

Insurance

This chapter has information for people with insurance queries who experienced loss because of the February 2009 Victorian bushfires. It also has information on financial and other help.

My home is insured

What should I do first?

You may be feeling shock and grief at this time. This may make it difficult to understand information the insurer has sent you. Ask family, friends or support agencies for help to lodge your insurance claim as soon as you are able. Do not sign any document until you understand what they mean. **See** 'Where to get help' for legal and other services that can help you.

How does the policy work?

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

If your policy is 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 housing, cleaning or clearing up a site, or professional fees for architects, accountants or planners. Ask your insurer about what other cover is provided.

If your policy is for replacement of the building, the policy will let the insurer choose between paying for a replacement building or giving a cash payout. The cash payout must cover the full cost of replacement so 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 bushfires.

If the insurer gives you a cash payout but this is not enough to cover the cost of rebuilding, the 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.

Note: do not sign an insurance release form if you are not happy with it. Get legal advice. Contact Bushfire Legal Help on 1800 113 432 or Consumer Action Law Centre on 1300 881 020.

I am in urgent financial need. Is there anything I can do to get the insurance payout quicker?

Yes. Insurers must fast-track your claim if you are in urgent financial need. This is in accordance with the General Insurance Code of Practice ('the Code'), the guidelines that insurers need to follow when dealing with claims and complaints. You can find out more about the Code at the website

www.codeofpractice.com.au/

The Code also says the insurer must pay you an advance payment if appropriate and within five days of you demonstrating financial need. Any advance payment will be taken off the total value of your claim. Talk to your insurer about your situation.

If you cannot come to agreement with your insurer, **see** the upcoming section 'I do not agree with the insurance assessment. What can I do?' You may also need to contact the Financial Ombudsman Service.

I finalised my insurance claim but I think it was wrong. Can I have my claim reviewed?

Yes. If you made a claim because of disaster and you think the assessment of your loss 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 of the February 2009 Victorian bushfires.

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 house to the condition it was in before the bushfires.

You may, however, have cover for the new building code costs if your policy cover was to replace your house 'as new' or with a replacement benefit. Most policies do include extra amounts for changes to the planning laws. Check with your insurer.

I do not agree with the insurance assessment. What can I do?

Try to negotiate with your insurer. The insurer should have its own dispute resolution processes that you can use. The Financial Ombudsman Service 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 come to agreement after trying to negotiate, send your complaint to the Ombudsman and attach a copy of the 'final decision' letter from the insurer. You must make the complaint within three months of the letter's date. The Ombudsman will look at the conduct of the insurance company

as set out in the Code but will also consider relevant law and what is fair and reasonable in your situation. The Ombudsman will then try to reach an agreement between you and the insurer. The Ombudsman 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.

For more information on the Ombudsman, visit www.fos.org.au and **see** 'Appendix One – How the Financial Services Ombudsman works'. The Ombudsman has also set up its Bushfire and Flooding Disaster Hotline for people seeking help and information on insurance or other financial issues because of the bushfires. Call 1800 337 444 or email GIDisaster@fos.org.au.

Note: do not sign an insurance release form if you are not happy with it. Get legal advice. **See** 'Where to get help'.

Can my insurer make me accept contents replacement items or can I get cash instead?

This depends on the terms of your policy. Usually, however, it is up to the insurer to decide. There are issues you should consider if you accept a cash settlement. **See** the section before 'Should I accept the rebuild option or a lump sum payment?'

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

Fencing replacement will depend upon the type and location of your policy (for example, is it for a business, home or farm?). You need to check the policy to see if fences are included the cover. This may not include full costs of replacement.

You should have debris removal and demolition included in your insurance policy but sometimes this is an extra benefit. Check your policy.

The government is offering help for fencing and debris removal, clean-up and demolition. **See** the 'Fencing', 'Property' and 'Relief' chapters for more information.

If the cost of clean-up and debris removal is included in your insurance policy, you should still think about using the government's free debris removal service. You may be able to use your policy entitlements to cover other losses.

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 upon 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 which has been given to another person, get legal advice. **See** 'Where to get help'.

If you are the only person in the policy who wishes to or is able to make a claim, check the policy to see how the insurer will make payments to the other person.

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. Get legal advice quickly if this applies to you. **See** 'Where to get help'.

Also **see** the 'Family law' and 'Property' chapters for more information about situations where there is co-ownership of property.

Am I responsible if someone hurts themselves on my property, for example, when clearing up debris or doing repairs?

You are not responsible for government contractors and volunteers from mainstream organisations (such as the State Emergency Service). These people are covered for any accidents that may happen when helping on your land by the government's or the organisation's own public liability insurance.

However, public liability insurance cover is included in your property insurance policy. If you accept a lump sum payout for the total loss of a property, your public liability cover may or may not stop once your payout is settled. This would be explained in the letter of offer you get with the lump sum payout. If you suffered partial loss or damage, your public liability insurance usually keeps going. Check with your insurer.

You can get public liability insurance if you got a lump sum payment and are not covered. Contact the Insurance Council of Australia on 1300 728 228 for more information.

How does business interruption insurance work?

There are several types of policies that provide business interruption insurance. Some have narrow cover and depend on loss of your business premises. Others have wider cover and include road closures and damage to the surrounding area, for example because of the bushfires.

If you are experiencing difficulty receiving a payout for business interruption from your insurer, contact the Bushfire Legal Helpline on 1800 113 432.

I am not insured or underinsured

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 complaint against that institution for giving you inappropriate advice. Get legal advice about this. **See** 'Where to get help'.

You may also be able to get financial help from the government. This may cover the difference between the replacement cost of your home and the sum you were insured for. **See** the 'Relief' chapter for a list of help available.

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 are not able to 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 house in future bushfires. 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 house again.

Other help

Superannuation and life insurance

Most people are covered for some life insurance cover in their superannuation policy. While it is rare to get superannuation early, you may be able to get it on compassionate grounds. This might include covering the costs of funeral expenses or medical and travel expenses that are not covered by the public health system. The superannuation fund may also include cover for permanent disability, temporary and total disablement, and continuing to earn a salary.

If you lost a family member during the bushfires, contact their superannuation fund to make a claim. The claim will be for the release of superannuation plus life insurance. The Insurance Council of Australia may also be able to give more information and advice. Contact them on 1300 728 228.

Note: some people on certain Centrelink pensions can get their superannuation early. You need to contact Centrelink to see if you can do this. There are different numbers to call depending on what payment you are on. **See** 'Where to get help'.

Consumer credit insurance

You may have consumer credit insurance on a loan you took out. This insurance covers you if something happens that means you are no longer able to meet the payments on your loan. This usually includes things like losing your job, having a sickness or accident, or if there has been a death.

If you borrowed with another person and they died in the bushfires, you may be able to get loss of life cover. You may also be able to get insurance cover within a superannuation policy (**see** the previous section). Contact your loan provider. Consumer Action Law Centre may also be able to give you more information. Contact them on 1300 881 020.

Financial help

Grants

The federal and state government and the Australian Red Cross have set up various grants and subsidies. You can get financial help from them if your home was damaged or destroyed in the fires, or if you were renting a home that was damaged or destroyed. For more information, call the Department of Human Services on their Victorian Bushfire and Storm Information Line on 1800 240 667 for more information or visit www.dhs.vic.gov.au/emergency/current-events/bushfire/financial-assistance. Call the Victorian Bushfire Appeal Fund on 1800 180 213 or visit www.dhs.vic.gov.au/bushfireappeal/home

How do insurance payouts affect receiving a grant?

In many cases you may still get the government's financial help even if you have already received an insurance payout. Your insurer may reduce your payout to reflect the amount that the government has paid you but some insurance companies are giving payouts even if you received or can get government help. In some cases, if you get government help for a particular loss, your insurance coverage could be used for other losses. Speak with your insurer about these matters.

Many insurance policies include extra benefits on top of the sum insured for. These benefits are for emergency accommodation, professional fees (for architects etc), 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 do not get the full sum insured for your claim.

Financial counselling

Financial counsellors can help you if you are having trouble with money and debt. They offer a free and confidential service and can help you work out how to pay back your debt, find out if you can get government grants, help you write up your budget and liaise with creditors. They can also give you names and numbers of other services which may be helpful, such as contact details for family support, help overcoming gambling or personal counselling.

To find a financial counsellor near you, contact Consumer Affairs Victoria on 1300 558 181.

Other useful Handbook chapters

See 'Family law', 'Property' and 'Relief' and 'Appendix One – How the Financial Services Ombudsman works'.

DISCLAIMER

The information contained in this chapter of the Bushfire Legal Help Handbook is intended to provide general information on legal topics, current at the time of first publication. The contents do not constitute legal advice, are not intended as a substitute for legal advice and should not be relied on as such. You should get legal advice in relation to your individual circumstances and any particular matters you may have.

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