



NSW Small Business Commissioner

APPLICATION FOR AN EXPERT DETERMINATION

MOTOR VEHICLE INSURANCE AND REPAIRER INDUSTRY CODE OF CONDUCT

The Office of the NSW Small Business Commissioner	What is Expert Determination?
<p>The Office of the NSW Small Business Commissioner (OSBC) works to improve the business environment in NSW. One way the OSBC does this is by assisting small businesses their commercial dealings with other parties.</p> <p>Misunderstandings and disagreements about rights and obligations can quickly turn into expensive and time consuming legal problems that cause significant stress and financial loss.</p> <p>The OSBC works to help prevent and inexpensively resolve problems at the earliest possible point. The Dispute Resolution Unit can assist with:</p> <ul style="list-style-type: none">• Information and referrals• Dispute resolution services <p>Our office is approved under the Code to provide Expert Determination for disputes under the Code.</p> <p>We can arrange a process that will give a final and binding decision for a dispute under the Code.</p>	<p>Expert Determination is a dispute resolution process where a binding decision is made to resolve a dispute. It is less formal, quicker and cheaper than arbitration or going to court.</p> <p>The process applies the industry agreed rules, which are attached to the Code. The rules can only be amended if the parties agree.</p> <p>The process is conducted by someone with expertise in this type of dispute resolution.</p> <p>The Expert is an independent and neutral third party who will ensure that each party has a fair opportunity to put their case forward.</p> <p>The Expert will conduct the determination process so that it's quick, cost-effective, fair, and minimises formality as much as possible.</p> <p>After considering the information provided by both parties, the Expert will make a final and binding written decision to resolve the dispute that will be provided to the parties in writing. There may be exceptional cases where there is insufficient or inconclusive information available to be able to make a determination decision.</p>
How to apply?	For more information
<p>Fill out this application form, read these instructions, the fact sheet, and any other information provided to you, attach relevant documents and submit by:</p> <p>Email: we.assist@smallbusiness.nsw.gov.au Fax: 1300 795 644 Post: Office of the NSW Small Business Commissioner GPO Box 5477 SYDNEY NSW 2001</p>	<p>For more information about the Expert Determination process please refer to the Fact Sheet and Expert Determination Agreement available at:</p> <p>www.smallbusiness.nsw.gov.au</p> <p>If you have any questions call 1300 795 534. If you need an interpreter call 131 450 and ask the interpreter to call us.</p>

What is the process?

Once an application has been received, the OSBC will notify the other party and appoint an Expert.

The Expert will contact the parties to discuss the process and Expert Determination Agreement. The OSBC will provide the parties with information about:

- the rules and procedure
- the Expert's fees and costs of the process (excluding the venue) and payment schedule
- information required from each party and the time-frames
- guidance material to assist with preparing information to submit to the Expert Determiner

The OSBC will ask the parties to sign an Expert Determination Agreement which includes a schedule of the Expert's fees and costs.

The OSBC will give each party a time frame of 28 days for submitting information about the dispute to the OSBC. The information should include the amount claimed (and how it has been calculated) and any supporting documents, witness statements and reports relied on.

The applicant will be required to submit information first, and once the applicant's information has been provided, the other party (respondent) will be given a time frame to submit information in response to the applicant's claims.

The OSBC will manage the receipt of information provided by the parties on behalf of the Expert.

After considering all of the information provided, the Expert may request extra information from either party.

The Expert will make a determination decision based on the information provided by the parties, with reference to any applicable law, regulation, code of conduct, industry standard or practice.

Who pays the cost?

The applicant is required to pay the cost in the first instance. The Expert may decide that the other party must pay the cost as part of the Determination.

This determination will depend on the particular circumstances of the dispute.

IMPORTANT

The Determination process can only proceed after the internal dispute resolution (IDR) and mediation processes under the MVIRI Code of Conduct have been concluded and have failed to resolve the issues in dispute.

An application for Expert Determination must be lodged with the Code Administration Committee (CAC) within 28 business days of the conclusion of mediation through the online portal at:

<http://www.abrcode.com.au/>

Following lodgement with the CAC, you must make an application to the OSBC within 2 business days or this can happen at the time the dispute is lodged with the CAC. Application forms are available at:

<https://www.smallbusiness.nsw.gov.au/>

Participation in the Expert Determination process is mandatory under the Code.

Expert Determinations are final and binding on the parties.

The details of the parties will be removed and the determination will be published on the CAC website – as guidance for the industry.

Applicant's Details (your details)

Applicant Name of company / person

Repairer Include ABN / ACN if applicable & trading name

Insurer

Other (specify)

Does applicant have an agent / representative?

Name of the applicant's agent/representative (company and person)

Yes

No

Does applicant have a solicitor instructed in this matter?

Name of the solicitor (firm and person and contact details if appropriate)

Yes

No

Please provide full contact details

Who is the primary contact for the OSBC and Expert for this matter?

Name of person:

Name of company:

Postal address:

Telephone:

Fax:

Email:

What is their role?

If interpreter is required, which language:

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Respondent's Details (the other person / company)

Respondent Name of company / person

Repairer Include ABN / ACN if applicable & trading name

Insurer

Other (specify)

Does respondent have an agent /representative? Name of the respondent's agent / representative (company and person)

Yes

No

Does respondent have a solicitor? Name of the solicitor (firm and person and contact details if appropriate)

Yes

No

Please provide full contact details for the other side

Who is the primary contact for the OSBC and Expert for this matter?

Name of person:

Name of company:

Postal address:

Telephone:

Fax:

Email:

What is their role?

If interpreter is required, which language:

PLEASE COPY THIS PAGE AND USE AGAIN FOR MULTIPLE RESPONDENTS

Attachments

You may attach a **copy of documents that support your claim** together with an explanation of why you think that they support your claim. As part of the determination process you will be asked to provide a detailed submission and all documents will need to be provided with the submission and/or statements made.

Please mark each attachment with letters A, B, C, etc.

PLEASE DO NOT USE STAPLES

List the attachments below, or attach extra pages if necessary

A

B

C

D

E

Declaration

I hereby declare the following:

- The information provided in this application form is true and accurate so far as I am aware;
- I am legally authorised to sign this application for and on behalf of the applicant;
- I consent to my application and attached documents being provided to the other party and the Expert Determination Provider under section 26(2) of the *Privacy and Personal Protection Act 1998* (NSW).

Signed

Print name

Position / Authority

Date

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Privacy Statement

The New South Wales Government's privacy practices are regulated by the New South Wales *Privacy and Personal Information Protection Act 1998* (the Act). For more information contact the Information and Privacy Commission.

NSW Department of Industry will only collect personal information for a lawful purpose which directly relates to our primary function as a NSW government agency and for obtaining feedback about the effectiveness of our services. The department will not collect any more information than is necessary for it to fulfil these functions.

Anyone engaged to collect, store or use personal information for the department will be required to comply with the Information Protection Principles of the Act as part of their terms of engagement.

Should you wish to have access to this application form or any of the personal information that we hold, please contact the Director of Dispute Resolution on 1300 795 534. For further information on our privacy policy, please refer to the expert determination agreement (available online at www.smallbusiness.nsw.gov.au) or contact us.