

What was the outcome of the first test case?

In November 2020 the NSW Court of Appeal found against the arguments of insurers and declared that COVID-19 is not a quarantinable disease as defined in the *Quarantine Act 1908*, and so the exclusion in the Disease Cover of policies is not enlivened. An application to appeal that decision was rejected by the High Court in mid 2021 and so the NSW Court of Appeal ruling on that issue stands.

Why was there a second test case?

It is important to note that claims will still turn on individual circumstances and business interruption cover under many of the policies in the market still need other triggers to be satisfied. A number of these triggers and the legal principles underpinning them have therefore been examined by the Federal Court as part of the second industry test which was heard in September 2021. The second test case considered a number of issues including:

- the meaning of policy wording triggers in relation to a disease such as the definition of an 'outbreak' of a disease 'occurring' within a particular geographical radius of the relevant location,
- what amounts to 'preventing or restricting access to' the premises
- relevant causation principles that apply in relation to such clauses; and
- other important elements in quantifying whether business interruption loss such as the scope of any trends and adjustments to be applied.

The reasons of judgment of the Federal Court were delivered on 8 October 2021 and those reasons were significantly upheld by the Full Federal Court in its judgment delivered in February 2022.

- Applications for special leave to appeal to the High Court (2 made by policyholder and 1 by an insurer) were heard by the High Court on 14 October 2022 when the Court refused all three applications. The High Court's decision means that the judgment of the Full Federal Court will stand as the primary authority for the matters determined in the second test case and insurers can now apply the reasoning in that decision in assessing BI claims.

Further information on the second test case can be found on the [ICA website](#).

What information do we need if you wish to submit a claim?

Claims will still turn on individual circumstances and business interruption cover under many of the policies in the market will still need other triggers to be satisfied.

If you want to submit a claim now or for other information requests on claims lodgements, please visit our [Business Interruption Online Claims page](#).

There is also a list of documents that the claims team will need to assist with the assessment of Business Interruption claims.

How is a financial loss calculated?

Each claim is reviewed based on its individual circumstances. Our [Business Interruption Online Claims page](#) offers a guide on how Business Interruption claims are generally calculated and what we will take into consideration when calculating Business Interruption claims.

Will policyholders' future premiums be impacted by submitting a Business Interruption COVID-19 claim?

No, for Hollard policyholders' we can confirm that future premiums will not be impacted by Business Interruption COVID-19 claims being lodged, denied, or paid.

Can I still approach AFCA to resolve a complaint if I am dissatisfied?

Yes, your rights to lodge a complaint with AFCA are not affected. We encourage you to look at AFCA's website which includes all necessary information about the complaints process.

AFCA has also published information for small businesses about the BI test cases here:

<https://www.afca.org.au/news/current-matters/business-interruption-insurance-test-cases>

Does your support for vulnerable customers apply to COVID-19 related claims?

Throughout the pandemic we have provided a range of relief to our customers and partners. [Visit our website](#) for more details. In addition, our website includes a flyer on [Supporting Customers Experiencing Vulnerable and Financial Hardship](#).

We encourage you to inform our claims department if you have a claim for a vulnerable customer and they will be able to assist you. Or alternatively we have a dedicated email address where you can send the information which will be treated with the utmost confidentiality. The email address is: hcicareofficer@hollardcommercial.com.au

What do we do if we need more information?

Contact your Account Manager, email the query to biclaims@hollardcommercial.com.au or contact us on 02 9551 1033.