

A guide for applicants to the MVDT

MOTOR VEHICLE DISPUTES TRIBUNAL | RŌPŪ TAKE TAUTOHENGA Ā-WAKA



Do you have a complaint against a motor vehicle trader?

If you bought a vehicle from a registered motor vehicle trader, you can take a claim to the Motor Vehicle Disputes Tribunal (MVDT). You can also take a claim against someone who is not registered as a motor vehicle trader, if you can show they were carrying on the business of selling motor vehicles. You can look at sections 7-9 of the Motor Vehicle Sales Act 2003 to find out more about the definition of a motor vehicle trader.

What claims can you take to the MVDT?

You can take a claim to the MVDT about:

- the quality of the vehicle, for example if it has a fault or faults. These claims normally relate to the guarantees in the Consumer Guarantees Act 1993; or
- misleading and deceptive conduct, for example false representations. These claims normally concern the Fair Trading Act 1986.

The MVDT can hear claims up to \$100,000 or more if both parties to the claim agree in writing. To do this you must fill out an 'Agreement to Extend Jurisdiction' form which can be downloaded from www.justice.govt.nz/tribunals.

What are the fees and costs?

There is a **\$50.00** filing fee payable when you lodge your claim with the MVDT. The fee can be paid by credit card, debit card or EFTPOS at one of our counters.

The MVDT may award costs against a party if:

- the claim was frivolous, vexatious, or ought not to have been brought;
- a party refuses to discuss the claim with the other party and try to settle it before the hearing; or
- a party fails to appear at the hearing without good cause.

How to file a claim

You need to fill out the application form available at www.justice.govt.nz/tribunals.

When you have completed the application form, you can post it together with the **\$50.00** filing fee and all supporting documents to the MVDT at the address at the end of this guide.

Important: If your vehicle was purchased through finance you should continue making payment to the finance company until the dispute is determined. Please provide the MVDT with the loan agreement because in some cases the MVDT can make orders relating to the finance.

How to fill out the application form

Please provide all the information required in the application form, including all the supporting documents listed below. This will ensure that your claim is processed as quickly as possible.

Step 1: Applicant(s) (the buyer of the motor vehicle)

The applicant is usually the person(s) or company who bought the car as named in the vehicle offer and sale agreement.

Example: Ali and Chris bought a car for their children Whetu and Stacey, but the vehicle offer and sale agreement only names Ali as the purchaser. Ali should be named as the applicant in the application form.

Step 2: Respondent (the motor vehicle trader who sold the vehicle)

The respondent is the trader from whom you bought the vehicle. It is helpful if you provide the full and correct legal name of the respondent.

If the respondent is a registered company, you should provide the company's legal name. To search for the company name and trader registration number go to www.motortraders.med.govt.nz and <https://companies-register.companiesoffice.govt.nz/>

If the respondent is not a registered company, then you must provide their full name as well as the name they trade under.

Step 3: Description of vehicle

The vehicle identification number (VIN) can be found on the vehicle's certificate of registration (also known as the ownership papers). The engine and chassis number are most likely found under the bonnet of the car on a steel tag.

Step 4: Particulars of complaint

Set out your claim under step 4 of the application form in a concise and clear manner to enable the MVDT and the respondent trader to understand what your claim is about. Use numbered paragraphs for each allegation or event. If you think you will run out of room, write 'see attached' in the space provided, use a separate page and attach it to the application form.

Step 5: Sign and date the application form

The applicant must sign and date the application form to enable the claim to be processed

Step 6. Do a quick check

Please make sure that you attach the following documents to your application form:

1. The consumer information notice (CIN or window card)
2. The vehicle offer and sale agreement (VOSA)
3. The certificate of registration (ownership papers) for your vehicle
4. Any invoices, quotes, or estimates of costs in relation to the motor vehicle
5. A copy of the advertisement for the sale of the motor vehicle (if applicable)

6. Details of any financial loss you say you have suffered, and any receipts
7. If you want to reject the vehicle, evidence that you have notified the trader and provided your grounds of rejection plus a copy of any the loan agreement relating to the vehicle.

If you cannot provide any of the above documents, for example the CIN or VOSA, please give your reasons in writing.

What happens next?

Once the MVDT receives your claim, it will refer your claim to the trader by sending them a copy of the application form and the other documents you provide along with a notice requiring them to discuss the claim with you.

The trader then has 14 days to file a report on the outcome of these discussions.

If the claim is not settled, or if the MVDT does not hear back from the trader within 14 days, you and the trader will be sent written notification of the date, time and location of the hearing.

The adjudicator decides where the hearing will be. Hearings are usually (but not always) held at the town/city where the trader is located. Where the parties are in different locations, it is usually possible for one party to appear by video-link.

What do you need to do before the hearing?

It is your responsibility to present sufficient evidence to establish your case.

Before you attend a hearing you should:

- plan what you will say at the hearing
- write down what happened in date order
- make sure you have all the information and evidence together and have provided it to the MVDT in advance
- ask witnesses if they will give evidence for you
- decide what remedy you want
- ensure you have provided all the documents to the Tribunal in plenty of time before the hearing

In addition, please inform the MVDT immediately if you change your address, telephone number or email address. This is very important because the MVDT staff may need to contact you at any time up to the hearing.

Right to appear at hearings

The parties to a claim have the right to attend and be heard at any hearing of that claim. In appropriate circumstances, the adjudicator may permit a party to be represented at the hearing by someone else. This is always necessary where a party is a company.

However, parties cannot be represented at the hearing by anyone who is or has been enrolled as a barrister or solicitor or who has regularly been involved in advocacy work before other tribunals.

Any party who wishes to be represented by someone else should seek approval from the adjudicator before the hearing.

Do I need to attend the hearing?

Yes. Your case may be determined in your absence or struck out if you don't attend. Failure to attend the hearing without good cause may also result in an award of costs against you.

Can I have an interpreter?

Yes. If you need an interpreter, please ask the MVDT at least two weeks before the hearing to arrange for one to be present. This service is free of charge.

What happens at the hearing?

1. You present your case. You can ask your witnesses to give evidence. The adjudicator may permit the respondent to ask your witnesses some questions.
2. The respondent presents their case. The adjudicator may permit you to ask the respondent's witnesses some questions.
3. The adjudicator and the assessor will ask you and the respondent questions.
4. The adjudicator may give you the opportunity to briefly reply to what the respondent has said.

The decision

After the hearing, the Tribunal will issue a written decision.

If you are dissatisfied with a decision given by the MVDT you can appeal to the District Court within 10 working days after you get notice of the decision.

You should also refer to Schedule 1, clause 16 of the Motor Vehicle Sales Act 2003 and Part 18 of the District Court Rules 2014 to ensure that you are aware of the grounds for an appeal and the process you must follow. The District Court staff will help guide you through this process, but you may also wish to obtain legal advice from your lawyer or Community Law Centre.

MVDT contact details

Motor Vehicle Disputes Tribunal

Tribunals Unit

DX: EX11086

Specialist Courts and Tribunals Centre, Level 1, Chorus House, 41 Federal Street, Auckland, 1010

www.justice.govt.nz/tribunals

Ph: 0800 COURTS or 0800 268 787

Fax: (09) 916 9806

Email: mvdt@justice.govt.nz