

Claims against the Shire: Frequently Asked Questions (FAQs)



Am I making a claim, request for service or advising of a complaint?

- A claim is a demand for monies from the Shire as compensation for personal injury, loss or damage to property allegedly caused by the Shire's negligence.
- A request for a service is where you are asking the Shire to address a problem such as a pothole, dumped rubbish or a faulty streetlight.
Requests for services or reporting problems should be directed to Customer Support at customerservice@mornpen.vic.gov.au or (03) 5950 1000 or 1300 850 600.
- A complaint means you are not seeking reimbursement or compensation but are dissatisfied with a Shire service or decision and are seeking a review. Complaints should be directed to Customer Support at customerservice@mornpen.vic.gov.au or (03) 5950 1000 or 1300 850 600.

How do I make a claim against the Shire for injury or damages?

- Visit the Claims Information page at mornpen.vic.gov.au/claims on the Shire's website and download the Information Request Form (IRF)
- Fill out the IRF and provide all the evidence you have to substantiate your claim
- Send the completed form to claimsandinsurance@mornpen.vic.gov.au or:
Mornington Peninsula Shire Council
Claims and Insurance Team
Private Bag 1000
Rosebud VIC 3939

How is my claim considered?

- The Shire has appointed Echelon as its Claims Managers to assess liability on its behalf. Echelon is not an insurance company and will make a recommendation to the Shire on the basis of the relevant law and facts.
- Your completed IRF will be reviewed by the Shire's Claims and Insurance Team, who may advise you to direct your claim to another agency. For claims involving property damage, you may be required to provide evidence of ownership or authority to act on behalf of the property owner. After this, your claim will be referred to Echelon for investigation and assessment.
- Echelon will request information and documents from Council to assist with their assessment.
- If your claim is denied, a letter will be sent to you setting out the reasons for the denial.
- If your claim is successful, Echelon will send you a deed of release to sign.

When is the Shire not liable for injury, loss or damage?

- The Shire has a range of statutory defences available in relation to common events and will likely deny the claim on this basis. They are:
 - Natural Events – where injury, loss or damage is caused by natural events beyond its control such as bushfires, floods and storms.
 - Tree Root Claims – the Shire will not be liable for root damage to property if it

was not previously aware of a problem.

- Trips, Slips and Falls where there is an obvious risk – pedestrians have a responsibility to take care to avoid hazards and imperfections when using pathways and where the risk is obvious.
- Damage to land which is not the Shire's responsibility to maintain – such as vehicle crossovers and certain sections of road reserve.
- Third Party fault – where the injury loss or damage was caused by a third party such as a utility company, contractor or other statutory authority.
- Damage caused by the conditions of roads or road infrastructure – the *Road Management Act 2004* (Vic) provides that local councils are not liable for the first \$1,681 of any damage.

Should I contact the Shire during the investigation process?

- There will generally be no need. Echelon will contact you if they require further information. Once the claim has been assessed, you will receive a decision in writing.

Will the Shire accept my claim on compassionate grounds?

- No. Whilst we regret any incident, we have obligations to ensure ethical and prudent use of Shire funds. We are only able to use public money to pay compensation where a clear legal liability has been established.

Can I make a claim against my own insurance policy?

- If you have property or vehicle insurance cover, you may consider making a claim against your policy.
- Please note that making a claim against your policy may result in an initial upfront payment to your insurer for the applicable excess.
- Typically, insurance companies will only pursue the Shire for reimbursement where they consider the Shire to be liable. In such cases, your excess payment may be waived by your insurer. You should discuss this with your insurer prior to lodging a claim.
- In cases where you have made a claim against your policy, the Shire will not be liable for reimbursement of your excess under the 'doctrine of subrogation'. This doctrine allows an insurer to bring a claim in your name against the Shire if it believes we are responsible for your loss. If your insurer brings a claim against the Shire, the claim amount will include the excess paid by you.

Can I engage my own legal representation?

- It is your right to engage a lawyer at any time during the claims process. However, the Shire accepts no responsibility for the legal costs you incur. Issues of legal costs and the risks associated with litigation is something you should discuss with your lawyer.

Freedom of Information Requests

- If you wish to have copies of the documents held by the Shire in relation to your claim you must request the documents in the *Freedom of Information Act 1982* (Vic). For more information about making an FOI request please see mornpen.vic.gov.au/foi

I am not happy with the outcome of my claim. How do I appeal or have the decision reviewed?

- If your claim is denied, you will be given the option to request a review from Echelon. You will be required to explain what aspect of the decision you do not agree with and provide supporting evidence.

Who do I contact about my claim?

- The Claims and Insurance Team will be your point of contact regarding new claims. Please direct all correspondence regarding new claims in writing to:
claimsandinsurance@mornpen.vic.gov.au or call (03) 5950 1000 or 1300 850 600.
- Once your claim has been referred to Echelon, you will be provided with their contact details and Echelon will be your primary contact for all matters regarding your claim.

