

Bushfires and insurance claims

Your legal rights after a natural disaster

This factsheet outlines the process for making an insurance claim and explains your legal rights if your home or property has been damaged by a bushfire.

Can I clean up and make emergency repairs before making a claim?

Insurance companies will usually want to assess the damage to your property before any repairs are done. Many companies will also want to approve the repairer you are using. If you do decide to go ahead with repairs before making a claim, make sure you have clear before-and-after photos and keep all receipts for the work that is done. It is also a good idea to take photos or video of the damage done to your property before you start cleaning up. Photograph or video any damage to the inside and outside of the house (roof, walls, veranda, flooring, kitchen, bathroom etc), any external structures like sheds or garages, as well as your furniture and other valuables. You can use these images to show your insurance company the extent of the damage caused to your property by the fire.

Many insurance policies will also require you to take reasonable steps to prevent further damage to your property after a natural disaster. This could mean putting a tarp over a damaged roof to prevent further damage from rain or storms, or moving undamaged valuable items to a secure section of the property where they will be safe. If you have any questions about what you can or can't do, contact your insurer.

Do I need a copy of my insurance policy to make a claim?

No, you don't need a copy of your policy to start your claim. If your policy has been destroyed or damaged by the fire (or you can't find it), contact your insurer and ask them to send you a copy. You might also be able to access your policy online through your insurer's website. If you have any trouble getting a new copy of your policy, contact the Insurance Council of Australia on 1300 444 557 for help.

My policy is for "sum insured". What does that mean?

Insurance policies will either cover you for an agreed amount – known as "sum insured" – or for "replacement value", which covers the cost of replacing your property.

If your policy is for a sum insured value, you will usually only get the amount of money stated as the sum insured value on your policy. Some policies also include cover for items like emergency housing, cleaning or clearing up a site, or professional fees for architects etc. Ask your insurer about what other cover may be provided under your policy.

If your policy is for the property's replacement value, the insurer can choose between paying for your property's replacement building costs or giving you a lump sum cash payout to allow you to rebuild. The amount payable may also be limited by various caps in the policy depending on what needs to be replaced.

The cash payout should allow you to rebuild your property to the same standard as before the fire, no better or worse.



My insurance policy lapsed just before the fire/I took out insurance just before the fire. Am I still covered?

If your policy recently lapsed or you only just took out insurance, you may still be covered. You should get legal advice about your situation as soon as possible.

I forgot or didn't pay my premium. Am I still covered?

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 for the period of the original policy.

If your policy has recently lapsed and you have been a long-term customer of the insurer, you can ask that your insurance cover be continued for special reasons. You might be able to show that there were special circumstances that led to you not renewing your policy, for example, you might have been away overseas, or you might have been in hospital. But generally speaking, if you haven't paid your premium, you won't be covered.

What preparation should I do before making a claim?



Before you begin the claim process, it is good to do some basic preparation. Write a list of all the items damaged or destroyed in the fire that you want to claim on insurance. Think about each room of your home and the items you had in those rooms – carpets, curtains, furniture, electronic equipment, air-conditioning, clothing – and make sure you include these items on your list if they were damaged. Don't

forget to include items in sheds and garages. Include as much information as you can about the items including the make, model and date of purchase (if known) to support your claim. As we've already mentioned, photographs of damaged items will also help to support your claim.

Can I claim over the phone?

Yes, you can make your claim over the phone. Have pen and paper ready to record the time of your call, the person you spoke to and the claim number. The call may be recorded so be accurate and don't answer questions that only an expert would know. It is okay to say what you saw and heard and let the insurer know you do not know all the answers.

If you are ringing from a mobile phone, you can ask a staff member from your insurance company to call you back if you are concerned about call costs. You can also ask the insurer what emergency assistance they can provide if necessary.

I need money urgently. Can my insurer help?

Yes. Under the General Insurance Code of Practice, insurers must fast-track your claim if you are in urgent financial need. You could be in urgent financial need if you need money for:

- alternative accommodation
- basic living requirements (for example, money to buy a working fridge and access to power)
- urgent electrical repairs to ensure medical equipment can work.

If you can demonstrate that you are in urgent financial need, your insurer has five business days from the time you prove this need to make an advance payment. Any advance payment will be taken off the total value of your claim. You can find out more about the General Insurance Code of Practice at www.codeofpractice.com.au.

What should I expect from the insurance assessor's visit?

After you've lodged a claim the insurance company will probably organise to send out an assessor or an adjuster to examine your claim. While you should cooperate with them, you should also remember that their role is to make sure all possible reasons for refusing a claim have been considered.

When the insurance company makes the appointment for an assessor to visit you, ask for a list of questions to be sent to you in advance so you can provide the most detailed, considered answers. The assessor may interview you, your neighbours, and any witnesses and may also review police reports about the fire. When the assessor has finished looking at your property and doing interviews, ask them if they would provide you with a draft copy of the information they will be using to prepare their insurance report. This will give you the chance to correct any misunderstandings and provide more detail if required. If the assessor asks you to sign a statement on the day, ask them if you can keep the document to read it thoroughly before signing it at a later date.

If you are unhappy about your treatment by the assessor, write to the insurer to explain your concerns. Tell them what you are unhappy about and what you want the insurer to do or change. For example, you might disagree with the order of events that the assessor is using for their report.

How long will the claim process take?

The General Insurance Code of Practice requires insurers to respond within 10 business days of receiving a claim. If they need further information, they must contact you within 10 business days of receiving the claim to let you know what further information is required and to give you an estimate of the time they will need to make a decision.

If you think the insurance company has delayed in making a decision about your claim, you can make a complaint to the Financial Ombudsman Service.

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

You may be able to choose either option but think carefully about each one. If you choose the rebuild option, you will have the money to rebuild when you are ready. If you choose a lump sum payment, it will mean you have money to take care of any current financial issues you are facing, but you could easily spend the money and have less funds available when you come to rebuild.

Before accepting a lump sum payment, you should consider:

- whether you will still be covered for costs like removing debris from the property or for the cost of building permits
- whether your insurer will deduct the GST from your lump sum payment, potentially leaving you out of pocket when you rebuild
- whether your insurer will require permission from your lender (eg bank, building society etc) for you to keep the lump sum payment. Some lenders will require insurers to provide them with the lump sum payment to pay off or reduce your mortgage. This is because the asset that the mortgage was taken against – your property – has been damaged and the lender may want to protect their investment. If this happens, you will have to renegotiate your loan with your lender.
- that some insurers will only provide a cash payment for the amount their builders would charge to do the work. In some cases, building prices might increase in an area following a natural disaster because more people are needing to get work done. This could leave you out of pocket.
- that if you take the rebuild option, all the repair and building work organised by the insurer on your behalf is given a warranty by the insurer under the Insurance Code. If you take the lump sum payment and organise your own repairs this warranty does not apply.

Check your policy carefully and talk to your insurer about these issues or get legal advice.

If I rebuild, will my insurer cover extra costs so my home meets new building code requirements?

If your policy was for a sum insured amount, the insurer will not cover extra costs to bring your property into line with new building code requirements, unless there was specific additional cover in the policy for this purpose. If your policy covers rebuilding or replacing your property “as new”, you may be covered for the costs of rebuilding to meet new building code requirements. Check with your insurer.

My claim has been refused. What can I do?

The first step is to get the reasons for your claim being refused in writing. This will give you the opportunity to correct any errors or provide additional information to your insurer that may help them change the decision.

There are five main reasons for insurance claims being refused:

- 1 Damage not caused by disaster** – The insurer believes the damage to your property was not caused by a disaster and existed before the fire. Many insurance policies only cover damage from “insurable events” and won’t cover damage they believe was already there.
- 2 Non-disclosure** – The insurer believes you did not disclose all relevant information to them when you applied for or renewed the policy.
- 3 Operation of a condition or exclusion clause** – You did not comply with one of the insurer’s requirements or the policy does not cover the loss.
- 4 Fraud** – The insurer believes you have acted fraudulently in some way
- 5 Policy cancellation.**



Once you've got the decision in writing and understand why your claim has been refused (or partly refused) your options include:

- asking your insurer for an internal dispute resolution (IDR) review of your refused claim. You should do this as soon as you can. To be successful with a review, you will need to present additional information to show why the insurer's original decision was wrong. Extra information might include building or engineer's reports, extra quotes, photos or video of your property before and after the fire etc. You can get legal advice to help you with this process.
- lodging a dispute with the Financial Ombudsman Service (FOS). You have two years from when your insurance company's IDR department refused your claim to lodge a dispute with FOS. This is a free, no-risk service and your situation will be reviewed by an independent ombudsman.
- accepting the claim or settlement offer
- taking your complaint to court. If you do decide to go to court, you need to think about:
 - if you lose you might have to pay the insurer's legal costs, and
 - time limits apply for taking court action. You have six years from the date of the event.

Where to get help

Free legal advice

Legal Aid Queensland's Consumer Protection Unit

Phone 1300 65 11 88

www.legalaid.qld.gov.au

Financial and related services

Financial Ombudsman Service

GPO Box 3, Melbourne Victoria 3001

Phone 03 9613 6374

Fax 03 9613 6390

Toll Free 1300 78 08 08

www.fos.org.au

Financial Counselling Australia

Phone 1800 007 007

www.afccra.org

Insurance Council of Australia

PO Box R1832

Royal Exchange Sydney, NSW 1225

Phone 02 9253 5100

Toll Free 1300 728 228

Fax 02 9253 5111

www.insurancecouncil.com.au

National Insurance Brokers Association

Level 18, 111 Pacific Highway,

North Sydney NSW 2060

Phone 02 9964 9400

Fax 02 9964 9332

www.niba.com.au

General Insurance Code of Practice

Manager — General Insurance Code Compliance

Financial Ombudsman Service Limited

GPO Box 3

Melbourne VIC 3001

www.codeofpractice.com.au

Counselling for grief and loss

Lifeline

Phone 13 11 14

www.lifeline.org.au

Public information sources

Queensland Fire and Rescue Service

Phone 000 (*emergencies only*)

www.fire.qld.gov.au (*for news updates*)

Queensland Police Service

Phone 000 (*emergencies only*)

www.police.qld.gov.au (*for news updates*)

Department of Community Safety

www.emergency.qld.gov.au (*for news updates*)

YOUR LOCAL LEGAL AID OFFICE:

BRISBANE

44 Herschel St, 4000

BUNDABERG

2nd Floor, WIN Tower,
Cnr Quay & Barolin Sts, 4670

CABOOLTURE

Ground Floor, Kingsgate
42 King St, 4510

CAIRNS

Level 2, Cairns Square Complex,
42-52 Abbott St, 4870

INALA

Level 1, Inala Commonwealth
Offices, 20 Wirraway Pde, 4077

IPSWICH

Lvl 7, 117 Brisbane St, 4305

MACKAY

Ground Floor,
17 Brisbane St, 4740

MAROOCHYDORE

Ground Floor, M1 Building
1 Duporth Ave, 4558

MOUNT ISA

6 Miles St, 4825

ROCKHAMPTON

Ground Floor, 35 Fitzroy St, 4700

SOUTHPORT

1st Floor, 100 Scarborough St, 4215

TOOWOOMBA

1st Floor, 154 Hume St, 4350

TOWNSVILLE

3rd Floor, Northtown
280 Flinders St Mall, 4810

WOODRIDGE

1st Floor, Woodridge Place,
Cnr Ewing Rd & Carmody St, 4114

FOR MORE INFORMATION ABOUT OUR SERVICES:

Phone 1300 65 11 88

www.legalaid.qld.gov.au

