



How long does a TPD claim take and what can complicate the process?

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If you have sustained an injury or illness, whether at work or outside of work, you may be able to claim an insurance benefit known as a total and permanent disability (TPD) claim. This benefit is usually attached to your super fund. Our clients often ask us how long a TPD claim will take, what can complicate the process and how to overcome this to ensure a successful application.

You can read more about TPD claims in our earlier blog, ["TPD claims – your complete guide"](#).

How long will a TPD claim take?

There are several factors that impact how long a TPD claim will take.

The first is the initial waiting period. Each policy has a different waiting period that is usually three to six months from the date of the injury.

Secondly, when a TPD claim is lodged, the super fund or insurer has an obligation to act in the member's best interest. This generally translates into the super fund or insurer determining claims within 6 months of receiving all relevant material to conduct their assessment and make a decision.

If the fund is partway through assessing the claim and determines that they reasonably need more information, they can request this and start the 6-month time frame again.

What can complicate the TPD claim's process?

Not providing all relevant information

The main complication in the TPD claims process is not providing the super fund with the relevant information to assess your claim. The relevant information often includes:

- certified ID;
- completed member claim form;
- 1 to 2 medical attendants' statements;
- completed employer's statement confirming the nature of your employment;
- relevant health records or clinical notes supporting your injury and its permanence;
- relevant medical reports from your treating doctors confirming that you do not have a work capacity.

Once the fund or insurer has received your application, they can determine if they require additional information and utilise an authority you have signed to request this information from your treating doctors or employer. This can cause considerable delay.

Funds needing to determine who the relevant insurer is

We sometimes see funds taking longer to assess claims when there is an issue over who the relevant insurer was at the time of the injury or illness. Notably, your insurance cover is related to the date you stopped working due to your injury/illness, not the date you lodge a TPD claim. Therefore, any claim will be with the super fund/insurer that you had cover with at the time you stopped working.

This can become complicated with [TPD claims for injuries that occurred some time ago](#), and super funds have merged and/or insurers have been bought out.

If this is an issue for your claim, providing your super fund with as much detail about the date of injury or date last worked will assist them in determining who is the insurer on notice.

Injuries not being stable or not properly diagnosed

If your injury is yet to stabilise, or not properly diagnosed, the fund/insurer will not be able to appropriately determine if you meet their definition of total permanent disability (as defined in the insurance policy you have and can differ between policies). This is because they need to be satisfied that you have exhausted all reasonable treatment options, are unable to work and meet the definition of total and permanent disability.

Where this occurs, some funds/insurers will request additional information from the treating GP or specialist, which can delay your claim.

Pre-existing injuries not being disclosed

We often see claims being delayed or rejected on the basis that the member has failed to disclose pre-existing injuries when taking out TPD insurance. It is important that medical evidence is carefully reviewed against the relevant policy before applications are lodged to avoid undue delay.

Read more in our earlier blog, ["Disclosing pre-existing injuries and illnesses during TPD insurance applications"](#).

Return to work attempts

Where you have sustained an injury, had a period of time off work and then made failed attempts to return to work, this can cause delays in the assessment of claims while the super fund/insurer determines the date last worked for the purposes of identifying the relevant insurance coverage.

Claims on multiple policies

If you had more than one active super fund or contract of insurance for TPD benefits as at the date of injury or date you last worked, you can claim under multiple policies. It is important to be aware of the specific policy requirements regarding multiple claims to ensure each application is lodged appropriately and doesn't suffer consequential delays.

What happens if the TPD claims process is taking longer than it should?

If the fund is taking longer than is reasonable, which is generally six months from the date of receiving all relevant information, you can write to the fund and put them on notice that you are claiming penalty interest in accordance with section 57 of the *Insurance Contracts Act*.

The claim for penalty interest should be from the date the insurer should have reasonably determined the claim to the date the formal determination is made. Claiming penalty interest is often helpful to incentivise funds to make a determination as reasonably as possible.

What do I need to make a successful TPD claim?

To make a successful TPD claim, it is crucial that you provide the super fund/insurer with as much relevant and required information as possible. For people who are sick or injured, this can be a daunting and exhausting process.

To prevent delays and maximise a successful claim, we recommend seeking the assistance of an experienced TPD lawyer who can ensure all relevant documentation is provided as early as possible.

[FREE ADVICE FROM A TPD LAWYER: 1300 700 761](tel:1300700761)

What can I expect when I lodge a TPD claim?

When you lodge a TPD claim, the super fund/insurer will assess the claim to see if you meet the eligibility criteria. Once they are satisfied that you do, and that they have all relevant information, they will refer your claim to their trustee.

The trustee will assess your claim and then make a recommendation to the super fund/insurer to either accept or deny the application.

The super fund/insurer will then review the trustee's recommendation and determine if they accept it or not.

What happens if my TPD claim is rejected?

If your super fund/insurer rejects your TPD claim, you should seek legal advice as soon as possible.

There are appeal mechanisms available to you, including requesting a review of the rejected claim with the fund or issuing proceedings in the relevant court.

You can read more about this process in our earlier blog, ["Here's what to do if your TPD claim is rejected"](#).

Obtaining expert legal advice at this stage is essential to understand your rights and entitlements.

Why engaging a TPD lawyer is essential for a successful TPD claim

Whilst TPD claims may seem initially straightforward, there are often significant hurdles that need to be overcome. And when you're sick or injured, these hurdles can be even more onerous.

An experienced TPD lawyer will be able to provide you with clear advice and guide you through the claim's process. They will also be able to prepare your application in a timely manner to give it every chance of success. Contact Guardian Injury Law for advice. The first appointment is free.

Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

enquiries@guardianinjurylaw.com.au

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