other financial institution, you may have a case for a complaint against that institution for giving you inappropriate advice. Get legal advice about this.

## I forgot or did not pay my insurance premium. What can I do?

Usually, if your policy has not been renewed or you have not paid the premium, you will not be able to make a claim. Your insurer must let you know in writing that your policy is about to finish (lapse) at least 14 days before it does. If your insurer did not do this, and you did not renew your policy, the policy will go on as if you had renewed the policy for the period of the original policy.

If your policy has lapsed recently and you have been a long-term customer of the insurer, you can ask that your insurance be continued for special reasons. This might include if you had the policy in place for many years and you had reasons that made you forget to renew your policy. Usually, however, you cannot make a claim.

## I want to make sure my property is properly insured from now on. Which cover should I choose?

If you choose a replacement policy, this will cover the cost to rebuild. You will not be underinsured if you were to lose your building in a future disaster. If you choose a 'sum insured' or 'sum insured and replacement/additional amount' policy for a specific amount of money, this may not be enough to cover rebuilding if you were to lose your building again.

**NOTE:** This guide is not exhaustive or prescriptive as it provides general information only and doesn't replace obtaining independent expert advice.





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Get your business disaster ready and download  
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Phone: 1300 795 534

Web: [smallbusiness.nsw.gov.au/contact](http://smallbusiness.nsw.gov.au/contact)

Address: 4 Parramatta Square, 12 Darcy St Parramatta NSW 2150

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