

Detours and roadblocks

The consumer experience of faulty cars in Victoria



CPRC

The Consumer Policy Research Centre (CPRC) is a not-for-profit think tank that champions new thinking to create systemic change for all consumers.

CALC

Consumer Action Law Centre (CALC) is an independent, not-for-profit consumer organisation based in Melbourne. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns.

We work for a just marketplace, where people have power and business plays fair. Our advocacy draws on our deep expertise in consumer laws and policy, extensive engagement with community organisations across Australia, and direct knowledge of people's experiences of modern markets.

Acknowledgements

Report author: Erin Turner

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We thank the clients of VALS and CALC for sharing their experiences in this report.

Statement of recognition

CPRC acknowledges the Traditional Custodians of the lands and waters throughout Australia. We pay our respect to Elders, past and present, acknowledging their continuing relationship to land and the ongoing living cultures of Aboriginal and Torres Strait Islander peoples across Australia.

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Executive summary

Faulty cars are far too common and disrupt too many lives. In Victoria, 54% of people who purchased a car in the last five years experienced what they identified as a major or minor fault with their car – the kinds of issues that are so bad that a dealer or a manufacturer should likely help them with a fix.

This report looks at the impacts of these faulty cars on peoples' lives and the processes they have to go through to get what they are owed under the law. This research was undertaken by the Consumer Policy Research Centre (CPRC) with support from the Consumer Action Law Centre (CALC), which frequently sees the challenges people face with faulty cars.

Our findings show that the consumer protection framework for used car sales is no longer fit for purpose. The current system puts a significant burden on consumers but very little pressure on industry to sell safe cars or do what cars should when they break. We need easier ways for people to exercise their rights.

Cars can be the most expensive thing someone will buy, or the second-most expensive if someone is a homeowner. When cars fail to work it can cause significant hardship for someone, especially when the car is broken for months or when it takes multiple years to resolve a complaint in Victoria. Our research found that faulty cars caused people to miss work, miss medical appointments, struggle to take children to school and feel unsafe. The personal impact of a faulty car can be compounded for First Nations people, for people living in regional areas, or for people experiencing one or overlapping intersectional challenges.

While Victorians have legal protections when their car isn't working, these rights are not easily enforceable in practice.

The process of complaining about a car is legalistic, difficult to understand, costly and often deeply unfair to the consumer. This is a process where people may succeed in their complaint despite the systems and structures around them, not because of them.

Based on the findings of our research, we have developed a package of reforms that will significantly improve the protections and supports for consumers. We have developed three steps that State and Federal Governments should take to resolve the issues uncovered in this research.

- 1 Step one:** Make the process of complaining about a car accessible, fair, and effective.
- 2 Step two:** Help people get their car fault resolved sooner.
- 3 Step three:** Make sure fewer faulty cars are sold.

Step one is designed to deal with the biggest problem revealed in this research: the complexity of the current complaints process.

A used car complaint can involve more than 60 steps for a consumer, assuming no re-hearings or re-submissions of evidence are required.

This is more than 60 steps from fault discovery to a consumer being given what they're owed.

Part of the issue is the significant delay consumers face in having their complaint heard. Yet, even if delays could be addressed, the VCAT process itself is causing harm to consumers through its complexity and expensive-to-meet requirements, such as costly expert reports. It is a process that appears to be built by lawyers rather than for consumers, making it very difficult for most people to engage with.

Steps two and three are designed to address the challenges people face trying to get their problems fixed by their dealership. A dealership should be the safest and fairest place for someone in Victoria to purchase a used car, rather than a source of frustration. Yet, across the whole process of dealing with a faulty car, there are too few measures that encourage car dealers to remedy problems in a fair and timely way. Dealers do not bear any meaningful costs if they fail to help consumers as required, and there are few practical protections to stop the sale of faulty cars. Dealers in Victoria benefit from the long and complex complaint process, that means that many consumers don't even lodge a complaint in the first place.

There's more work that can be done to understand the consumer experience. This report focuses on the complaints process when something goes wrong with a car. It does not fully explore the consumer experience of car financing or challenges with private sales. The area in greatest need of further research and investment is working with First Nations people to develop culturally appropriate solutions, who face some of the harshest practices from used car dealers.

State and federal governments have an important role to play in resetting consumer protections. A consumer protection framework needs to result in fewer faulty cars being sold in Victoria, faults being fixed quickly when they do occur, and a fair and accessible complaints process that will support people to resolve disputes and to get a fair remedy.

"They're [dealerships] just given too many opportunities to attempt to fix the car. It's geared that way because people are trying to act in good faith and there are no other real methods of forcing the dealer to make a final decision. You've got to go through a process which in the end doesn't force the dealership to make a decision on the car without going to court and spending a lot of money."

– Interview comment, from someone who has recently used VCAT for a complaint about a faulty car.

"Unless you're very wealthy, you don't have redress. You don't have an opportunity to force the dealership without spending money on a lawyer, independent advice and independent assessment of the car, together with not having the car and using other methods to get yourself around."

– Comment from survey of Victorian car purchasers.

CHRISTIE'S STORY

The many impacts of a faulty used car

Case reported June 2022

Christie is an Aboriginal woman and a National Disability Insurance Scheme, (NDIS) participant. She is also a single mother of four young children and she has experienced family violence.

In December 2021, she purchased a second-hand car from a car dealership for more than \$10,000, funded by a family violence support service. In less than a month, the car began having issues, and in January 2022, the car broke down on the freeway and had to be towed. Her insurance provider advised that she would need a complete engine replacement but that her insurance would not cover this.

Christie later discovered that the dealers did not transfer the car in her name, and that they had surrendered their license to trade since she purchased the vehicle.

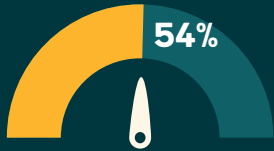
Being without a car has caused Christie's family situation to become unsafe, forcing her to leave the state for a period of time and for her children to be moved to foster care. Without a car, Christie has also lost her employment as a support worker.

Christie is still without a safe car and her dispute against the car dealer is still unresolved. CALC is assisting Christie.

Key findings



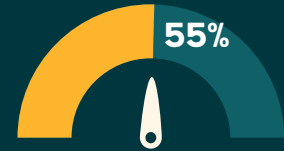
Too many people are sold faulty cars.



54% of Victorians who have purchased a car in the last five years experienced what they identified as a major fault, a minor fault or multiple minor faults with a car.



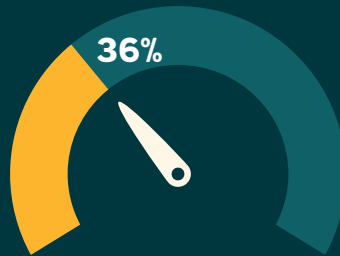
75% of people who purchased a used car from a dealer had a problem with their car.



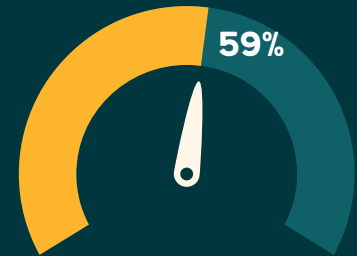
55% of people with a faulty car experienced a detrimental non-financial impact.



Many cars fail soon after they are purchased – dealers should have known about these faults prior to sale.



36% of faults were discovered in the first three months.



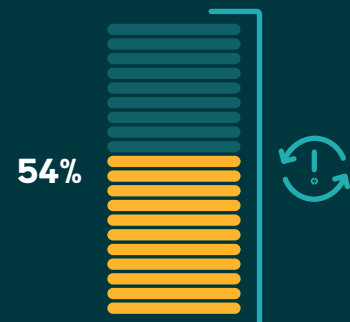
59% of faults were discovered in the first year of ownership.



Dealers fail to help people, even when they legally should. There is low immediate compliance with obligations under the Australian Consumer Law.



46% of people who did get a repair, replacement or refund from a manufacturer or dealer had difficulty getting this result.

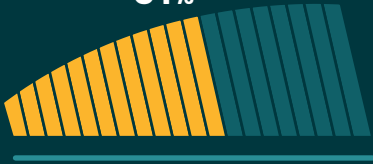


54% of people who had their dealer fix their car had the same or a new issue occur.



The process of making a complaint is hard to understand and involves navigating difficult, legalistic processes. It is not accessible to most people.

61%



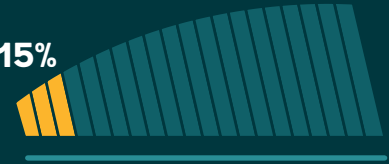
61% of people who could have raised an issue with their dealership did not do so as they believed the process would be too hard, or that they weren't entitled under warranty.

21%



21% of people who did not take the matter to VCAT did not know they could raise their issue with VCAT.

15%



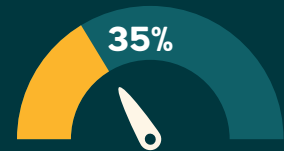
Only 15% of people with a faulty used car took their matter to VCAT, compared to 32% of people with a faulty new car.



It is extremely difficult and costly to gather evidence that VCAT will accept when a car isn't working.



93% of people who arranged an expert report said they encountered issues. Most people had issues with cost, availability of experts, or access to the car due to sale or repossession.



35% of people who arranged an expert report struggled with the costs of towing the car to the expert.



The process of making a complaint can take a very long time and involves many direct and indirect costs for consumers.

59%



59% of people with faulty cars spent more than \$1,000 trying to resolve the problem and 24% spent more than \$10,000 resolving the problem.

97%



97% of people who took their complaint to VCAT needed support from legal services, friends, or family.

33%



33% of people paid a private lawyer to help them with part of the VCAT process.

Proposals for reform

The problems outlined in this report are complex but solvable. We have identified a package of proposals for reform - a three step plan to help consumers with their cars.

1

Step one: Make the process of complaining about a car accessible, fair, and effective.

2

Step two: Help people get their car fault resolved sooner.

3

Step three: Make sure fewer faulty cars are sold.

For each of these steps there's one game changing idea that would greatly assist consumers, in complement with other approaches and smaller reforms that would also make a difference.

In completing this work, we identified where further research would be valuable. This report could not fully explore the consumer experience of car financing, challenges with private car sales, challenges with auction sales or the detailed role that manufacturers can play, especially in new car disputes.

The area in greatest need of further research and investment is work to develop culturally appropriate solutions with and for First Nations people, who face some of the harshest practices from used car dealers.

Victoria's First Nations communities should be empowered to design and develop culturally appropriate solutions to enable them to make informed decisions about their car purchases and, if something goes wrong, to resolve any disputes effectively and efficiently. This should take the form of a project:

- led and designed by First Nations people,
- building upon existing work undertaken by community organisations, as well as existing networks and forums, and
- with the aim of identifying, in partnership with the car industry and government, solutions that work for communities that can inform and strengthen the reform proposals in this report.



Make the process of complaining about a faulty car accessible, fair and effective



Game-changing idea
A new dispute resolution body that is accessible, fair and effective.

VCAT isn't helping consumers to resolve complaints about faulty cars fairly and quickly. The Victorian Government needs to establish a dispute resolution body that is accessible, independent, fair, accountable, efficient and effective.

The best existing model we have for external dispute resolution is the ombuds schemes established for a range of consumer-facing services from transport to telecommunications to energy. Ombuds schemes provide a way for consumers to resolve disputes fairly and efficiently, and for free. For industry, it can help identify systemic issues to reduce complaints and bring all parts of an industry together to resolve disputes, such as manufacturers and dealers.

What should a dispute resolution body do?

1. Support consumers to make a complaint so fewer people need to rely on legal services and assistance.
2. Help people obtain evidence about their problem. A dispute resolution body should employ independent mechanical experts who are able to assess faulty cars at no cost to the consumer. This will resolve the major pain point of access to and cost of expert reports.
3. Create incentives for industry to engage with complaints and offer fair resolutions early.
4. Resolve complaints in a reasonable time, providing clearer pathways for people experiencing hardship.
5. Identify trends in complaints and help regulators act on systemic issues.
6. Be accessible and culturally safe for all Victorians, regularly looking at who, and who is not, using its services.

Initial funding to establish or reform a dispute resolution body could be covered by using some of the funds currently held in the Motor Car Traders Guarantee Fund. The fund is currently helping very few Victorians – just four in the last financial year. The Victorian Government could consider repurposing some money to support the establishment of a new complaints process.

In the medium term, the costs of a dispute resolution body should be shifted from the Victorian Government, which funds VCAT, to the car industry. Industry funding should be structured so that businesses that drive the most complaints, pay the most. This adds an important incentive for businesses to address problems early. Ideally, a funding model would include both dealers and manufacturers. This would allow the dispute resolution body to work with all potential parties to a complaint to come to a fair resolution for all involved. This dispute resolution body could be established through the review of the Motor Car Traders Act, explored below.

Supporting proposals to make the process of complaining about a faulty car accessible, fair and effective.

1. **Evolve the Motor Car Traders Guarantee Fund to address more complaints.** The fund could be repurposed to deal with issues that cannot be addressed through a new dispute resolution body.
2. **Change evidence requirements so that dealers are required to show they did not sell a faulty car.** It is extremely difficult for a consumer to prove that a car was faulty at the time of purchase, even when an expert mechanic can provide evidence. When a car fails within six months of purchase, it should be assumed that the car was faulty at the time of sale unless the dealer can offer proof.
3. **Require dealers to cover the initial cost of car towing until a complaint is resolved.** The cost of towing presents a major barrier to people getting help with a faulty car, especially if they live in a regional area. Dealers could cover the cost of towing a car that breaks down within a short period after the sale. An ombuds scheme could consider how to apportion costs of towing required as part of the dispute resolution process, ensuring that dealers pay the full costs where a faulty car should not have been sold.

Help people get their car fault resolved sooner



Game-changing idea
Review and strengthen dealer licensing obligations.

The Victorian Government could strengthen dealer licensing obligations to improve the quality of customer care, and to encourage early, proactive resolutions of complaints.

The Victorian Government could commence this work by reviewing the Motor Car Traders Act 1986 (Vic). The review should consider how the Act could:

- improve the adequacy of statutory warranties, including the criteria and the length of time they apply
- add new obligations on dealers to protect consumers, which could include:
 - o training staff about consumer protections
 - o proactively providing customers with information about their rights
 - o providing information in writing about faults and repairs, and
 - o setting time frames for repairs or other remedies
- establish a stronger compliance and penalty regime for when dealers don't comply with licensing obligations
- provide protections for consumers when a dealership stops trading
- provide Consumer Affairs Victoria (CAV) with adequate powers to warn the public about rogue dealers, gather information about industry operations and appropriately warn, sanction, and penalise dealers
- ensure that the cost of a dealers licence covers costs for the complaints process.

Supporting proposals to help consumers get reasonable fixes, sooner.

- 1. A rating scheme for dealers based on complaints data.** If CAV and the dispute resolution body publicly release data about complaints, CAV could develop a ratings scheme for dealers to help people identify those businesses that offer the best customer care.
- 2. Reduce barriers to using an independent mechanic.** Independent mechanics can play a practical role in solving car faults, but some dealers restrict a consumer's ability to use these businesses. Regulators could investigate how manufacturers and dealerships limit or discourage access to independent mechanics add "and act to reduce the barriers."
- 3. Help independent mechanics understand consumer rights for used cars.** Targeted education campaigns designed to help independent mechanics better understand consumer protections for used cars could result in more people being given information to help them enforce their rights.
- 4. The Australian Competition and Consumer Commission (ACCC) could investigate the use of non-disclosure agreements (NDAs) by dealerships and manufacturers, to ensure they're not being used to limit consumer education or information sharing.** NDAs may be stopping people sharing safety information about faulty cars, or supporting others who may have similar experiences. The ACCC could use its information gathering powers to investigate how dealers and manufacturers are using NDAs when resolving consumer complaints.
- 5. CAV could provide more information about known faults and recalls.** CAV could investigate more specific tools and template letters to address common problems.

Make sure fewer faulty cars are sold to Victorians



Game-changing idea
Introduce penalties for breaches of the consumer guarantees.

While consumer rights to a repair, refund, or replacement when something goes wrong are clear, courts and regulators can't penalise businesses that don't comply.

Courts and regulators can direct companies to offer the refund, repair or replacement owed to a consumer, but cannot apply penalties that exist for other parts of the Australian Consumer Law (ACL). This means that a company can face a fine as high as \$50 million for misleading customers, but they are only liable for the cost of a refund if they don't comply with the consumer guarantees.¹

The Federal Government, in partnership with state and territory governments, needs to amend the ACL to ensure that companies that fail to comply with the consumer guarantees face penalties. This will encourage dealers to sell better quality cars, and allow the ACCC and CAV to take meaningful action against dealers that repeatedly fail to comply with consumer guarantees.

Supporting proposals to reduce the number of faulty cars sold to Victorians.

1. **Strengthen the pre-sale checks required before the sale of a used car.** The roadworthiness certificate process could be expanded to include mechanical issues, such as engine health.
2. **Provide support for people to get more independent mechanical checks of used cars.** The Victorian Government could partner with automotive organisations to change to 'automotive organisations' to offer thorough pre-sale independent checks of used cars, especially for people who face challenges in accessing this independent advice.

3. **In the short term, expand existing supports to empower First Nations people.** Court Services Victoria, including VCAT, has plans to build on its existing Koori support and engagement work.² There may be opportunity in this work to consider how VCAT could better work with First Nations people on cars cases. For example, the NSW Civil and Administrative Tribunal has a dedicated list for Aboriginal and Torres Strait Islander people to raise issues about residential tenancies.
4. **Increase proactive enforcement activities to stop the sale of poor-quality cars.** The ACCC, the dispute resolution body and CAV could increase their public monitoring and enforcement activities.
 - a. CAV and VCAT could regularly publish data on the complaints they receive about faulty cars, with the data identifying the nature of the issue, the dealer, and the manufacturer of the car. The act of naming poor players in the dealership and manufacturing market will apply pressure on many businesses to do better.
 - b. CAV could use this data to focus their enforcement activities on repeat offenders that fail to fix overtly faulty cars quickly, as well as issues most affecting vulnerable communities.
 - c. The ACCC could work with all state regulators and tribunals to identify trends in car complaints. This could identify when a recall is needed, or highlight systemic issues at a dealership level.
5. **Require greater disclosure about car history at the point of sale.** Dealers and private sellers could be required to disclose if a car has been in an accident, and the history of any significant repairs.³
6. **Develop education and advice for people selling a known faulty car.** People with a faulty car often sell it on the private market to recover some costs, risking passing the problem on to someone else. CAV should develop advice and assistance services about what to do with a faulty car.

Methodologies

We applied a mixed methods approach to best understand the complex challenges that consumers are facing with faulty cars.

We:

1. Conducted a survey of Victorians who had purchased a new or used car within the last five years. This survey was completed in April 2023 and included responses from n=1,006 Victorians: 503 people who had purchased a new car and 503 people who had purchased a used car.
2. Analysed nine cases of First Nations people who had been sold a faulty car and were receiving support from a community legal centre.
3. Developed a process map with experts to understand the specific steps that an individual would have to take to identify and resolve an issue with a used car in Victoria.
4. Conducted six in-depth interviews with people who had recently made or were in the process of making a complaint about a faulty car in Victoria.

The results of these four methodologies are woven throughout this report. Full details about our research approach, including any methodological limitations, are outlined in Appendix A.





The experiences of First Nations people

CPRC partnered with CALC and the VALS to source nine case studies that explore the experiences that First Nations people in Victoria have with faulty used cars. The themes from our analysis focus on the commonalities in these case studies and highlight some of the specific challenges that First Nations people may face with faulty cars. The results of this case study analysis are woven throughout this report and summarised below.

Statement of recognition

We thank the clients of VALS and CALC for sharing their experiences in this report.

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Themes from our First Nations case study analysis:

- A faulty car exacerbates other challenges in a First Nations person's life. People are often dealing with intersecting, complex challenges that become more difficult when a faulty car costs them time and money and removes transport options.
- Cars are sold with incorrect or unclear documents. Dealers can add on costs and warranties without someone's knowledge.
- Repair costs are high compared to the cost of the car.
- Many First Nations people are saving to pay outright for a used car or get support to pay outright.
- Most cars break very quickly – within days or weeks after purchase. Dealers should know if something is wrong when they sell a car.
- Dealers can be difficult to negotiate with. Even when a First Nations person gets help from a community legal service, the dealer may not present a reasonable offer to fix the problem.
- The long process of making a complaint means some First Nations people are settling cases early without getting the repair or money they're legally owed. They can't afford to wait for the complaints process to run its course.

XAVIER'S STORY

Xavier is an Aboriginal man in his late twenties who lives in regional Victoria. In 2019, Xavier purchased a used car from a dealer for close to \$14,000.

The dealer sold Xavier an extended warranty and assisted him to apply for a loan to finance the car and warranty. Xavier was not aware that the warranty had an additional cost. The total amount required to be paid under the loan was more than \$28,000.

At the time of purchase, the car's odometer read over 100,000km. Xavier was advised by the dealer that they would service the car before he collected it.

After around three months and approximately 11,500 km, Xavier noticed that the car was making a rattling noise and appeared to be losing power. Xavier arranged for the car to be inspected by his local authorised dealer as soon as possible. On the way, the car lost power completely, requiring him to physically push the car for the last 10 metres. Xavier was told the car required a complete engine replacement.

The maximum claim amount under the warranty would have been insufficient to cover the cost of a replacement engine.

CALC wrote to the car dealer and lender on behalf of Xavier, notifying them that Xavier was rejecting the car. The car dealer did not respond.

After CALC followed up with the car dealer multiple times, it eventually stated more than three months later, that Xavier was not entitled to reject the car. The dealership suggested no other remedy.

In mid-2020, CALC filed a complaint against the car dealer in VCAT. After lengthy delays, a compulsory conference was held in the second half of 2021; however, the matter was not resolved. Subsequently, it was listed for a hearing in early 2022, approximately 20 months since the matter was filed at VCAT.

CALC was able to arrange and pay for an independent mechanical expert evidence report through our disbursement fund, which cost close to \$2,000.

The hearing finally resulted in a settlement between Xavier and the dealer, whereby the car was repaired nearly two years after the complaint was filed, and Xavier received compensation.

Xavier had been unable to drive the car for well over two years. In that time, he continued to incur costs associated with the car, such as interest, fees and charges under the loan and registration. During this time, Xavier was having to rely on his sister and others for his transport needs in his regional town.

After settlement, CALC had this file costed. The total costs to the community legal centre of representing Xavier in relation to the lemon car itself totalled approximately \$33,000, including GST and the mechanical expert evidence report.

The used car market in Victoria

Key findings



Most people are buying used cars that are relatively expensive and new.



58% of people spent more than \$10,000 on a used car.



56% of used cars had 100,000kms or less on the odometer when they were purchased.



70% of people who purchased a car in the last five years purchased it outright, without a loan or finance.

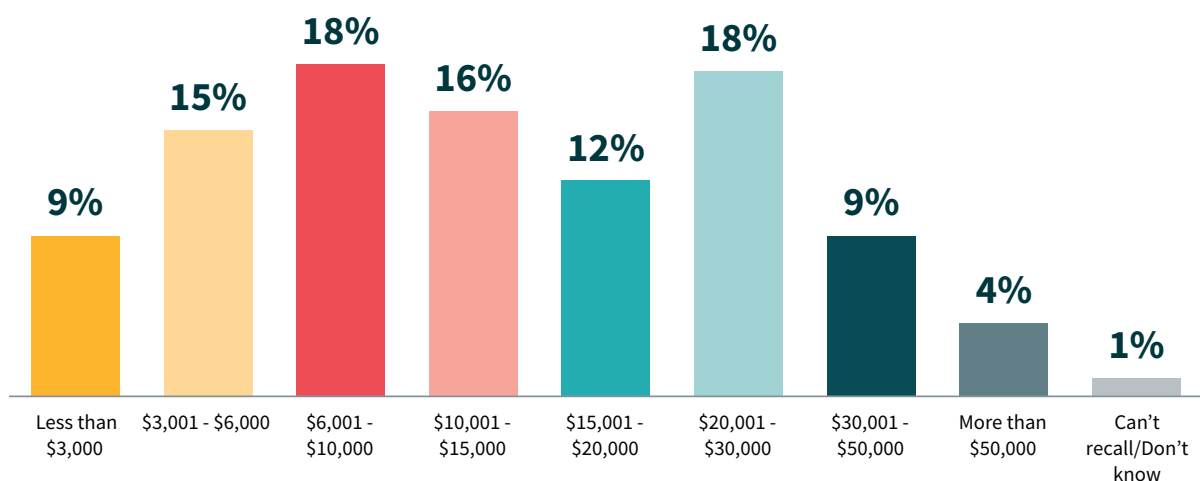
This figure may be high due to people accessing funds from superannuation during the pandemic.

For many Australians, cars are essential. On average, Australian households have 1.8 cars, and 91.3% of Australian households have at least one vehicle.⁴ More than half of all Australians use a car to get to work; for people living outside of capital cities, this increases to 62.9% who rely on a car to get to work.⁵

In Victoria, there is a large market for new and used cars. There were 2,199 dealers with a licence to sell cars in 2021-22; this includes dealers connected to a manufacturer, franchises and independent dealers.⁶ Consumers can also purchase cars direct from the manufacturer for some brands, or from a private seller, either finding a car online or in person.

In our survey, slightly more people purchased from a dealership than a private seller. We found that 49% of Victorians who purchased a used car in the last five years purchased through a dealer, 41% purchased through a private seller and 10% either purchased through an auction house or were gifted the vehicle by family or friends.

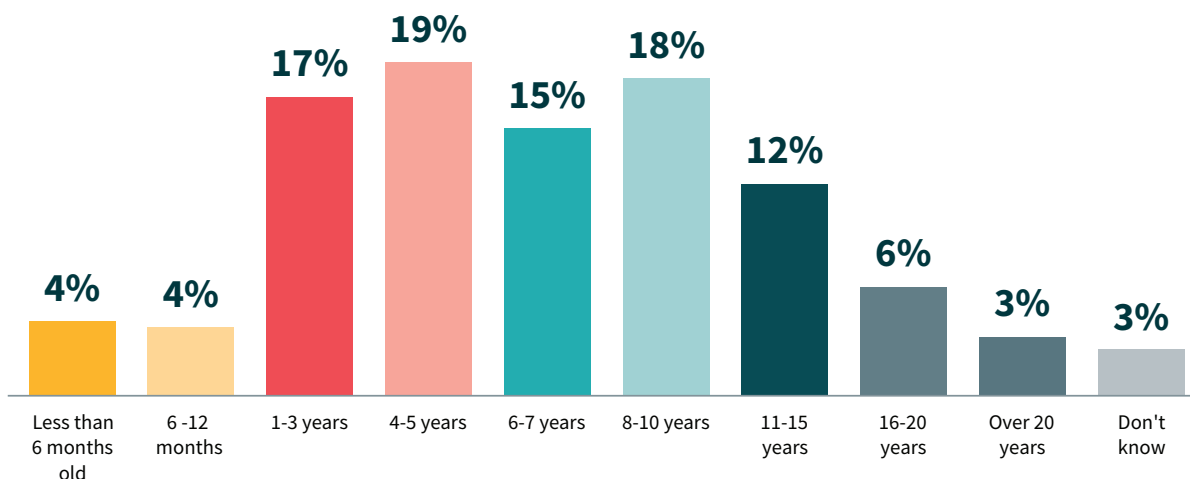
Graph 1: Reported amount spent on a used car⁷



Our survey found that more than half of Victorian used car purchasers are spending well over \$10,000 on a used car – 58% of used car purchasers spent more than \$10,000 on their car. As many spent between \$30,000 and \$50,000 on a used car as those who spent less than \$3,000 on a used car.

Just over half (56%) of all used cars purchased had less than 100,000 kilometres on the odometer at the time of purchase. Very few cars – (9%) – showed more than 200,000 kilometres on the odometer. Related to this, many used cars were relatively new at the time of purchase – 25% of used cars were three years old or less when purchased; 43% were five years old or less.

Graph 2: Age of used car at the time of purchase⁸



Most people paid outright for a car rather than arranging a loan or using other kinds of finance. A total of 70% of all car purchasers reported buying their car outright, without a debt or loan. People buying a used car were slightly more likely to buy outright (77%) than people buying a new car (64%).

The large number of people reporting that they purchased a car without a loan may be higher than normal due to some Australians having more disposable income during COVID lockdowns. In our survey and interviews, some people noted that they used money they accessed from their superannuation to fund their purchase.

“The way I paid for this car was through my superannuation from COVID. I dipped into my 20 grand to get the super to pay for the car, so it’s pretty frustrating.”
– Interview comment.

This finding, that people have been largely paying for cars outright, is reflected in our case study analysis. We saw that some First Nations people were sold very poor value, high-cost loans. In two cases there were specific notes of hardship due to loan costs, with people unable to afford essential items such as groceries due to the ongoing cost of a loan. However, more First Nations people in our case study group paid for a car outright compared to those who arranged a loan.

Some First Nations people are saving money for a new car over long periods or are able to get help from friends or arrange funds for a used car through government or social support services. In one case, a single parent who receives government payments saved \$9,000 over many years to pay for the car. This diligent saving would have involved personal sacrifices and extremely strict budgeting.

Perversely, people who purchased a car and didn’t get a loan may have fewer ways to seek financial assistance as they aren’t able to pursue a case to waive costs or seek a refund from the lender. When a car is sold with finance, it means that the financier may be a linked credit provider. These credit providers may also be liable under the ACL for loss or damage when a seller fails to meet the consumer guarantees. Remedies specific to the consumer and the lender may also apply under consumer credit law if a lack of responsible lending behind the loan can be demonstrated.

Discussions with consumer lawyers flagged that poor value loans can worsen the impacts of faulty cars, adding costs and financial pressure. In their experience, complaints about linked credit providers also take time and involve legal complexities. However, someone who pays for a faulty car outright has no other option to recoup money they’ve paid unless they are successful in negotiations with their dealer, or with a VCAT complaint about their car.



The impact of a faulty car

Key findings

Most people will have some kind of problem with their car. Three-quarters (75%) of people who purchased a used car through a dealer in the last five years had a problem, compared to 70% of people who purchased a new car. These problems ranged from small issues that can be self-repaired, like a flat tyre, to major issues resulting in an undriveable car.



75% of people who purchased a used car from a dealer had a problem with their car.

Many faults are serious enough that people should have rights to complain under the ACL.



17% of Victorian car owners experienced a major fault that affected their ability to drive their car.



28% experienced a minor fault and 16% experienced multiple minor faults.

When cars aren't fixed quickly, they cause major life impacts.



55% of people with a faulty car experienced a detrimental non-financial impact.



31% had their work impacted.



28% had their family impacted for example difficulty getting kids to school.



24% experienced personal impacts for example missing a medical appointment.

Consumer rights and cars

Rights under the national Australian Consumer Law

The ACL contains many guarantees that apply to new and used cars. Guarantees apply to the physical car (the goods) and the supply of the car (services, such as the actions of the dealer).⁹ There are some limits to the ACL. For example, some quality guarantees do not apply when a car is purchased privately or at auction.

Cars must be of acceptable quality.¹⁰ The test for whether a car is acceptable quality is assessed from the perspective of that of a “reasonable consumer” who is made fully aware of the car’s defects (if any) and considers factors including the price and age of the car. The question is whether the reasonable consumer would find the car:

- fit for the purposes commonly expected for cars and any purposes the consumer or supplier specify
- acceptable in appearance and finish
- free from defects (excluding those explicitly acknowledged prior to purchase)
- safe, and
- durable.

If a car is not of acceptable quality after purchase, the remedy available to a consumer under the Australian Consumer Law depends on the magnitude of failure: major or minor. For a major failure, the consumer can choose from the following:

- a refund
- an identical replacement (or one of similar value), or
- to keep the car but ask for compensation if there has been a drop in value caused by the problem.

If the failure is minor, it must be repaired, or the manufacturer or dealer can choose to provide a replacement or refund. When the minor failure is not fixed within a reasonable period of time or where there have been multiple, repeated minor failures, then the issue may be treated as a major failure which will mean the consumer has greater choice about the remedy.

Rights under Victorian law

The Motor Car Traders Act 1986 (Vic) also provides some consumer protections for people who purchase a car through a licensed motor car trader in Victoria (referred to in this report as a dealer or dealership).

The key consumer protections in this Act are that:

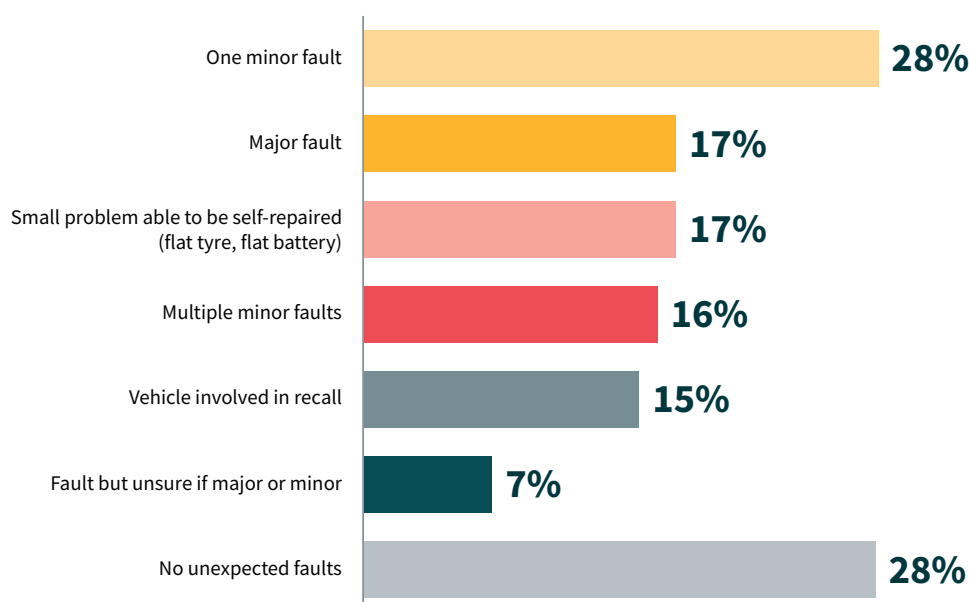
- Dealers provide consumers with a current roadworthy certificate when they sell a car.¹¹
- Dealers provide a statutory warranty for a used car if the car is less than 10 years old and has travelled less than 160,000 kilometres. The statutory warranty must last for three months or 5,000 kilometres after purchase, whichever occurs first. The dealership must repair or make good any faults covered during the warranty period in order to ensure that the car is in a reasonable condition for its age.¹²
- Dealers must list any faults that they believe to exist that are not covered by the statutory warranty on a defect notice. This must also include a reasonable estimate of how much it will cost the buyer to repair.
- Dealers cover any towing costs to the place of repair if the consumer cannot drive the car due to a warranty defect.
- A consumer is able to cancel a contract to purchase a car from a motor car trader within three clear days after signing the contract, unless the consumer has accepted delivery of the car.¹³

In our survey, we provided definitions to help people self-identify the type of fault they had with the car. We defined a “major fault” as a problem that either significantly affected someone’s ability to drive the vehicle or prevented use (e.g. the engine cut out unexpectedly or the transmission failed). We defined a “minor fault” as things not working or not up to standard, but not preventing use of the vehicle (e.g. air conditioning stopped working, fuel economy not as advertised or faulty Apple Play). We also asked people to identify if their car was part of a recall or had small issues that could be self-repaired (like a flat battery or a flat tyre) – these matters were not captured as major or minor faults.

Throughout this report, we’ve focused on the experience of people who had a major fault, a minor fault or multiple minor faults as these are the most likely to be owed some form of repair, refund or replacement under the ACL. We’ve referred to this category of cars as “faulty” throughout to indicate where someone should have received a remedy available under the ACL.

Overall, 17% of Victorians who had purchased a car in the last five years had a problem that they identified as a major fault.¹⁴

Graph 3: Problems experienced with cars¹⁵



“Frustration and anger. They’re the two main overriding emotions.”

– Interview comment.

People told us about significant impacts that a faulty car and a long complaints process had on their and their families’ lives. Overall, 55% of people with a faulty car experienced a non-financial detrimental impact, including difficulty getting children to school, missing medical appointments, and missing work.

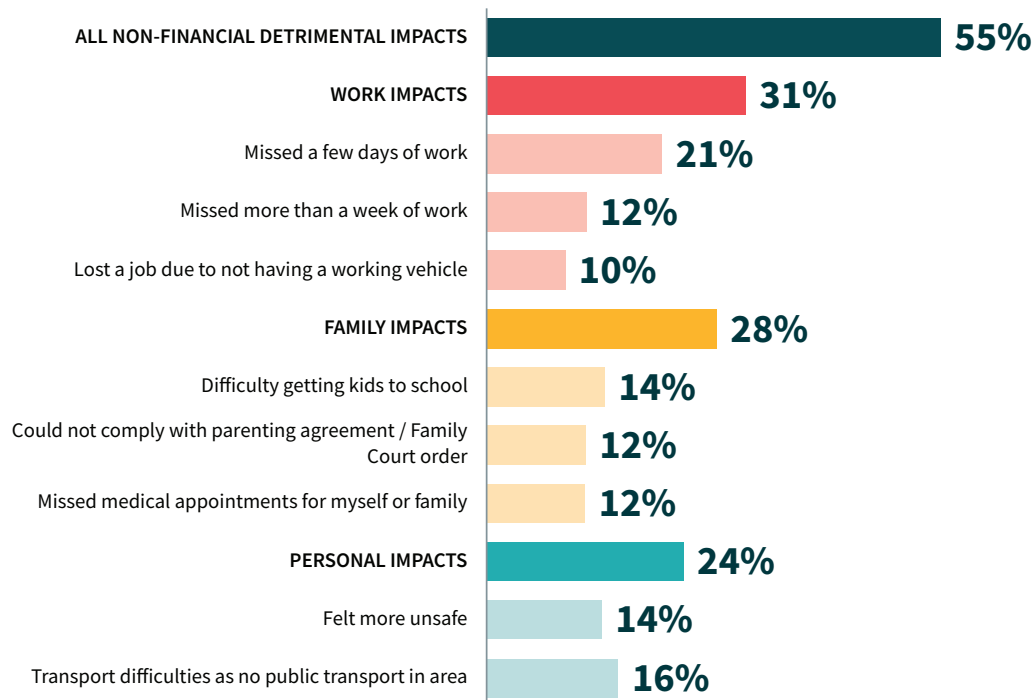
One in seven people, or 14%, told us that they felt more unsafe as a result of their car not working. This included feelings that the car was unsafe to drive as well as challenges in relation to personal safety if someone wasn’t safe in the home environment and had reduced access to a car.

“I would sometimes risk driving the [faulty] car for small trips, but it’s dangerous since the car could potentially catch on fire, and I have young kids.”

– Interview comment.

We noted relatively high numbers of people who said they lost a job due to not having a working vehicle. One in ten people with a faulty car said they lost a job due to major or minor problems with their car. Upon further analysis specific to this group, we found that people who said they lost a job due to not having a working vehicle were significantly more likely to be young and more likely to be women. It is possible that this group is in more precarious employment – in casual work or undertaking work that involves individual jobs like cleaning or care roles that involves travel to clients’ homes.

Graph 4: Non-financial detrimental impacts of a faulty car¹⁶



In comments, people told us about the personal costs of their faulty car, which ranged from missing out on joyful events, to impacts on employment, to severe impacts on mental health.

“I had to not be at work. I had to take two days off work as well. Over the phone it’s not possible – face-to-face, they [the dealership] take you more seriously. I couldn’t meet deadlines at work.”

– Interview comment.

“We can’t rely on one car because we’ve both got medical issues that we’re dealing with, so we’ve got doctor appointments. My partner’s a carer for her mother, she’s 96 – she’s got to take her to medical appointments and things like that...It’s just totally inconvenient and frustrating.”

– Response from survey of Victorian car purchasers.

“This caused me depression, it was a lot of money to me. I got on antidepressants. I got really bad, really down.”

– Response from survey of Victorian car purchasers.

The cases provided by community legal centres involved First Nations people in tough situations, often dealing with intersecting challenges in their lives. These cases show that faulty cars and high costs exacerbate hardships, for example, making a family violence situation more difficult or removing transport options for someone with disability. Of the nine cases we reviewed, eight were about First Nations people living in regional areas. There were six single parents in the sample and three people experiencing family violence. Four people had disability.

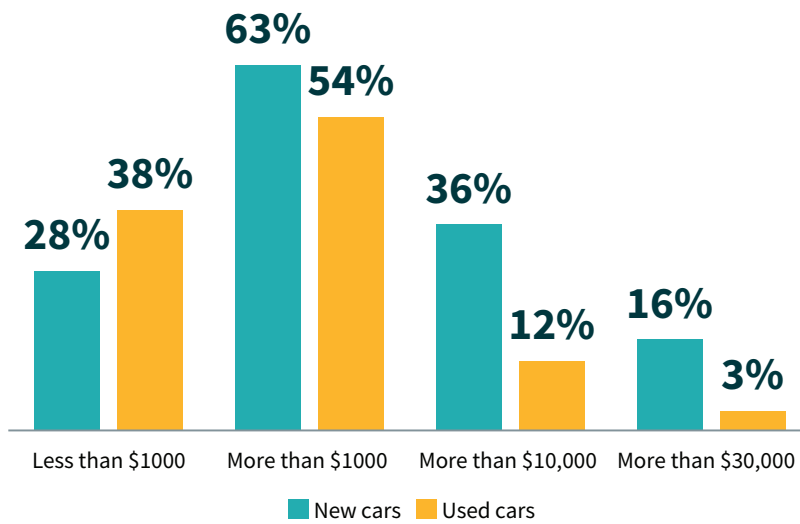
The cases show that faulty used cars can affect whole communities. In one of the cases we reviewed, someone lost their job because they no longer had access to a working car. In two cases, there were specific notes about the impact a faulty car had on family members, including children.

Financial costs of a faulty car

We asked people for estimates of how much they directly and indirectly spent trying to resolve their issue with their car. Overall, 59% of people estimate they spent more than \$1,000 and a quarter of people (24%) spent more than \$10,000 to resolve the problem. Note this is a recollection of costs an individual faced over the whole process of trying to resolve a complaint.

Generally, people stated that they spent less in the process of getting a remedy for a used car than a new car. However, more than half of all people with a faulty used car estimated that they spent more than \$1,000 and one in ten spent more than \$10,000.

Graph 5: Financial costs in seeking a remedy¹⁷



In our interviews, people noted that they experienced many indirect costs from a faulty car, for example, additional costs associated with alternative transport or arranging deliveries while their car was in for repair or not working.

People also experienced significant time costs when they were without access to their car. In our interviews, one person talked about the challenges they faced from living in an area with limited public transport options.

“You’ve got no car – even going to the grocery store... I had to get to the doctors in cabs. The taxis I had to get... even takeout, because like ‘I don’t want to cook dinner tonight, my head’s stuffed’. Dad needed medication – having to get that delivered... just the little bits.”

– Interview comment.

“It’s very important [for me to have a car]. For work, uni, and everything, basically. I live in Eltham – I can get the train, but I go to Monash, so I need to drive, otherwise it’s two hours on the bus.”

– Interview comment.

Finance and warranty loopholes make seeking a remedy harder

Case reported June 2023

June is an Aboriginal woman in her early 30s with cerebral palsy and an intellectual disability, who relies on the disability support pension as her sole source of income. June has been homeless for more than six months, but historically has lived in regional Victoria.

June purchased a 2013 Holden Captiva from a regional city dealership in May 2022 for \$13,000 which was paid for via a \$1,000 deposit, trade-ins of two vehicles (\$1,000 value each), and \$10,000 paid from a loan from a third-party financier, which was facilitated by the dealer. The vehicle had done 170,274 km at the time of purchase.

The total loan amount June signed up for was in fact \$13,475. However, only \$10,000 of this loan was paid towards the purchase of the car. The remaining amounts were paid to the loan provider, a warranty provider and a separate finance broker. At the annual percentage rate of 24.95%, over the 3 year term of the agreement, the total amount payable by June will have been \$20,208.30.

Even though June's loan application states her income at the time as \$500 per week from Centrelink, the fortnightly minimum loan repayments are \$258.83, which is more than 25% of June's fortnightly income.

At the time of purchase, the dealer also signed June up to an extended warranty and \$995 of June's loan funds were paid to the warranty provider. June states that she did not know she had purchased the warranty. June tells us that the terms of this warranty state that the vehicle is to be serviced at one of their mechanics.

June wasn't aware of this term and she was unaware that she had purchased the warranty.

June used NDIS funding to modify the vehicle to suit her needs; this included approximately \$1,500 to move the accelerator to the left side.

After purchasing the vehicle, June states she had it regularly serviced by her usual mechanic. However, after approximately six months June noticed a rattling noise coming from the engine and her mechanic advised there was a loose bolt which was causing the timing to change. June says that although the mechanic fixed the issue, it occurred again shortly after.

Although June attempted to have the car fixed under her extended warranty, she was told this was not possible as she has not had the vehicle serviced in line with the terms of the warranty. June has obtained a quote for \$9,500 to replace the engine.

CALC is providing casework assistance to June.

The process of complaining about a used car

To understand the consumer experience of making a complaint about a faulty car, we worked with experts to map the stages and steps involved in making a complaint. We have combined the process map with findings from our survey, interviews and case study analysis to give a deeper sense of the consumer experience of the complaints process.

Each complaint is unique and will involve variations on the map presented in this report. For example, someone may face multiple towing cost expenses, while someone else may be able to safely drive the faulty car to a dealer. The process map shows the steps involved in a standard complaint about a faulty used car but is also applicable to many complaints about new cars, especially those where someone purchased the car through a dealership.

Assuming a used car complaint is lodged with VCAT and that it is a simple process requiring no re-hearings or re-submissions of evidence, and that a dealership resolves the issue when receiving the orders, **there can be more than 60 steps involved for a consumer.**

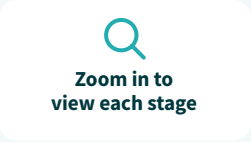
The following sections of this report look closely at the stages involved in the overall complaints process. They show that making a complaint about a faulty car involves incredible persistence. People rightly choose not to progress complaints at multiple points due to costs, a lack of information about the process or their rights and the time required.

The process of complaining about a used car (see overleaf)

1. Discovering a fault
2. Seeking advice
3. Complaining to a dealer
4. Gathering evidence
5. Applying to VCAT
6. VCAT alternative dispute resolution and hearing
7. Obtaining VCAT order
8. Optional: Making a claim on the Motor Car Traders Guarantee Fund



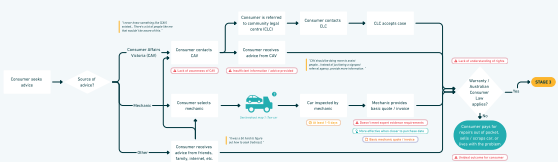
Lemon car complaints and redress: Current state process map



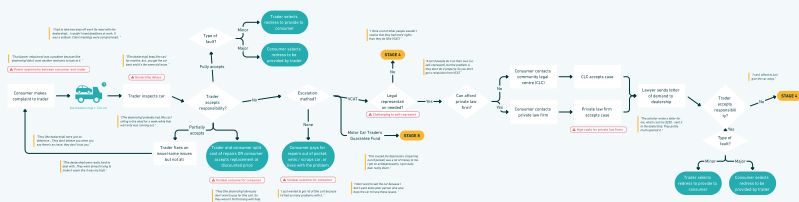
STAGE 1 Discovering a fault



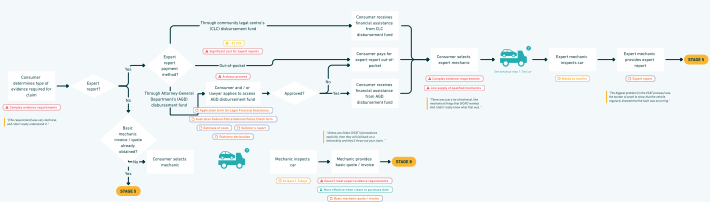
STAGE 2 Seeking advice



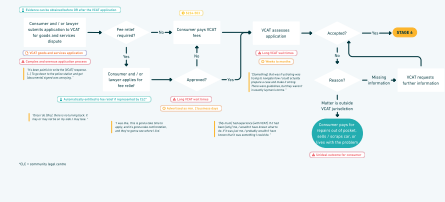
STAGE 3 Complaining to a dealer



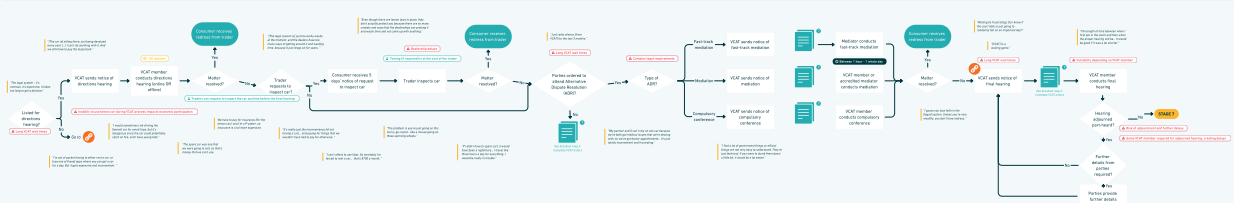
STAGE 4 Gathering evidence



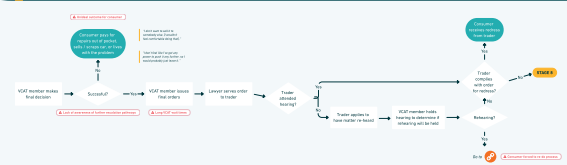
STAGE 5 Applying to VCAT



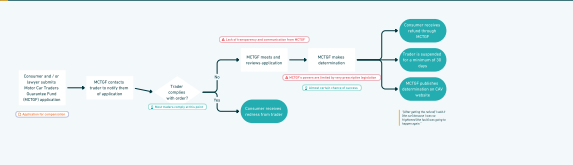
STAGE 6 VCAT alternative dispute resolution and hearing



STAGE 7 Obtaining VCAT order



STAGE 8 Making a claim on the Motor Car Traders Guarantee Fund



Challenges that prevented people from raising or progressing with a complaint

If someone raises a formal complaint, they typically need to keep the faulty car as evidence. Practically, this means people are required to keep a faulty car that they may not be able to drive for the entire time it takes to make a complaint. Current VCAT wait times can be in excess of two years from fault discovery to resolution.

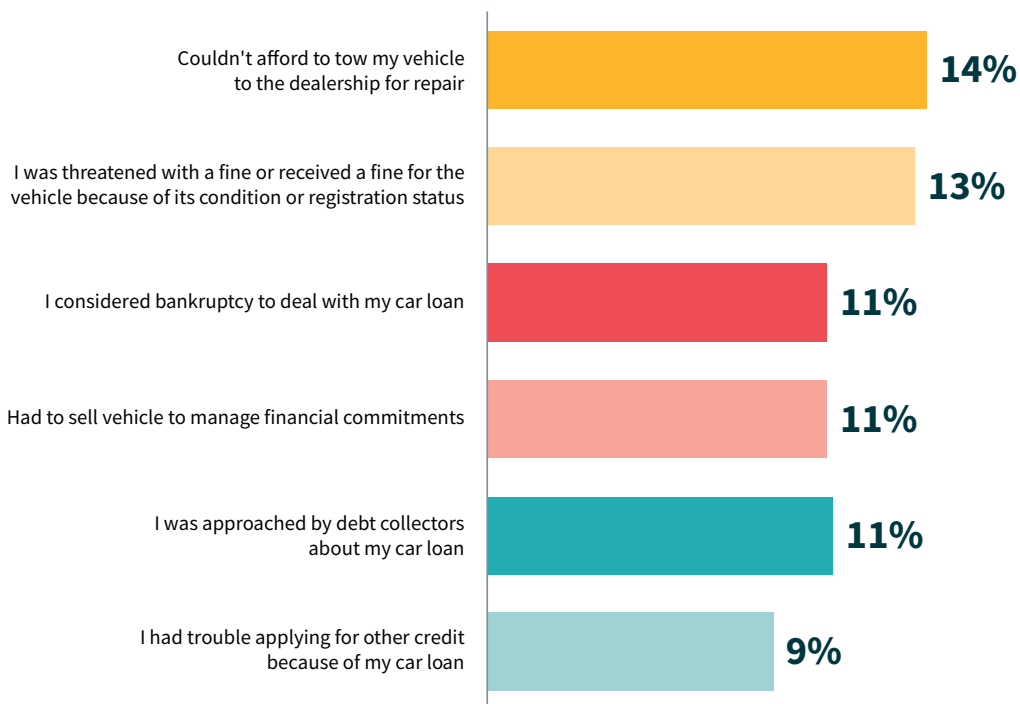
During this time, people typically need to continue paying down any existing loan for the car, potentially paying registration fees, and arranging a safe space to store the car. They may be unable to sell their car to fund the costs of purchasing a new, functional car. This requirement can cause significant stress and hardship for people.

“The fact that it’s sitting there, just being devalued every year. It’s just sitting and I can’t do anything with it. And we still have to pay the lease back and we’re not going to use our car.”

– Interview comment.

When we asked people about any challenges they faced that prevented them making a complaint, 11% of people with faulty cars told us that they had to sell their vehicle to manage financial commitments. This means that more than 1 in 10 people with a major or minor fault were unable to even make a complaint about their car because they were no longer in possession of it.

Graph 6: Challenges that prevented people raising a complaint and getting a remedy¹⁸



People also reported threats or receipt of a fine in relation to the condition of their car or registration status. This ranged from a fine for a fault observed while driving (e.g. broken lights) to a significant fine for abandoning an undriveable car when unable to afford towing. Among owners of faulty new or used cars purchased from a dealership, more than a quarter (26%) could not afford towing costs to get a repair.¹⁹

STAGE 1

Discovering a fault

Key findings



Cars regularly develop faults soon after purchase.



36% of major or minor faults were discovered within the first three months.



59% of major or minor faults were discovered within the first year of ownership.



The high cost of towing adds costs at multiple stages of a complaint.

The first step in making a complaint about a car is the owner discovering that there's a fault.

Our data is extremely clear: most faults occur soon after purchase. We asked people to tell us about the worst fault they faced with a car they purchased in the last five years. Of these, 36% experienced this fault in the first three months of ownership, and 59% experienced it within the first year. There weren't major differences between people who purchased a new or a used car. Note, these results only reflect the experience of people in our survey who experienced what they identified as a major, minor or multiple minor faults – it excludes people who only had small self-repair issues, were captured in recalls or had no issues. This means the sample is most likely to be people who, at minimum, should be considered for some form of repair help from their dealer.

STAGE 1

Discover fault

Consumer discovers fault



See breakout map 1: Tow car

STAGE 2

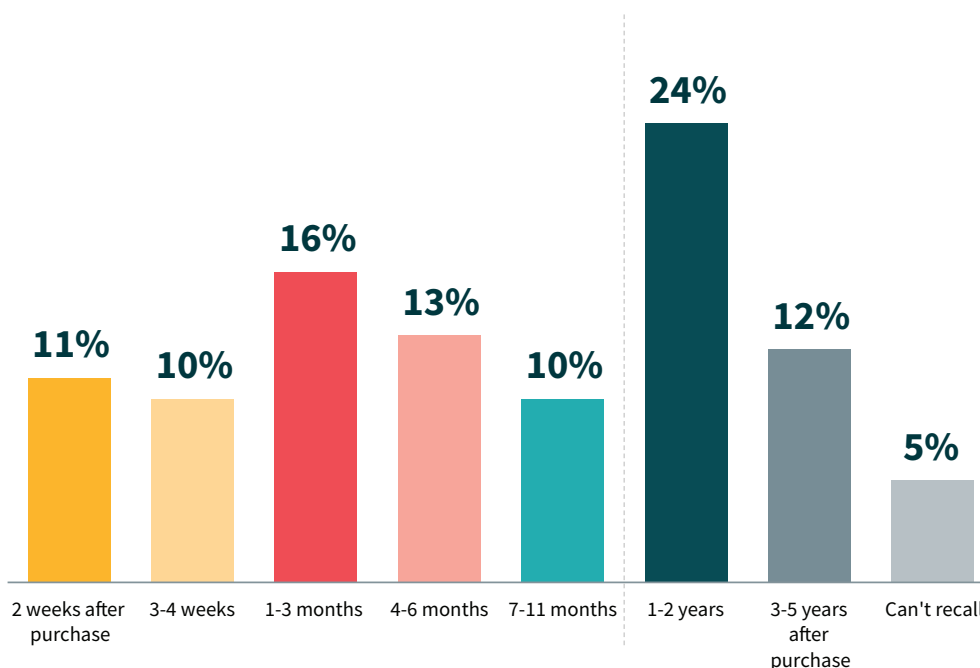
⚠ Risk of traffic accidents

"You can't sell a dodgy car like that. Someone knew it was dodgy. That's why it was sold."



Zoom in to view

Graph 7: Fault discovery²⁰



In some cases, people were confused about the nature of the problem: 16% of people agreed that they didn't understand what was wrong or how bad the fault was.

Early experience with faults was also reflected in our case study analysis. Of the nine cases we examined about First Nations people's experiences, the car in seven of those cases had a major fault within the first three months of ownership. In the two other cases, the problem occurred at six months and another at one year – still relatively short periods of time. In many of the cases, the issue presented within the first few weeks of ownership. In one case, the issue arose the day after purchase.

Dealers should have known about the faults with these cars before sale or they had not completed adequate checks before the car was sold.

Either way, the dealers appear to be failing to meet their basic obligations to sell cars that work. Based on the case studies, it seems very likely that some dealers are knowingly selling faulty cars.

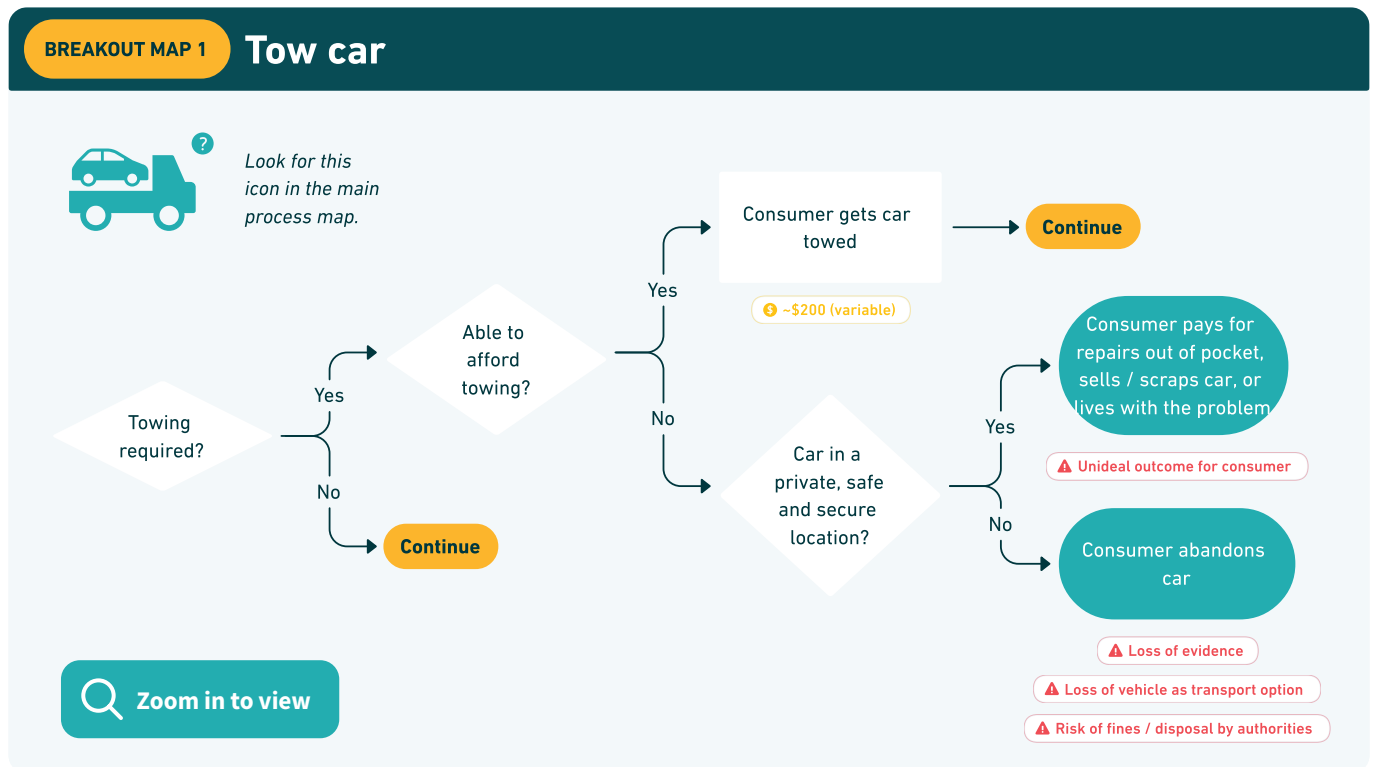
"I was driving down the freeway, and the car went to 40 [km/h]."

– Interview comment.

The faults described in detail to us in interviews and in the case studies of First Nations people's experiences were extremely serious. In five of the nine case studies, the fault was with the engine. Many of these were significant and required a full engine replacement. In each of these cases the car ended up being non-functional – it couldn't be driven once the fault was identified.

In December 2021, Christie purchased a second-hand car from a car dealership for over \$10,000, funded by a family violence support service. In less than a month the car began having issues, and in January 2022, the car broke down on the freeway and had to be towed.

– Case study provided by a community legal centre.



When a fault is serious and a car can't be driven, a consumer typically needs to arrange towing. This can happen at the beginning of a complaint or at multiple points throughout. We've identified this in our process map with a towing icon. Each time someone needs to tow a car they face costs. Costs vary significantly based on where someone is in relation to where they need to get their car.

As shown above, the costs of towing can prevent someone getting a fair fix for their car; 14% of people told us that they couldn't afford to tow their vehicle in order to progress a repair. In discussions with community lawyers, we heard that towing could cost a few hundred dollars to more than one thousand dollars. High costs were most common in regional areas, presenting a significant barrier to people in regional areas when making a formal complaint and getting a fair resolution.

Issue presented a few days after purchase. The car was shaking, making loud noises, oil leaks and other minor issues. Told cost to repair will be \$2,000. Client had already spent \$400 on towing and some repair costs.

– Case study provided by a community legal centre

STAGE 2

Seeking advice

Key findings

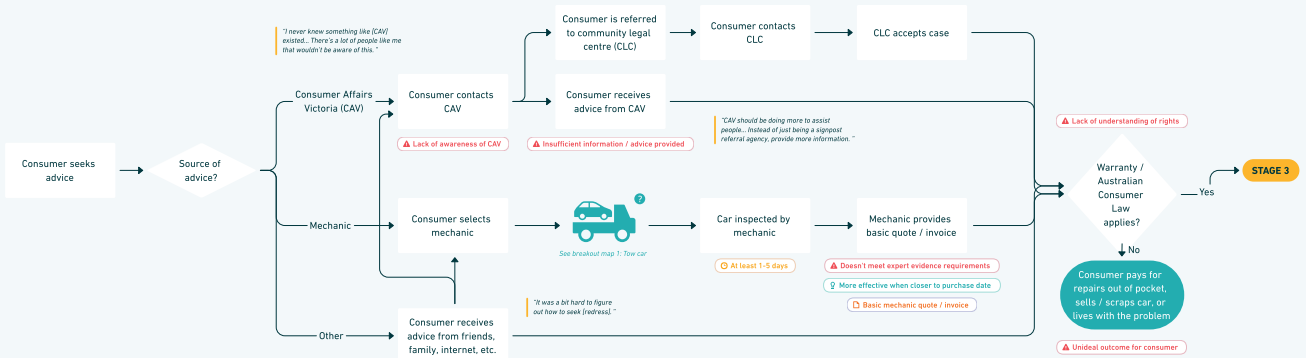


Independent mechanics can play a critical role in helping people understand their rights.



59% of people with a faulty used car paid out-of-pocket for a repair with an independent mechanic compared to 21% of people with a faulty new car.

STAGE 2 Seek advice



Zoom in to view

The process of seeking advice about a faulty car can happen early or at multiple points during a complaint. For the purpose of our process map, we've looked at the steps someone could typically take before progressing to a complaint with a dealer. The sources of assistance at this stage include friends or family, an independent mechanic or CAV, who then may refer some people on to community legal centres. People may use none, some or all of these sources to help them to understand their rights and how to take a complaint further.

There are a group of people who get stuck at the first hurdle and are unsure where to go for help – 14% of people said they were confused about where to go to get help and 14% also said they were frustrated by the lack of help and lack of clarity about where to get their car repaired.

Seeking help from Consumer Affairs Victoria

"I never knew something like that [CAV] existed – something that is helpful and useful. Moving forward, I would be more confident knowing that something like CAV exists."

– Interview comment.

Of the people who had a major or minor fault with their car, 23% said they contacted CAV while trying to resolve their problem. Most people rated their contact with CAV as fairly helpful (32%) or very helpful (31%), while 24% found the contact unhelpful.

Four of six people we interviewed had contacted CAV or used CAV resources during their complaint journey. The feedback about CAV's services was broadly positive – people appreciated the assistance and information.

"[CAV] was a good starting point because they provided me with some information. They can't provide legal advice, but they can steer me in a direction. And the direction they steered me into was the right one."

– Interview comment.

Some interviewees did say that they needed more help than CAV could provide given the complex nature of the problem they were dealing with. Interviewees suggested that CAV do more to help people navigate known issues with some car models and provide more tools to deal with dealers that delay or fail to help.

"I think CAV could have done more to be aware of the actual make and model issues given that it was in the news."

– Interview comment.

"CAV should be doing more to assist people like myself going through this process. Instead of just being a signpost referral agency, provide more information. Resources could be timeframes for resolution, tips to handle slow responses, templates and guidelines around the expected timeline and process, similar to how tenant / landlord issues are approached. [I would also be interested in having] somewhere to share your story."

– Interview comment.

We asked people who didn't contact CAV about why they didn't get help from this source. Largely, the answer was about awareness:

- 24% of people didn't know that they could go to CAV about their problem.
- 14% said they weren't aware of CAV at all.
- 21% said they didn't think contacting CAV would make a difference.
- 19% didn't think it was worth their time.

Independent mechanics

“The mechanic picked me up and helped me deal with these jokers [the dealership].”

– **Interview comment.**

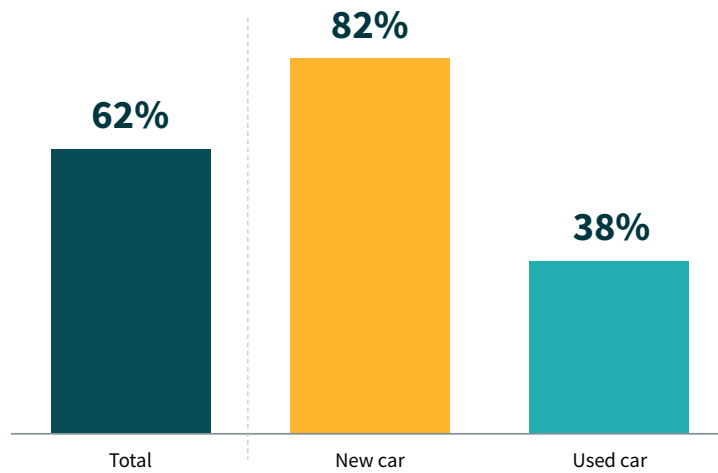
“A friend who has a mechanics shop checked it out [and] told me the thing that the caryard is responsible for and what I was responsible for. I went from there.”

– **Response from survey of Victorian car purchasers.**

Independent mechanics (i.e. those who aren’t associated with a dealership), can play a critical role in helping people understand both the problem with their car and their right to get a fix from the manufacturer or dealer. Comments from our interviews showed that people felt they could trust independent mechanics, and used them to negotiate with dealers.

Of the people in our survey who had a major or minor problem with a car, 58% of them contacted an independent mechanic as part of the complaint process. Many of this group said that the mechanic helped them identify if the fault could be covered by the dealer or under a warranty. This was much more likely to happen when the problem was with a new car than a used car.

Graph 8: Mechanics helping people identify warranty issues²¹



People with a used car were also much more likely to pay an independent mechanic out of pocket for a repair – 59% of people with a faulty used car paid for a repair with an independent mechanic, compared to 21% of people with a faulty new car.²²

STAGE 3

Complaining to a dealer

Key findings



46% of people who did get a repair, replacement or refund from a manufacturer or dealer had difficulty getting this result.



28% of people who got a remedy through a dealer were asked to sign an agreement that they wouldn't seek third-party repairs in future.



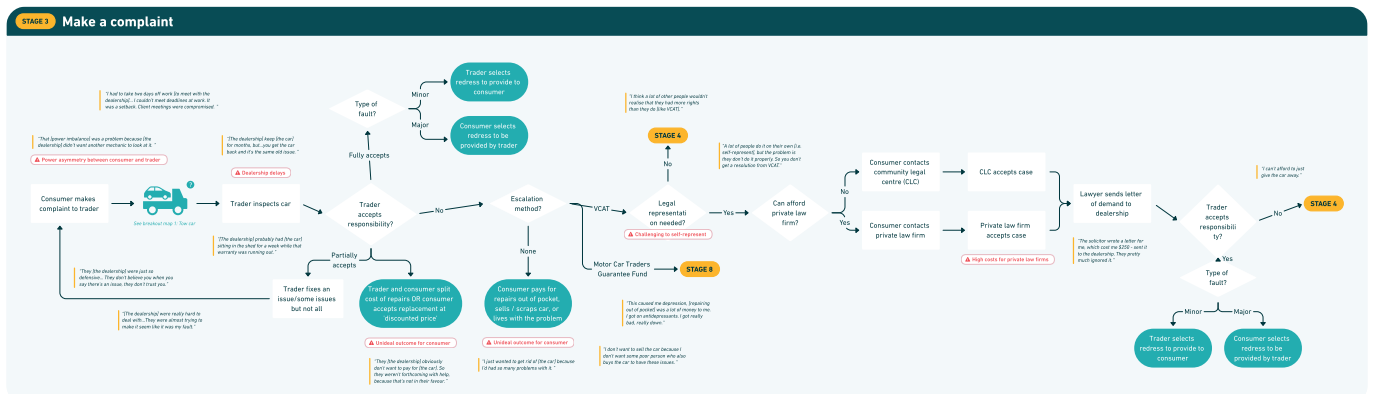
61% of people who could have raised an issue with their dealership did not, as they feared the process would be too hard or were uncertain about their entitlement under warranty.



32% were asked by the dealership to sign a non-disclosure agreement.



26% of people who had the dealer fix their car had the same problem recur.



Zoom in to view



“They [the dealership] were almost trying to make it seem like it was my fault.”

– Response from survey of Victorian car purchasers.

“They [the dealership] are just so defensive...initially they don’t believe you when you say there’s an issue, they don’t trust you. And until they can prove the problem consistently happens, they won’t believe you.”

– Interview comment.

The process to raise an issue with a dealer has the potential to be straightforward, if the dealer accepts responsibility for faults covered by warranties or the ACL.

Most people told us they struggled to get a solution with their dealership or manufacturer. Of the people in our survey who had major or minor faults with a car, 48% of them received some form of repair, replacement or refund from a manufacturer or a dealer. Nearly half said they had some or a lot of difficulty getting this result.

This suggests that many people either give up at this stage or need to take additional steps, escalating their complaint and potentially getting help from a private law firm or community legal centre. At all points in this stage, the affected consumer faces costs, either directly if they get the help from a private law firm, or indirectly as they don’t have access to their faulty car.

Many people in interviews told us that they felt a lack of respect and care from dealers.

“[I was treated] like an idiot. I felt like an idiot.”

– Interview comment.

“They [the dealership] said, ‘a woman shouldn’t drive a manual!’”

– Interview comment.

Our interviewees told us that they felt that dealers were deliberately delaying a fix and making the process more difficult, in some cases to avoid responsibilities under warranties.

This was also reflected in the cases affecting First Nations people from community legal centres. In three cases, community legal workers noted that dealers were difficult to negotiate with, either failing to present reasonable alternatives for the consumer or negotiating in a way that resulted in the person accepting a poor outcome. In two of the nine case studies, the person chose to settle with the dealer with a poor outcome because they couldn’t wait to resolve the issue.

Dealership repaired some issues but refused to repair all – remaining cost \$2,000. Client couldn’t afford to wait for matter to go to hearing.

– Notes from a community legal centre worker.

In our survey, of people who did eventually get a repair, refund or replacement from a dealer:



32% said the dealership was reluctant to acknowledge the fault but eventually did so.



21% said the dealership took a long time to identify the fault.



16% said the dealership was aggressive in responding to their complaint or request for repair.²³

“They [the dealership] obviously don’t want to pay for it [the car]. So they weren’t forthcoming with help, because that’s not in their favour. Lots of emailing with no responses, calling with no responses, they didn’t even want to look at the car without payment. It’s like, why don’t [you] just look at it? And then once they had looked at it, they were not really wanting to tell us what was wrong with it.”

– Interview comment.

Overall, there was a feeling that dealers knew how the complaints system worked and could use their knowledge to their advantage. Some people were frustrated that they were told they couldn’t get help from a mechanic of their choosing as this would void their warranty or disadvantage their complaint.

“That [power imbalance] was a problem because they [the dealership] didn’t want another mechanic to look at it. If another mechanic fixed it, then if we went to VCAT, they weren’t going to pay for it because somebody else had already done it. So we had no other option than to send it there, and they have the power because we can’t do it with anyone else.”

– Interview comment.

Our survey indicated that some dealers ask people to sign away some of their rights in order to access a repair. A third (32%) of people who did get a remedy from their dealer said they had to sign an NDA that prevented them from disclosing the details about the refund or replacement they were offered.²⁴ Further, 28% of people were asked to sign an agreement by their dealer to state they won’t seek third-party repairs in the future.²⁵

Note, that in 2021, the Australian Parliament passed laws requiring that independent mechanics be given the information they need to make repairs to a car, with the aim of strengthening repair rights.²⁶ We are unable to distinguish which behaviour reported in our survey occurred before 1 July 2022, when the laws took effect, and which occurred afterwards. There may still be behaviour from dealers and manufacturers that is limiting or discouraging consumer use of independent mechanics, to the detriment of both consumers and small businesses.



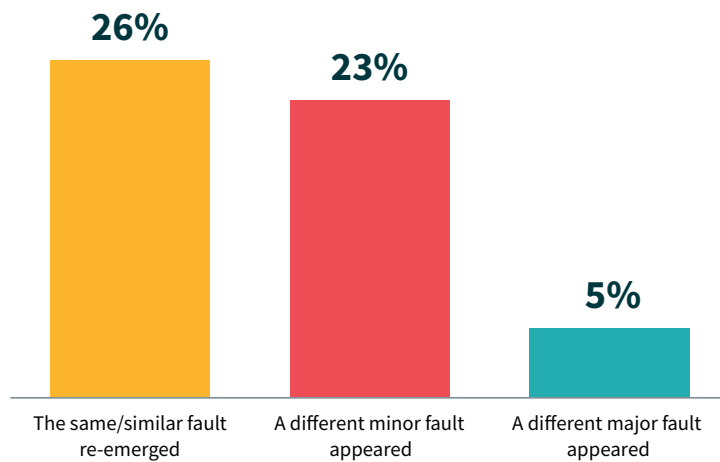


Repairs that don't work

Many people told us that even when a dealer agreed to repair their car, the fix didn't last. After getting an initial fix from a dealer, 46% of people had no further issues. More than a quarter of people experienced new issues (28%) after an initial fix from a dealer, and for 26% of people the same problem kept occurring.

Positively, 59% of people were provided with an itemised receipt with a good level of detail when repairs were carried out. However, 26% of people told us that the dealer only provided a verbal explanation of the issue and repair. This lack of written detail can make it hard for someone to progress a complaint later, or even understand what else can be done.

Graph 9: What happened after a dealer first repaired your car?²⁷



Our interviewees reported going through a cycle where they had to keep taking their car in for repair for the same problem, despite promises each time that the issue was addressed.

“They take the car back, they do the same thing, they give it back, the fault happens again. It’s just that they believe they fix the problem, but it never gets fixed.”

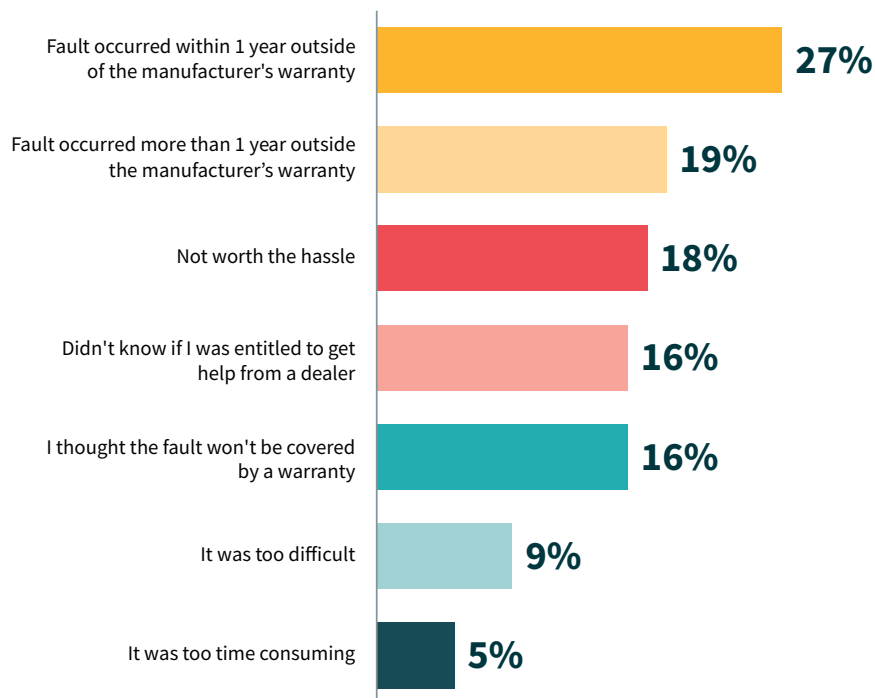
– Interview comment.

Who doesn't raise a complaint?

A substantial proportion of people who purchased their faulty car from a dealership – 61% – who experienced a major or minor failure and did not get a repair did not raise the problem with their dealer. Instead, they sought help elsewhere, paid for the repairs out-of-pocket, or weren't able to fix the issue.²⁸

We asked this group why they didn't seek any remedy from their dealer. A lot of people felt it would have been a hassle, time consuming or difficult. One worrying finding was that 18% of people didn't request a remedy from their dealer because the fault occurred outside of the manufacturer's warranty, but within one year after the warranty expired. The ACL rights exist outside of and often much longer than a manufacturer's warranty – this group of people very likely had a right to get a repair, replacement or refund but weren't aware of this.

Graph 10: Why didn't people seek a remedy from a dealership?²⁹



STAGE 4

Gathering evidence

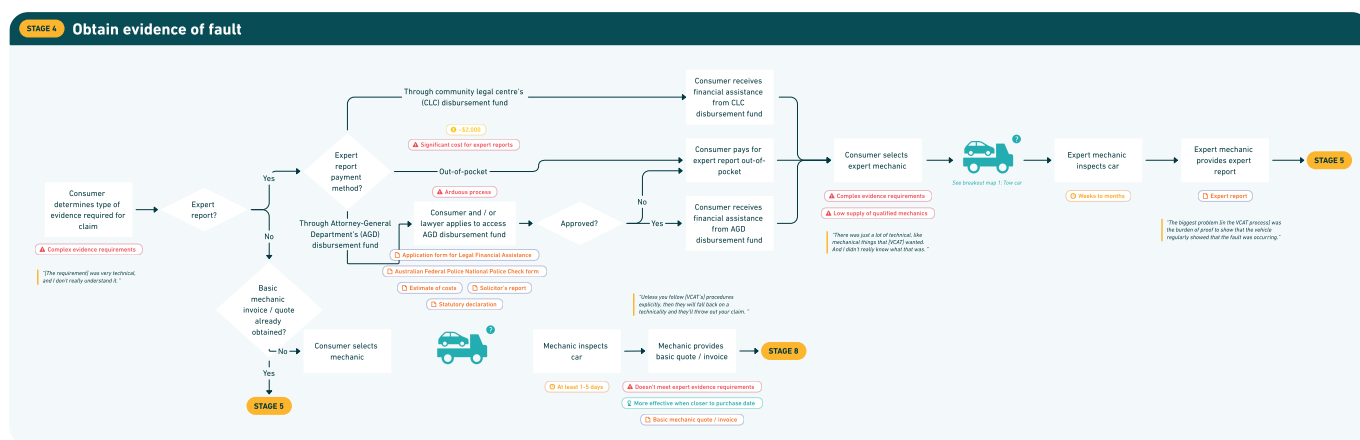
Key findings



93% of people who arranged an expert report said they encountered issues. Most people experienced issues with cost, availability of experts or lack of access to the car which may have been sold or repossessed.



35% of people who arranged an expert report struggled with the costs of towing the car to the expert.

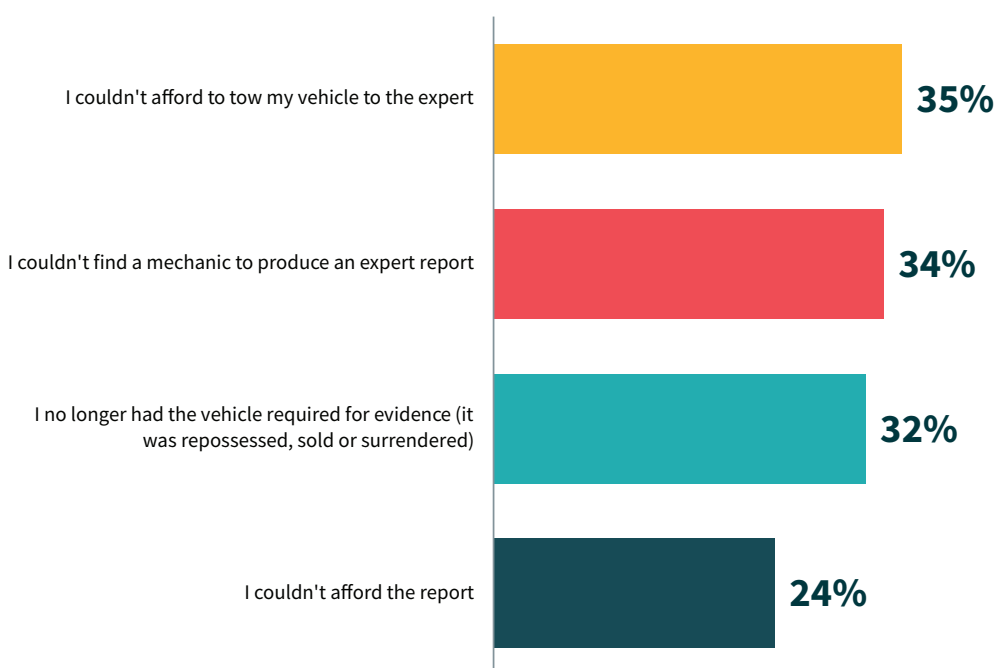


Zoom in to view

If a dealer does not accept responsibility for a faulty car, the next option available to someone is to escalate a complaint with a tribunal or court. To prepare for this, complainants are required to gather evidence. Depending on the person's knowledge about the process of making a complaint or the help they receive, they could gather evidence before approaching VCAT or while the complaint is underway.

Of the people who raised an issue with VCAT in our survey, 94% of them obtained an expert report from an independent mechanic to support their case.³⁰ Nearly everyone who arranged an expert report – 93% – faced issues. People faced challenges with the cost of towing, the cost of the report, finding an expert that could help them, and accessing the car when they may have sold it for financial reasons.

Graph 11: Difficulties arranging an expert report ³¹



Complex evidence requirements

“There was just a lot of technical, like mechanical things that they wanted. And I didn't really know what that was.”

– Interview comment.

VCAT requires that expert reports are prepared according to the VCAT Practice Note PNVCAT2.³² This outlines the specific elements a report must include and the format a signed declaration must be. Experts are also generally expected to attend a hearing to explain key elements of the report.³³

While in theory the Tribunal can appoint an expert to complete a report for a case and have the costs split between consumer and dealer, in practice, consumers are largely expected to arrange and pay for their own expert reports.

As part of building our process map, lawyers at community legal service providers told us about the difficulty they frequently experienced arranging expert reports. Very few mechanics are able to assist, and, in some cases, community legal centres may only have access to one or two mechanics who can help on their particular case.

Lawyers told us that it can be particularly difficult to find mechanics able to write an expert report outside of Melbourne, and that many experts seemed to specialise in high end cars or specific brands. Consumer lawyers told us that expert evidence they seek can cost anywhere from \$800 up to \$8,000. Recently, CALC has received quotes between \$2,500-\$3,000 for expert inspections and the expert report; costs in addition to towing costs required to move cars from regional areas to the location of the expert.

High costs of evidence stop some people making a complaint

Comments from our interviews and in the open text of surveys identified the cost of expert reports as a major pain point when making a complaint. In one of our case studies from a First Nations person, the community legal case worker noted that the cost and logistics of an expert report prevented them from taking the complaint further.

"[Paying for the expert report] was another expense. The mechanic spent about 3-4 hours on the vehicle. It's about \$150/hour."

– Interview comment.

Wasn't able to obtain an expert report due to remote location and the cost of the report. Didn't have a car in the meantime.

– First Nations case study provided by a community legal centre.

For people who are being assisted by a community legal centre, there may be an option to get support from the Attorney-General's Department to cover some of the costs for an expert report.³⁴ However, this adds significant additional time to the process. Community lawyers identified a range of challenges that people can face with this process, including the following:

- A person must be represented by a community legal centre in the first instance in order to be able to apply for these costs, so are wholly dependent on first finding a centre with the capacity and specialisation to represent them.
- A significant amount of personal and financial information must be provided on application to the Department to establish that a person is in sufficient hardship to receive help with expert report costs, notwithstanding that they are being assisted by a community legal centre which will have already made that assessment.
- Since 2018, applicants have been required to supply police checks and may have their application for aid declined if they have a criminal record. This is intrusive, and places people from overcriminalised communities at further disadvantage.
- Application response timelines can frequently take several weeks or months.
- The maximum allowable grant for an expert report is \$2,500 including GST. Many reports are likely to cost more than that, particularly if long towing distances, court appearances, or other complexities arise.



STAGE 5

Applying to VCAT

Key findings



23% of people who had major or minor faults with their car took the matter to the VCAT.

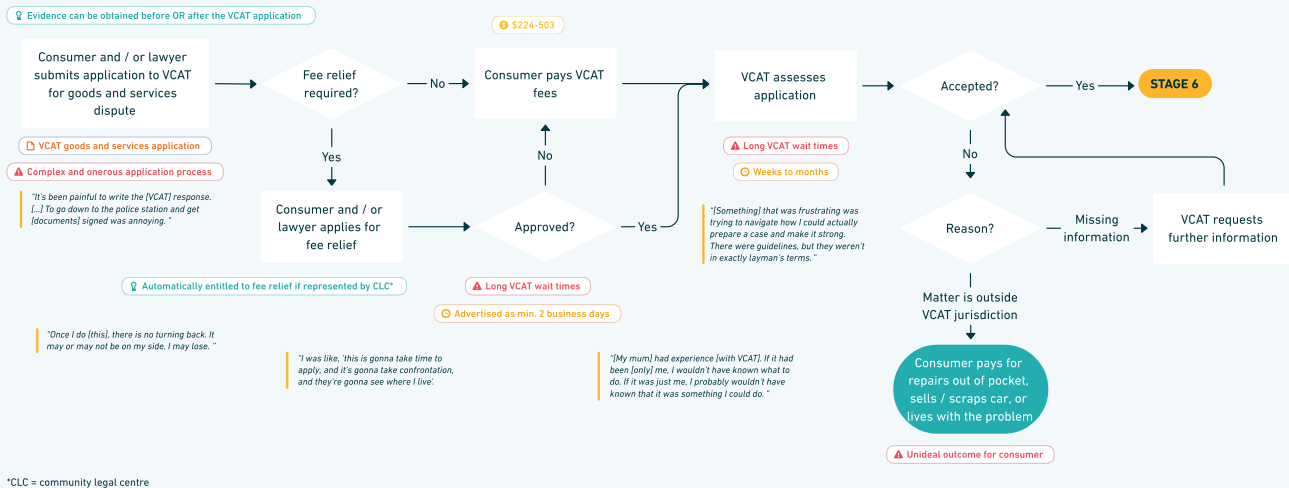


Only 15% of people with a faulty used car took their matter to VCAT, compared to 32% of people with a faulty new car.



21% of people with major or minor faults with their car and who did not go to VCAT did not know they could raise their issue with VCAT. 15% were not aware of VCAT at all.

STAGE 5 Apply to VCAT



Zoom in to view

Making a VCAT complaint takes time and can involve complex requirements for people who aren't experienced dealing with legal systems. Our process map identified delays and timing as a major pain point for people at this stage, particularly as people had to wait weeks to months for VCAT to assess their application before it is accepted.

In our survey, 23% of people who had major or minor faults with their car took the matter to the VCAT. Worryingly, people with new cars were much more likely to go to VCAT (32% of people with faulty new cars) compared to people with faulty used cars (15%).

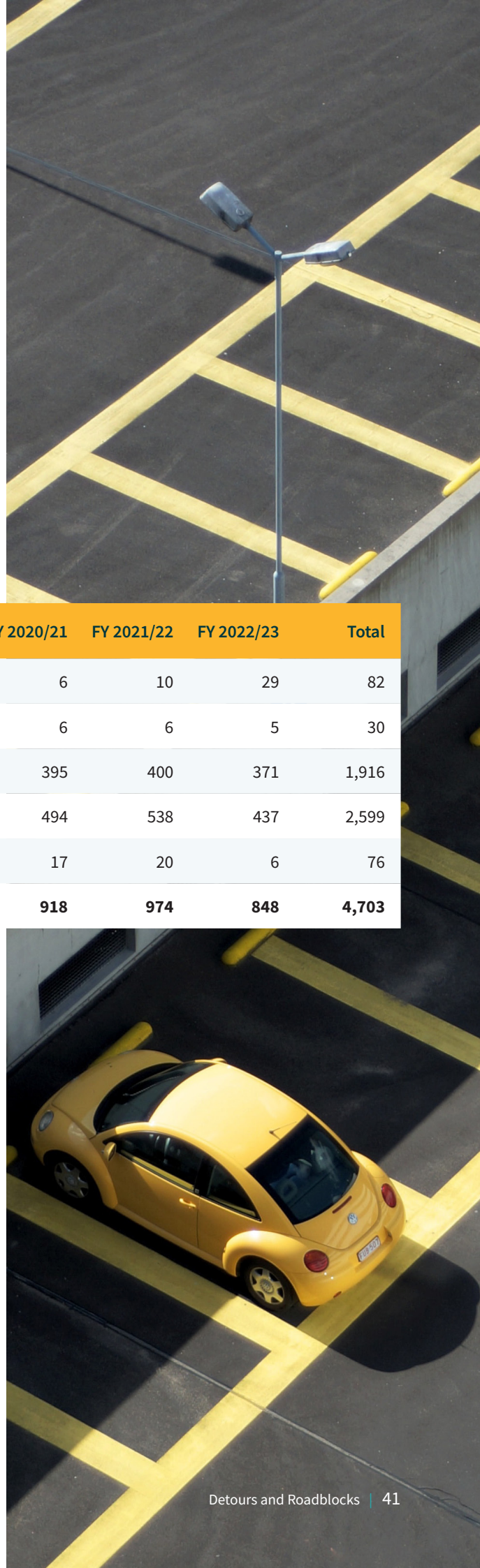
In preparing this report, researchers asked VCAT for data available about the number of complaints they received related to car issues.* VCAT provided the following data about the number of complaints they have received relating to motor car issues, and the value of those complaints over the past five years.

Table 1: Applications lodged at VCAT about vehicle issues³⁵

Applications Lodged	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	Total
Motor car fuel supply, service & repair	21	16	6	10	29	82
Motor car panel beating	3	10	6	6	5	30
Motor car parts supply, service & repair	397	353	395	400	371	1,916
Motor car purchase	598	532	494	538	437	2,599
Motor car traders warranty	19	14	17	20	6	76
Total	1,038	925	918	974	848	4,703

VCAT also provided information about value of the claims. For the 2,599 complaints received about motor car purchases, the total claim value was \$49,571,714.78 over the last five financial years, with a median value for these claims being \$8,891.54. For the 1,961 complaints about motor car parts supply, service and repair, the total claim value was \$17,886,578.22 over the last five years, with a median claim value of \$3,500. Data was not available about the outcomes of these applications.

*VCAT has noted that they do not currently collect data about whether a car is new or used. They also do not have data available about whether a respondent is a manufacturer, dealer or private seller



Costs to raise a complaint: VCAT and the Magistrate's Court

Technically, someone with a faulty car has two avenues where they can raise a complaint if they aren't properly helped by their dealer. They can either escalate the complaint to VCAT, or to the Magistrates' Court of Victoria.

The fees for raising a complaint through the Magistrates' Court vary significantly based on how the complaint progresses and the value of the complaint.³⁶ There is also the possibility of the opposing party claiming costs at the end of the process, depending on the outcome.³⁷ Consumers would also typically need to arrange legal representation to engage with this process, adding direct additional costs.

One person we interviewed did consider raising their complaint with the Magistrates' Court of Victoria, but didn't do so due to costs.

"It's not worth me taking it to [Magistrates'] court... I'm going to be paying lawyers thousands and thousands, so it won't even be worth going to court about it. So hopefully I can get VCAT to push the dealership to provide me with satisfaction, or it's just going to be a monumental waste of time, and here's another car that the dealership doesn't have to honour."

– Interview comment.

People aren't required to work with lawyers in order to engage with VCAT. Helpfully, VCAT will automatically waive lodgement costs if someone is working with a community legal centre or legal aid services. VCAT also allows people to apply for fee relief.³⁸

Typical fees someone could pay if they're lodging a complaint with VCAT include \$523.10 to lodge a complaint about a car valued between \$15,000 and \$100,000, or \$233.50 for cars valued between \$3,000 and \$5,000. If a case is complex or if hearings run over many days, someone could face hearing costs up to \$1,970 per day plus additional charges to apply for costs, arrange a file inspection or issue a summons for a witness. In speaking with community lawyers, we were told that these costs aren't common for the matters they deal with.

These are just the formal costs with VCAT. People face other costs as they seek help and assistance with the process or as they arrange evidence.

"The actual process of VCAT is only a few hundred dollars, \$250 to register at a meeting. But it's everything else in the background."

– Interview comment.

Complex and difficult application process

In our interviews with people who have made or are making a complaint about a faulty car, there were very clear frustrations about the time people needed to spend to lodge a complaint with VCAT.

"In terms of the first application, we did it in an hour. Then we had to refresh it and revise it, and that probably took a solid four hours. And then preparing all the papers, getting them printed, and then taking them to [the] police station, sending them off. That would be another hour and a half, probably. It's definitely a tedious thing to do. Overall, probably like a day's work, which is pretty long."

– Interview comment.

The people we interviewed also found the application process complex. The language used by VCAT was perceived as technical and unhelpful.

"It was very technical, and I don't really understand it."

– Interview comment.

"[Something] that was frustrating was trying to navigate how I could actually prepare a case and make it strong. There were guidelines, but they weren't in exactly layman's terms. A bit of a painful process."

– Interview comment.



Why don't people take a complaint to VCAT?

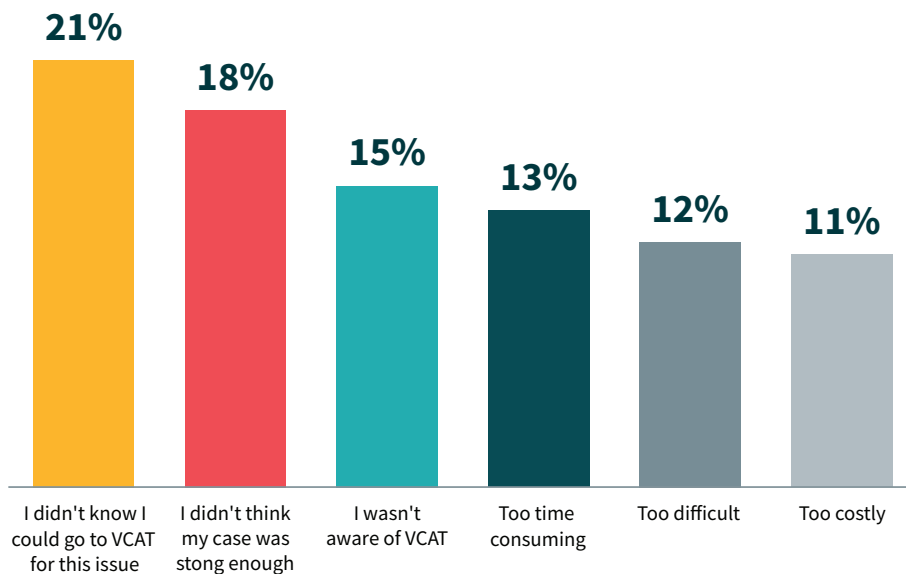
"VCAT wait times are a joke."

- Comment from survey of Victorian car purchasers

We asked people who had a faulty car and didn't progress a complaint to VCAT, why they didn't do so.

Most people were either unaware of VCAT or did not think their specific case was strong enough. Others pointed to challenges with time, a difficult process, or the costs involved. Overall, 27% of faulty car owners who did not go to VCAT cited cost barriers (unaffordability of expert report, towing, financial obligations).

Graph 12: Why people didn't progress to VCAT³⁹



We see concerns in relation to the costs and the difficulty of the VCAT process also reflected in the First Nations case studies we reviewed. In four of the nine cases reviewed, people faced hardships because of the long process of making a complaint. In two of these cases, the person chose to settle with the dealer with a poor outcome or outstanding repair costs because they couldn't wait for the VCAT process to resolve the issue.

In our interviews, it was clear that even people who eventually raised a matter with VCAT seriously considered stopping the complaints process at the application stage due to complexity and legitimate concerns about the process.

"Once I do that [legal proceeding] there is no turning back. I may incur some cost. If I am working, it would take a lot of my time [...] to attend court. I can't take time off from work... I may lose. If I take time off from work I am also unpaid. I was weighing whether it's really worth it, going to that extreme – the amount of hours to do that."

- Interview comment.

"I was like, 'this is gonna take time to apply, and it's gonna take confrontation, and they're gonna see where I live,' so that was a worry as well. It's just tedious. I don't thrive on conflict or anything, so I was a bit hesitant."

- Interview comment.

STAGE 6

VCAT alternative dispute resolution and hearings

Key findings



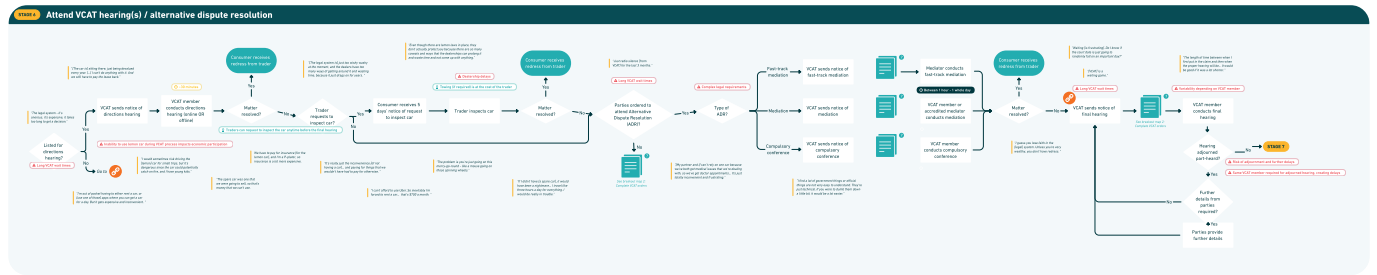
There's very little incentive for dealers to settle during this process. The likely outcome is that a dealer will be directed to cover costs they should have covered when the car originally presented with a problem.



97% of people who took their complaint to VCAT needed support from legal services, friends or family.



People are frustrated with the length of time involved in a VCAT complaint and the poor communication throughout the process.



Zoom in to view

The stage of engaging with VCAT post-application is the longest and most challenging for a consumer. Wait times vary significantly but, based on cases currently with community legal centres, can run for well over a year.

The specific steps in this stage can vary, especially at the pre-hearing stage where someone may be encouraged to attend mediation, “fast-track mediation” or a compulsory conference. Each of these processes brings the parties together to attempt to arrange a settlement prior to a hearing.

However, dealers face no practical consequences for failing to offer constructive options that align with legal obligations at this stage. There is little incentive for a dealership to settle a case when dragging a process out will lead to more consumers giving up or dropping out. The worst likely outcome for a dealership is that VCAT will direct them to offer a repair, refund, or replacement as they should have done earlier in the process.

During the hearing process, a dealer may ask to inspect the car to collect their own evidence. This means that a consumer is required to hold the car throughout this whole process – they cannot sell it.

Completing VCAT orders

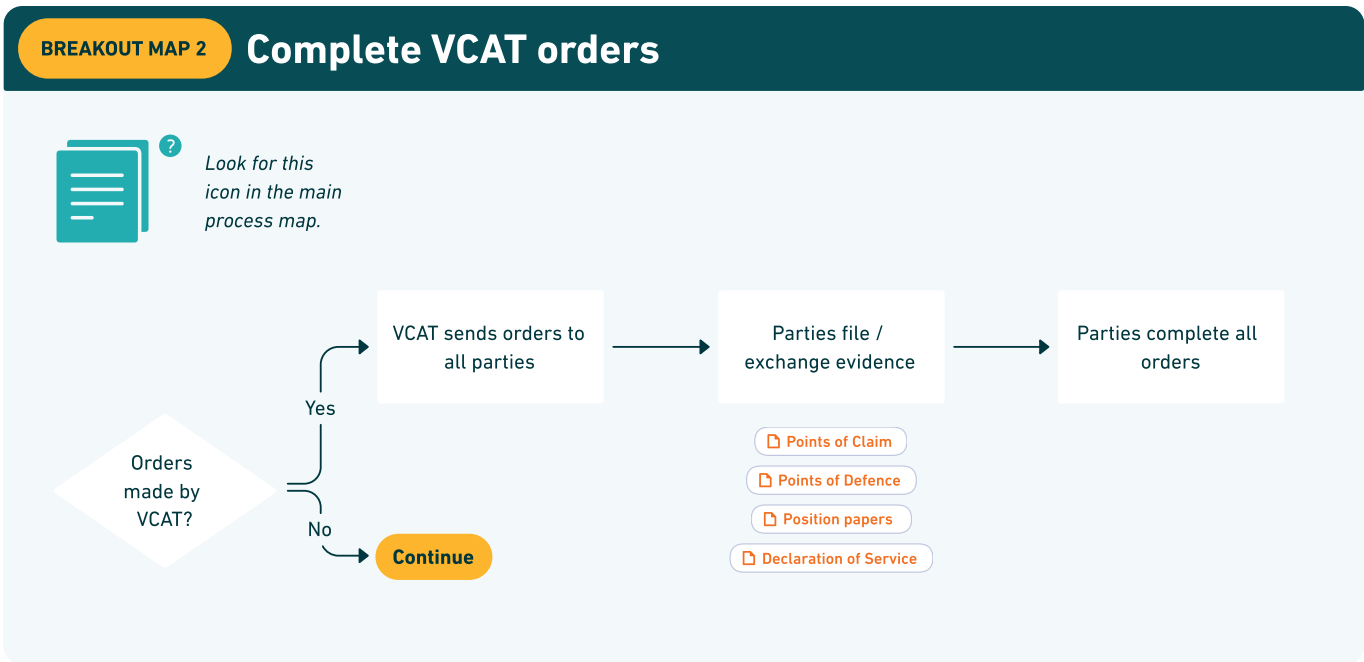
At multiple points at this stage, a consumer may be required to complete VCAT orders. This paperwork details the specific points of a claim, points of defence, position papers and declarations that the car has been serviced.

While VCAT provides examples of how to complete these documents, they are structured and written using legal language and formats. They assume a high level of consumer knowledge with the law and the process, and the ability to articulate how a business has specifically broken the law.⁴⁰ For example, a consumer is expected to outline if the dealer made a misleading representation.

People told us about the frustrations they had with the paperwork VCAT expects them to engage with. They were particularly frustrated as technical issues with paperwork could result in delays getting their case dealt with, or could even lead to their case ceasing.

“Going through the VCAT process is also a challenge purely because you have to show sufficient evidence for them to make a judgement and unless you follow their procedures explicitly, then they will fall back on a technicality, and they’ll throw out your claim.”

– Interview comment.



Zoom in to view

Most people seek help to navigate VCAT

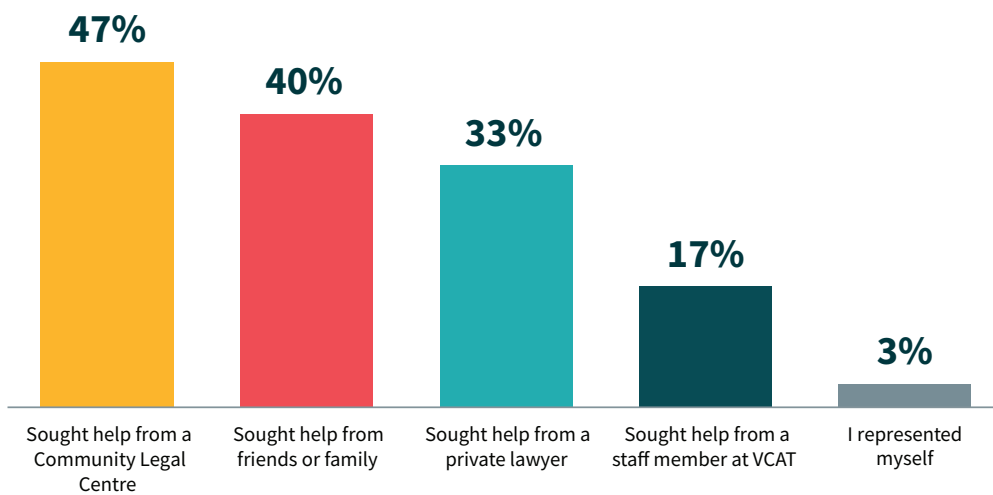
Given the complexity of this process, it's then perhaps unsurprising that most people seek help during the VCAT process.

For VCAT complaints, there is no requirement to pay for a lawyer to help with the process; however, most people get some sort of help to engage with VCAT. A third of people (33%) said that they received help from a private lawyer when engaging with the VCAT process, and a substantial proportion of people (47%) said that they received some help from a community legal centre. We

note that this is a very high number of people seeking help from community legal centres, but that the form of help may include information received via helplines, online tools or resources, as well as intensive legal support.

Just 3% of people said they represented themselves at VCAT without help from any other party. This suggests that very few people have the ability to genuinely self-represent through the VCAT process, despite this being the original intent of the Tribunal.

Graph 13: Help received during the VCAT process⁴¹



In our interviews, it was clear that informal help from family or friends supported someone through the process of applying to VCAT and then running a complaint.

“I didn't really know what to do [for VCAT]. [My mum] had experience, which was good. If it had been me, I wouldn't have known what to do. If it was just me, I probably wouldn't have known that it was something I could do.”

– Interview comment.



Frustrations with VCAT delays

We had a lot of feedback in our survey comments and in interviews about frustrations people had with the time it took for VCAT to run a complaint. People were frustrated with not only the time it took to get a solution, but also with the poor communication throughout the process and the uncertainty about when their case would be dealt with. CPRC understands that there have been significant delays at the Tribunal during and since 2020 due to pandemic-related factors.

“The legal system is one [problem] because it’s onerous, it’s expensive, it takes too long to get a decision.”

– Interview comment.

“It’s [the VCAT wait times] getting a bit long now - just radio silence for the last three months. I haven’t heard anything.”

– Interview comment.

In our survey, people going through a VCAT complaint noted that they worried about the lack of control they had over the complaint process. They can’t set the date for hearings or when VCAT will help them with their case.

“Do I know if the court date is just going to randomly fall on an important day? [...] Hopefully I’ll be in Melbourne.”

– Interview comment.

This was also raised in our discussions with community lawyers, who noted that clients they represent may face waits of up to two years for their case to be finalised.

People also expressed frustration at the costs required to engage with the process, especially if they felt they needed to engage a private lawyer.

“All the time you spend with him [the lawyer] preparing the [VCAT] case. That cost me another \$1,000 to prepare the information to go in there fully prepared to give them what they require to make a decision. It’s onerous and expensive. And a lot of people do it on their own, but the problem is they don’t do it properly. So you don’t get a resolution from VCAT.”

– Interview comment.

STAGE 7

Obtaining a VCAT order

Key findings



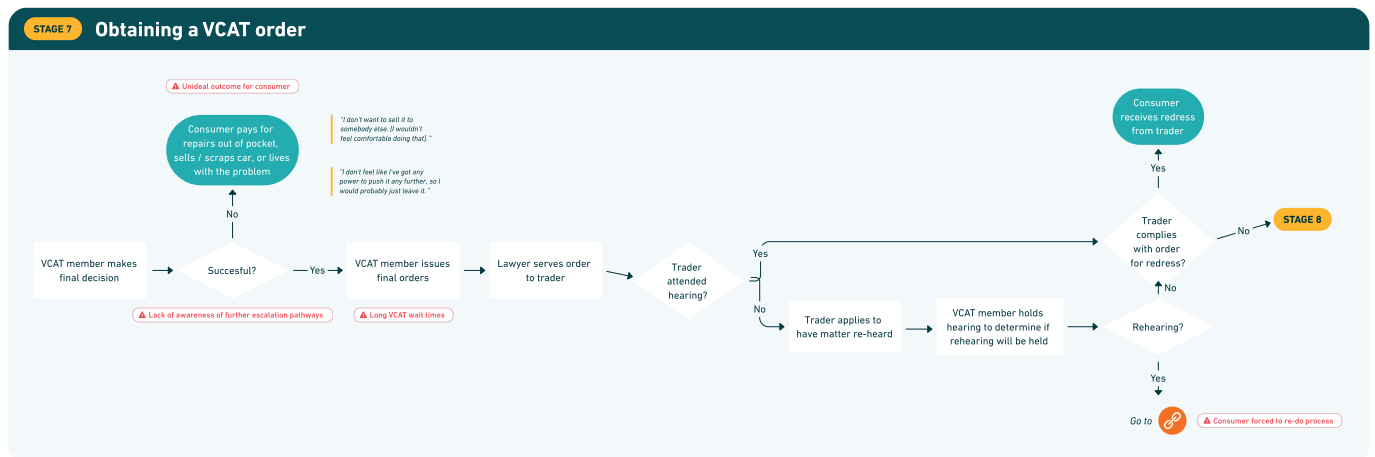
73% of people who persisted with the VCAT process reached a partial or full resolution in their favour.



Dealers can apply to have the matter reheard if they didn't engage in early parts of the complaints process, adding the potential of extra time and costs for a consumer.



People are unsure what to do with their faulty car when their complaint is resolved or ends.



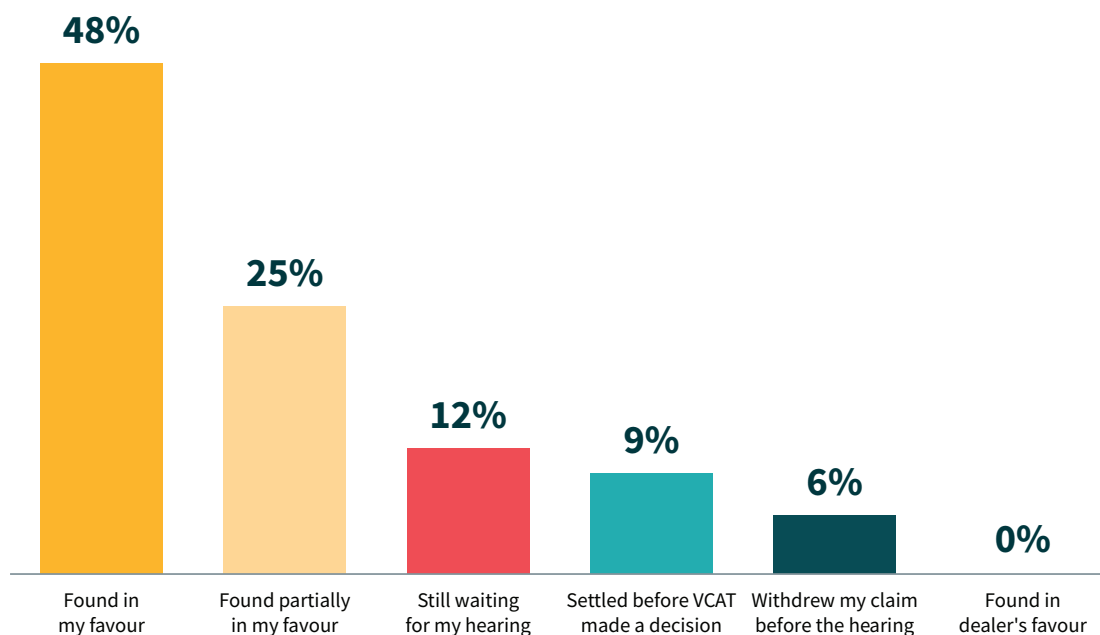
Zoom in to view

Assuming that someone is persistent enough to make it to the hearing stage of VCAT, the process then involves a VCAT member making a decision and issuing final orders. Again, this process can take additional time.

There is a risk that if a dealership didn't attend hearings at the earlier stage then they can apply to have the matters reheard after orders are served. Should this happen, a consumer has to go through the hearing process all over again. Lawyers working at community legal centres told us that this was a relatively common tactic used by some dealers – they are often involved with cases where a dealer doesn't engage during the VCAT process and seeks to have it reheard.

For people who had completed the complaints process, they either settled, withdrew their claim or had a claim found fully or partially in their favour. Interestingly none of the people in our survey said they had a VCAT outcome that was found fully in the dealer's favour. We do note that this result is unlikely to be representative of all cases that work their way through VCAT, but this seems to indicate that people are unlikely to engage all the way though with the VCAT process unless they have a strong case.

Graph 14: Outcome of VCAT hearing⁴²



After a complaint has been handled, people can face a serious question about what they do with a faulty car that potentially has serious safety issues. In interviews, this emerged as a consistent theme. Some people wanted to sell the car as soon as possible to remove a source of stress and anxiety from their lives. For other people, there was a serious concern that they couldn't sell the car due to the faults or that they didn't want to pass on the problem.

Post-complaint, there are no obvious tools or guidance for someone with a faulty car. Consumers are left to navigate this on their own and, potentially, to pass on the faulty car to someone else. Better support at this stage would help reduce the number of faulty cars in circulation in Victoria.

“That’s the last thing I would want to do [sell it to someone]. Maybe give it to a dealership and they can have the problem again, but I don’t want to sell it to somebody else. I wouldn’t feel comfortable doing that.”
– Interview comment.

“I sold it [the car] because I was so frightened it [the fault] was going to happen again.”
– Interview comment.

“I just wanted to get rid of it because I’d had so many problems with it. I just want the car out of my life.”
– Interview comment.

OPTIONAL STAGE

Making a claim on the Motor Car Traders Guarantee Fund

Key findings



Only four Victorians were able to successfully make a claim on the Motor Car Traders Guarantee Fund in 2021-22.

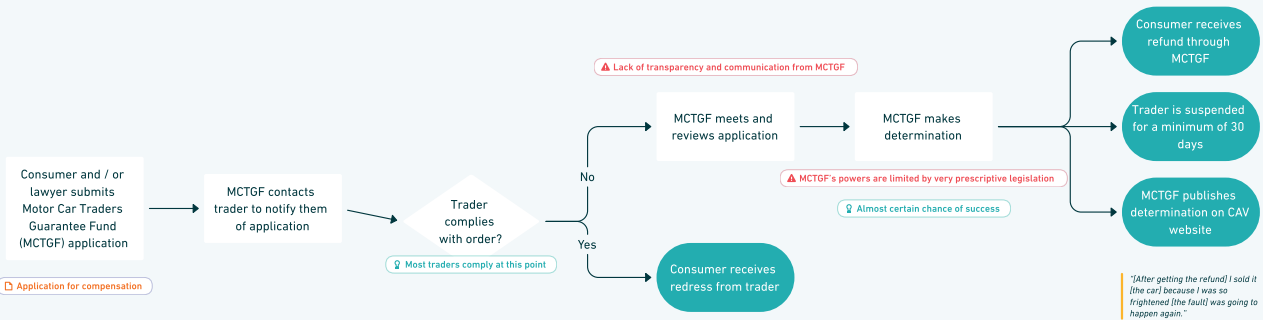


Most claims made on the Fund are withdrawn or refused.



While nearly \$3 million has been paid to consumers from the Fund since 2012, fewer and fewer consumers have been able to successfully claim over time.

STAGE 8 Apply to Motor Car Traders Guarantee Fund



Zoom in to view

The Motor Car Traders Act 1986 (Vic) establishes the Motor Car Traders Claims Committee (MCTCC) and the Guarantee Fund.

The Fund can pay up to \$40,000 in compensation for people who have suffered a specific kind of loss after purchasing a car in Victoria. For faulty used cars, a claim can be made if a dealer does not:

- comply with the statutory warranty provisions
- transfer a clear title to the car
- provide a roadworthy certificate or pass on transfer, registration fees or stamp duty payments as required and, or
- satisfy a court order or an order from VCAT.⁴³

The Committee and Fund do not cover claims where a dealer tells a consumer something about the condition of a car that is untrue, or matters regarding unlicensed dealers.

The Fund is managed by the Motor Car Traders Claims Committee, a group of sessional members that meet to review claims received. The Committee is supported by CAV staff to process claims, communicate with people making a claim and prepare materials for the Committee to consider.

As part of this research, CPRC contacted the Committee to better understand the volume and nature of complaints received. The Committee was able to promptly answer questions about its work and provide clear data for publication. The Committee provided a helpful volume of data about the number of claims received, refused, and withdrawn going back to 2012-13.

The Committee informed us that in 2021-2022 there were four claims admitted on the Fund. In 2022-23 four claims had been admitted at the time data was requested (May 2023).

In looking more broadly at the numbers provided by the Committee, most claims received in the past 10 years have been refused or withdrawn. We note that complaints may be received in one year but refused or withdrawn in later years. Overall, 30% of claims received by the Committee in the past 10 years were withdrawn; 40% of claims in this period were refused.

Table 2: MCTCC claims data over time

Financial year	MCTCC claims received	Claims refused	Claims withdrawn
2012-13	218	44	51
2013-14	129	59	30
2014-15	87	34	31
2015-16	101	36	42
2016-17	122	46	43
2017-18	90	27	39
2018-19	61	19	31
2019-20	74	31	13
2020-21	64	39	18
2021-22	61	32	10
2022-23 (to May)	61	60	13
TOTAL	1,068	427	321

The Committee also provided data about the amount paid out to consumers back to 2012/13, providing the total amount paid out each year and the average amount claimed.

Table 3: Total amounts paid out by MCTCC and claimed each year, over time

Financial year	Amount admitted	Average claimed
2012-13	\$ 662,879.86	\$ 8,695.87
2013-14	\$ 620,558.90	\$ 6,891.71
2014-15	\$ 393,518.37	\$ 16,296.75
2015-16	\$ 346,066.18	\$ 14,628.13
2016-17	\$ 257,946.93	\$ 8,379.79
2017-18	\$ 343,679.81	\$ 11,548.37
2018-19	\$ 68,764.02	\$ 10,711.10
2019-20	\$ 186,331.00	\$ 20,122.29
2020-21	\$ 11,233.12	\$ 10,890.32
2021-22	\$ 10,017.00	\$ 13,542.21
2022-23 (to May)	\$ 65,426.00	\$ 10,498.00
TOTAL	\$ 2,966,421.19	

In the last 10 years, the Committee has paid nearly \$3 million to consumers, however it should be noted, most of that was in the first few years of the decade. There has been a steady decline in the number of claims made, accepted and amounts paid out, making the Fund valuable to fewer consumers over time.

Methodology

Survey

We conducted a survey of n=1,006 Victorians who had purchased a car in the last five years. The survey was conducted online from 14 April 2023 to 17 April 2023 using the Ipsos fast facts platform.

Half of all respondents purchased a new car in the last five years; half had purchased a used car in the last five years. All respondents live in Victoria, Australia and are at least 18 years old. Half of the respondents identify as male, half as female. The survey results have not been weighted or adjusted to be representative of the overall Victorian population, instead the data is reflective of Victorians who have purchased cars.

In some cases, people in our survey had purchased more than one car in the last five years. In this case, we asked them to answer questions based on the car with the worst fault they've experienced.

Looking closely at the sample, it skews to people living in Melbourne: 39% of respondents live in Melbourne inner suburbs and 39% live in outer suburbs of Melbourne, 22% of our sample lived outside of Melbourne, with 9% in a large regional centre (e.g. Geelong, Bendigo or Ballarat), 7% from a smaller regional centre (e.g. Shepparton, Wodonga, Warranambool) and 7% from rural Victoria.

The survey provides a broad understanding of how many people face challenges with cars in Victoria, but can't speak to the experience of specific, smaller population groups such as newly arrived migrant communities or First Nations people.

Case study analysis

To better understand the specific experience of First Nations people, we looked at case studies from community legal centres.

CALC and the Victorian Aboriginal Legal Service provided nine case studies of clients with a recently closed case or ongoing case. All cases involve a First Nations person who lived in Victoria at the time they purchased a faulty second-hand car from a dealer.

The names and all identifiable details of the cases have been removed to protect the anonymity of the people involved.

These cases have been analysed to understand common themes and challenges that First Nations people face when trying to resolve a matter with a dealer about a faulty car.

The analysis provides us with a broader understanding of the specific challenges that First Nations people face. As the case studies are all drawn from community legal centres, they reflect priorities that these organisations have when deciding to take on cases. CALC prioritises helping Victorians who may face challenges, for example, living on a low income, facing family violence, living with a disability, experiencing homelessness, facing marginalisation or are in custody.⁴⁴

This case study analysis provides a useful but limited insight into the experience of First Nations people. We strongly recommend that further research is funded to explore this and that the work is led and undertaken by First Nations researchers.

Process map

We used a process mapping approach to understand the specific steps that an individual would have to take to identify and resolve an issue with a used car in Victoria.

Process mapping is typically used as a research technique to map out workflows or processes within a business. We've adapted this methodology to map out the end-to-end experience a consumer has when raising a complaint about a faulty used car. We built the process map on the assumption that a complaint was regarding a used car purchased in Victoria from a dealership. It is not fully reflective of the steps available to someone who, for example, purchased a car from a private seller or purchased a new car.

CPRC was assisted with the process map development by Conduct HQ, CALC, WEstjustice, and the VALS provided expert advice.

The process map was developed by:

1. Desktop review of available research into faulty cars in Victoria and public websites of key parties involved in the complaints process (community legal centres, Consumer Affairs Victoria, the Victorian Civil and Administrative Tribunal, the Motor Car Traders Guarantee Fund).
2. Developing a first draft process map to test with experts.
3. Interviews with lawyers at community legal services to confirm our understanding of specific elements of the process.
4. Review of the draft map by community legal services experts to confirm the steps and overall map were reflective of the steps they need to take when working on a used cars case.
5. A workshop with legal and community sector experts to understand the major pain points and ideas for improvements to the current process.

Interviews with people with a complaint

To confirm our understanding of the complaints process and the consumer experience at specific stages, we also conducted six interviews with individual consumers who made or were in the process of making a complaint about a car in Victoria.

Interviews were conducted between 19 April and 26 April by Conduct HQ on behalf of CPRC. All participants consented to have their stories shared in an anonymised form.

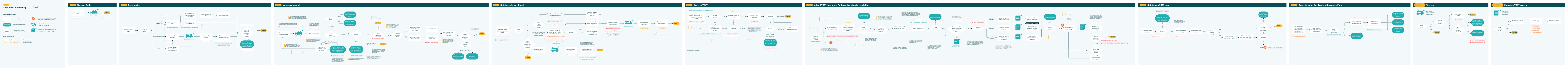
All people we interviewed:

- lived in Victoria, Australia
- were over the age of 18
- purchased a car in the past five years
- encountered an unexpected issue with their car that they identified as a major fault, and
- attempted to seek advice or redress to fix the problem with their car.

All interviewees had raised a complaint. As part of the complaints process, five people had raised a complaint with the dealer, four sought advice or help from CAV, and three had raised or were raising a complaint through VCAT.

Three people we interviewed had concluded their complaint; three had complaints underway. There was a split of satisfaction about the complaints process: one person was satisfied with the complaints process, two were neutral, two dissatisfied and one very dissatisfied.

Five interviews were with people who had purchased a car from a dealership, one was with someone who had purchased a car through a private sale but had attempted to get redress through a complaint.



Endnotes

- 1 <https://www.accc.gov.au/business/compliance-and-enforcement/fines-and-penalties>
- 2 Court Services Victoria, (2021) CSV self-determination plan: action plan 2021-25, Yaanadhan Manamith Yirramboi: striving for a better tomorrow. https://courts.vic.gov.au/sites/default/files/publications/csv_self_determination_plan_2021-2025.pdf
- 3 New laws could mirror reforms similar to those being developed in Western Australia which will require dealers to disclose when a car has sustained damage that has been repaired but will need to pass a roadworthiness check before it can be returned to the road See 'Cook Government driving change to protect used car buyers in WA', media release, 4 August 2023 <https://www.commerce.wa.gov.au/announcements/cook-government-driving-change-protect-used-car-buyers-wa>
- 4 Australian Bureau of Statistics (2022), Transport: census – information on number of motor vehicles and method of travel to work, last accessed 15 August 2023 <https://www.abs.gov.au/statistics/industry/tourism-and-transport/transport-census/latest-release>
- 5 Ibid and Australian Bureau of Statistics (2022), Australia's journey to work, last accessed 15 August 2023. <https://www.abs.gov.au/articles/australias-journey-work>
- 6 Consumer Affairs Victoria (2022), Annual report 2021-22, p 12, <https://www.consumer.vic.gov.au/library/publications/about-us/annual-report/2021-22/consumer-affairs-victoria-annual-report-2021-22-accessible-pdf.pdf>
- 7 n=503. Response to 'What was the approximate purchase price of your car?'
- 8 n=574. Note the sample includes people who purchased both a new and a used car in the last five years, response is only regarding their used car. Response to 'How old was the car when you purchased it?'
- 9 Australian Competition and Consumer Commission (2018), Motor vehicle sales and repairs: an industry guide to the Australian Consumer Law, https://www.accc.gov.au/system/files/1449_ACL%20Motor%20vehicle%20sales%20and%20repairs_FA_WEB.pdf
- 10 Commonwealth of Australia (2013), Motor vehicle sales and repairs: an industry guide to the Australian Consumer Law, <https://www.consumer.vic.gov.au/library/publications/businesses/fair-trading/motor-vehicle-sales-and-repairs-an-industry-guide-to-the-australian-consumer-law-word.doc>
- 11 Motor Vehicle Traders Act 1986 (Vic), s42A.
- 12 Consumer Affairs Victoria, 'Warranties on used cars', last accessed 14 July 2023 <https://www.consumer.vic.gov.au/cars/buying-a-used-car/warranties>
- 13 Consumer Action, 'CCO02 – Can I get out of a contract to buy a car from a car dealer? Your cooling-off rights', last updated 2 May 2022 <https://consumeraction.org.au/resources-and-toolkits/cco02-can-i-get-out-of-a-contract-to-buy-a-car-from-a-car-dealer-your-cooling-off-rights/>
- 14 Data was split into three categories: people who purchased a new car (n=418), people who purchased a used car from a dealer (n=291) and people who purchased a used car from a private seller (n=239). Total n=948.
- 15 n= 948. Responses to: 'Excluding issues arising from collisions with other vehicles, have you encountered any unexpected vehicle faults or issues with a vehicle you purchased in the last five years? Please select ALL that apply.' Sample excludes people who purchased a car through an auction process or who were gifted a car.
- 16 n=545. Responses to 'Has the process of repairing your vehicle had broader consequences for you/your family? (Select ALL that apply).'
- 17 n=545 total, 272 people with faulty new cars and 273 people with faulty used cars; all who experienced major or minor faults. Responses to 'Approximately, how much money have you spent in trying to resolve the fault or issue (including a vehicle purchased to replace the faulty vehicle)?'
- 18 n=545. Includes new and used car owners who identified that they had a major, minor or multiple minor faults – excludes people who only had a small self-repair issue like a flat tyre and people who had no issues. Responses to 'Did you encounter any of the following issues that limited or prevented you seeking a repair/ remedy for your vehicle fault? (Select ALL that apply)'
- 19 n=400. Owners of faulty new and used cars purchased from a dealership.
- 20 n=545. Includes new and used car owners who identified that they had a major, minor or multiple minor faults – excludes people who only had a small self-repair issue like a flat tyre and people who had no issues. Responses to 'Roughly when did you first encounter the fault with your vehicle (best estimate is fine)?' Respondents were told to consider the worst fault they faced related to a car they purchased in the last five years in responding to this and subsequent questions about problems.
- 21 n=215. Excludes private sales, auction house and gifted. Response to: 'What was the outcome of your contact with a mechanic? (Please select the single outcome that best reflects your experience)'
- 22 n=318. All who contacted a mechanic. Response to: 'What was the outcome of your contact with a mechanic? (Please select the single outcome that best reflects your experience)'

- 23 n=120. Sample is all people who eventually got a repair, replacement or refund through a dealer and chose to answer this question. Response to question 'If any, what difficulties did you encounter with the dealership in seeking to repair the issue or fault (select all that apply).'
- 24 n=262. Sample is all people who got a repair, replacement or refund through a dealer and chose to answer this question. Responses to 'Have you signed/been asked to sign a confidential agreement that prevents you from disclosing details about the refund or replacement offered, when resolving the problem with your new car?
- 25 n=262. Sample is all people who got a repair, replacement or refund through a dealer and chose to answer this question. Responses to 'Have you been asked to sign an agreement to not seek third-party repairs in future?'
- 26 See <https://www.acc.gov.au/media-release/acc-welcomes-new-law-on-motor-vehicle-service-and-repair-information>
- 27 n=262. Sample is all people who got a repair, replacement or refund through a dealer and chose to answer this question. Responses to 'After the initial repairs, did you experience further issues/faults with the vehicle?'
- 28 n= 130, Owners of new and used cars purchased through a dealership, who did not receive a resolution from the dealership.
- 39 n=79. Owners of new and used cars purchased through a dealership, who did not receive a resolution from the dealership and did not seek a remedy. Responses to 'What were the reasons you did not seek a remedy (repair/replacement) from the dealership? (Select ALL that apply)'
- 30 n=127. All people who said they took a case to VCAT responded to this question. Responses to 'Before attending your Victorian Civil and Administrative Tribunal hearing, did you obtain an expert technical report from an independent mechanic to provide a detailed account of faults present in the vehicle at the time of/ before purchase?'
- 31 n=119. Responses to 'Did you encounter any difficulty obtaining this expert technical report? Note that if people answered yes they could select multiple issues.'
- 32 Available at <https://www.vcat.vic.gov.au/documents/practice-notes/practice-note-pnvc2-expert-evidence>
- 33 See <https://www.vcat.vic.gov.au/the-vcat-process/prepare-to-come-to-vcat/expert-reports>
- 34 <https://www.ag.gov.au/legal-system/legal-assistance/commonwealth-legal-financial-assistance/disbursement-support-scheme#:~:text=The%20Attorney%2DGeneral's%20Department%20provides,expert%20reports>
- 35 Applications lodged at VCAT under the Australian Consumer Law and Fair Trading Act 2012 about new or used cars for the previous five financial years (this is inclusive of initiated, withdrawn and finalised matters). Note data for 2022/23 is not the full financial year, it covers complaints from 1 July 2022 to 29 May 2023, when data was provided to CPRC.
- 36 <https://www.mcv.vic.gov.au/sites/default/files/2023-06/Court%20Fees%20and%20Costs%20Ready%20Reckoner%20-%201%20July%202023.pdf>
- 37 See <https://www.mcv.vic.gov.au/sites/default/files/2023-07/Scale%20of%20Costs%20-%201%20July%202023.pdf>
- 38 <https://www.vcat.vic.gov.au/fees/concessions-fee-relief>
- 39 n=327. Sample is all people who had a major or minor faults that didn't escalate to VCAT. Responses to "Can you indicate any particular reasons why you didn't take the matter to Victorian Civil and Administrative Tribunal (VCAT)? (Select ALL that apply)"
- 40 See for example, VCAT points of claim sample <https://www.vcat.vic.gov.au/documents/sample-points-claim>
- 41 n=127. Responses to 'Did you have representation or seek advice from a legal professional during your Victorian Civil and Administrative Tribunal (VCAT) hearing? (Select ALL that apply)'
- 42 n=127. All people with major or minor faults that made a complaint through VCAT. Responses to 'What was the outcome of the Victorian Civil and Administrative Tribunal (VCAT) hearing?'
- 43 Consumer Affairs Victoria, "Compensation claims – cars", last accessed 14 July 2023 <https://www.consumer.vic.gov.au/cars/compensation-claims>
- 44 For detailed priorities see <https://consumeraction.org.au/legal-help/>

