



# Financial Rights

LEGAL CENTRE

FACT SHEET



Fact sheets are information only and should not be relied upon as legal advice. This information only applies to NSW.

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## HOW TO USE YOUR PDS

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

### WHAT IS INSURANCE?

Insurance is a contractual relationship between the insurer (your insurance company) and the insured (you).

### WHAT DOCUMENTS MAKE UP YOUR INSURANCE CONTRACT?

The insurance contract is made up of your certificate of insurance and the product disclosure statement (PDS). Together these documents set out the contractual rights and obligations of the insurer and the insured.

### WHAT DO I NEED TO DO BEFORE RINGING THE INSURANCE LAW SERVICE FOR LEGAL ADVICE ON AN INSURANCE DISPUTE?

#### Insurance Law Service (1300 663 464)

If you want legal advice from us about a dispute with your own insurer there are a few things you can do that will help us to give you advice:

1. Obtain a copy of the relevant PDS and your certificate of insurance if you do not already have a copy. These documents set out the extent of your insurance coverage so any decision by the insurer on your claim will be made in reference to them.
2. If you are unhappy with an insurer's decision, request that the insurer provide you with written reasons. Where the insurer has rejected your claim they are required to provide you with written reasons under clauses 3.5(3) and (5) of the General Insurance Code of Practice.
3. Ask for a copy of any expert reports, transcripts, recordings, statements or other information the insurer is relying on as evidence to reject your claim. You have the right ask for copies of information that the insurer has relied upon in assessing your claim under clauses 3.5(5d) and (3) of the General Insurance Code of Practice. The insurer may refuse to provide the requested information but they should not do so unreasonably.
4. If an insurer refuses to provide information they are relying on it may be arguable that their refusal to provide the information is a breach of the Duty of Utmost Good Faith under section 13 of the Insurance Contracts Act.

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



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5. In situations where the insurer has refused to provide information you may lodge a dispute with the insurer's internal dispute resolution section. Requests for written reasons, policy documents, and evidence the insurer relies on may be made by writing to the insurer's internal dispute resolution section. Their contact details are available at [http://www.fos.org.au/centric/home\\_page/members/participating\\_financial\\_services\\_providers.jsp](http://www.fos.org.au/centric/home_page/members/participating_financial_services_providers.jsp)
6. They have 45 days to resolve your dispute. If they don't resolve your dispute you can lodge a dispute with the Financial Ombudsman Service.
7. Once you have all of the above information, you should read the insurer's written reasons and cross reference these with the relevant sections of the PDS to check whether or not you agree with the insurer's decision. Read any reports or other documents they rely on as evidence.

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**NOTE:** If you are having difficulty getting the required information from your insurer, or you cannot understand the information you have received, you should ring us for advice.

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## WHAT ELSE CAN I DO IF I AM UNHAPPY WITH AN INSURER'S DECISION?

If your claim has been refused, you can read the fact sheets on insurance claim refusal or call us for further advice.

## NEED SOME MORE HELP?

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

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