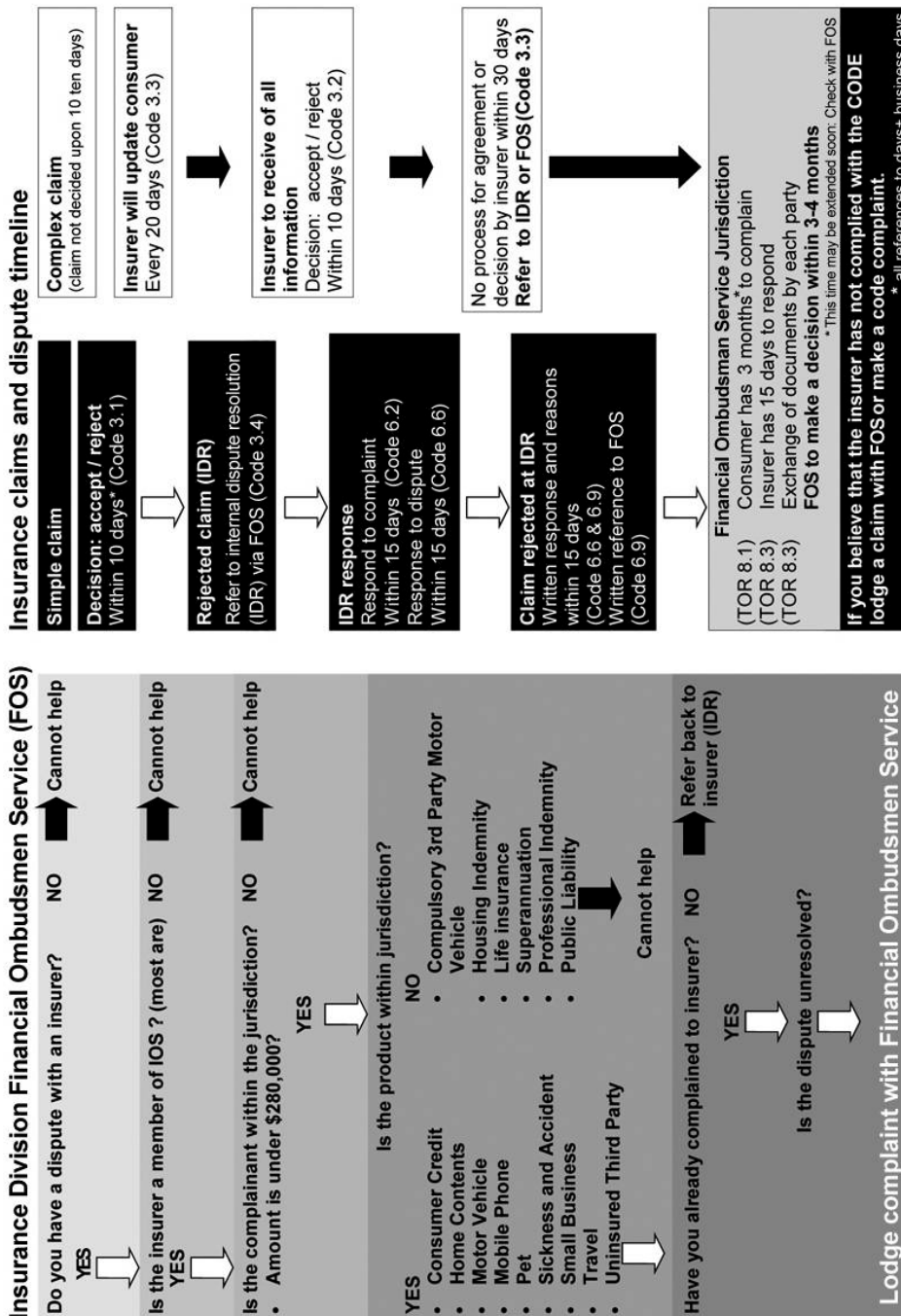


# Appendix one – How the Financial Services Ombudsman works



### Insurance Contracts Act & FOS Determinations

The following table lists the common sections of the Insurance Contracts Act 1984 (ICA) which consumers have relied upon when appealing an insurer's decision. Determinations are available at [www.fos.org.au](http://www.fos.org.au). To locate the case, type the determination number into the determination search box. [www.fos.org.au/centric/home\\_page/cases.jsp](http://www.fos.org.au/centric/home_page/cases.jsp) Telephone FOS: 1300 78 08 08

Insurance Contract Act	FOS Determination
S13 Utmost Good Faith	001 01 11966 — motor vehicle, utmost good faith, good insurance practice
S14 Provisions of Contract Not To Breach Utmost Good Faith	26411 — personal accident/sickness—total disability—temporary—extent of cover—policy ambiguity—contra proferentum—utmost good faith
S21 A Disclosure of Specified Matter (1998)	23339—motor vehicle—disclosure - licence suspension - failure to ask question
S22 Non Disclosure Notice—Motor Vehicle Policy	204 08 19522—motor vehicle - failure to disclose licence suspension - failure to provide s22 notice
S23 Ambiguous Questions Read Against Insurer	399 02 7432—travel - disclosure of medical condition
S26 & 27 Reading Down Untrue Statements or Incomplete Answers	399 01 7261—motor vehicle—non-disclosure (S26) - knowledge of modifications 299 12 9297—motor vehicle—non-disclosure (S27) - incomplete answer
S28 Remedies (consequences) for Misrepresentation and Non Disclosure	27187 —motor vehicle—licence suspension - consequence of failure to disclose— loss 25276—motor vehicle—non disclosure—rust—consequence of failure to disclose - no loss
S35 Standard Cover	24702—home contents - non-compliance with S35 - policy confusion 24004—comprehensive—motor vehicle - failure of policy wording - reckless act
S46 (2) Pre-Existing Defect or Imperfection	305 06 22369—motor vehicle - knowledge of pre-existing damage
S47 Pre-Existing Sickness or Disability	305 06 22369 399 129226—consumer credit - knowledge of pre-existing medical condition
S54 Insurer May Not Refuse to Pay Claims in Certain Circumstances (a little breach)	699 04 7778—motor vehicle—unroadworthy or unsafe - rust - underwriting guidelines

### Types of insurance policies & their problems

Policy Type	Common Problem
<b>Comprehensive Car Insurance</b> Covers vehicle damage to your car as well as for any damage you may cause to the car or property of others.	<ul style="list-style-type: none"> <li>Allegations of non disclosure</li> <li>Inability to pay excess</li> <li>Request for time to pay excess</li> </ul>
<b>Third Party Property</b> Protects against claims for damage that your vehicle causes to another person's vehicle or property. Also covers damage caused to your vehicle by an identifiable, uninsured, at fault driver (uninsured motorist extension).	<ul style="list-style-type: none"> <li>Inability to pay the excess or request for time to pay the excess</li> <li>Lack of knowledge and uninsured motorist extension</li> </ul>
<b>A Third Party Property Fire &amp; Theft</b> Covers damage to your car caused by fire and theft when you have paid an additional premium.	<ul style="list-style-type: none"> <li>Inability to pay the excess or request for time to pay the excess</li> <li>lack of knowledge about uninsured motorist extension</li> </ul>
<b>Home Contents Insurance</b> Protect against damage to, or the loss of, contents in your home.	<ul style="list-style-type: none"> <li>Most tenants do not have contents insurance</li> </ul>
<b>Renter's Insurance / Fire, Theft &amp; Contents</b> Protects against damage to, or the loss of, contents as a result of a fire or theft. Covers contents up to a modest value. Designed to suit renters, or people who have limited contents, who do not want a full contents policy.	<ul style="list-style-type: none"> <li>limited maximum cover; no cover for flooding or water damage</li> <li>limited cover against landlord claim for property damage</li> </ul>
<b>Landlord Insurance</b> Provides building insurance for a rental home. If the rental home is furnished the landlord can also choose to insure contents.	<ul style="list-style-type: none"> <li>Insurers: right of subrogation to recover from the tenant based on alleged negligence</li> </ul>
<b>Travel insurance</b> Covers domestic and international travel. Offers protection against losses including cancellation, luggage, medical & repatriation cover.	<ul style="list-style-type: none"> <li>Rejected: pre-existing medical conditions &amp; unaccompanied luggage</li> </ul>
<b>Loan protection insurance</b> Protects loan repayments for the full term of loan if insured unable to work due to sickness, accident, involuntarily unemployment, or death.	<ul style="list-style-type: none"> <li>Refused: policy exceptions or pre-existing conditions; benefits do not meet consumer expectations</li> </ul>