

Resolving disputes about a ‘motor accident injury’

What is a dispute about a ‘motor accident injury’?

A dispute is when you (or another party) disagrees with **icare lifetime care**’s decision about whether your injury is a ‘motor accident injury’.

To be accepted as a participant in the Lifetime Care and Support Scheme, your injury must meet the legal definition of a ‘motor accident injury’. Both the motor accident and the motor vehicle involved must meet the legal definition outlined in Section 3 of the *Motor Accidents Compensation Act 1999*.

A **motor accident injury** dispute is different to an **eligibility** dispute. A **motor accident injury** dispute is about the legal definition of a motor accident injury. This is a **legal** dispute and is resolved by an independent panel of legal professionals.

An **eligibility** dispute is when someone disagrees with our decision about whether your injury meets the criteria in the *Lifetime Care and Support Guidelines*. This is a **medical** dispute and is resolved by an independent panel of medical and health care professionals. For details, see our information sheet: *Resolving disputes about eligibility*, this is on our website www.icare.nsw.gov.au.

Is a dispute different to a complaint?

Yes. A **dispute** is when someone disagrees about:

- whether your injury meets the eligibility criteria to become a participant in the Scheme
- whether your injury meets the legal definition of a ‘motor accident injury’.

A **complaint** can be about any aspect of **icare lifetime care**, the level or service provided to you, or the services paid for by us. Anyone can make a complaint to us.

A dispute is resolved in a different way to a complaint. For more information, see the complaints and disputes information on our website www.icare.nsw.gov.au. You can also see our information sheet about compliments and complaints: *Your feedback - Tell us what you think*, this is on our website.

Who can lodge a motor accident injury dispute?

This type of dispute can only be referred by an ‘interested person’ who is affected by our decision.

An interested person could be:

- you (the injured person)
- the insurer of a claim

- the nominal defendant. (If you make a Compulsory Third Party claim and the vehicle at fault isn't insured or can't be identified, and the accident happened in NSW, the State Insurance Regulatory Authority will pass your claim to a Compulsory Third Party insurer).

When can a motor accident injury dispute be lodged?

A dispute can only be lodged after you've received our written decision about your eligibility. The written decision needs to outline that you are not eligible for the Scheme because the motor accident or motor vehicle does not meet the legal definition.

The dispute needs to be lodged within 6 months of receiving the decision.

How do I lodge a motor accident injury dispute?

Disputes need to be lodged in writing, either by a letter or email to us. The letter or email needs to explain why you (or another interested person) disagree with our decision. You should include why you think you meet the motor accident injury criteria in the *Lifetime Care and Support Guidelines*. The *Guidelines* are on our website www.icare.nsw.gov.au.

You should include a copy of your compulsory third party claim form (if you have one) and other supporting material.

You can contact our Assessment Review team on 1300 738 586 for more information.

If you need help to lodge your dispute, we also have several support and advocacy providers who can assist you to navigate the dispute process. For details, see our information sheet: *Support and Advocacy Service*, this is on our website www.icare.nsw.gov.au.

Who assesses the dispute?

The dispute will be referred to the Principal Claims Assessor at the State Insurance Regulatory Authority (SIRA). The Principal Claims Assessor will form a panel of three claims assessors to determine the dispute.

Claims assessors are experienced legal professionals (solicitors or barristers) with expertise in assessing legal disputes. All claims assessors are independent from us.

How will the panel make a decision?

The panel will be sent all the relevant information about the dispute. The panel then decides together how to assess the dispute. Some disputes can be assessed and a decision made by the panel from the information provided, without needing to talk to you (or another interested person if they lodged the dispute).

In some cases, the panel may need more information about the accident, either in writing or by talking to people involved (such as you, the insurer or witnesses to the accident). If this happens, you'll be told what information is needed.

The panel will make a decision on whether your injury is a motor accident injury. Their decision is final and is legally binding. This will affect whether you are eligible to participate in the Scheme on the basis of your motor accident. This is different from whether your injuries meet the criteria for participation.

Can I give information to the panel?

Yes. You or your representative can give information to the panel. This needs to be in writing and sent to our Assessment Review team. You can phone on 1300 738 586.

It's important to provide any relevant information as soon as possible to ensure the panel reviews it, as it may affect how the panel assesses the dispute.

We'll send the information to the panel and to any other parties involved in the dispute (for example, an insurer). You'll also be sent a copy of any information provided by another party.

How long will the dispute process take?

Disputes about a motor accident injury may take several months to resolve. This is because of the time required to gather information to ensure the right decision is made. The panel will try to resolve the dispute as quickly as possible.

We'll keep you informed throughout the process.

What happens next?

You'll receive the decision that resolves the dispute in a written certificate, outlining the panel's reasons for the decision. The panel's assessment will also determine the reasonable legal costs that **icare lifetime care** must pay for the legal services the injured person received relating to the dispute.

This decision is legally binding and there is no provision in the legislation to appeal.

For more information contact:

- Assessment Review team, **icare lifetime care**, on 1300 738 586; or
- Principal Claims Assessor, Claims Assessment and Resolution Service, SIRA, on 1300 137 131.