

A background image of a person in a dark suit sitting at a desk. The person's right hand is holding a black pen over a calculator, and their left hand is holding a stack of US dollar bills. On the desk, there is a spiral notebook, a calculator, and several stacks of gold coins of varying heights. The image is slightly blurred and has a light blue tint.

Toyota Class Action | Frequently Asked Questions

Touch enabled document



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How to use this document:

This document is intended to help address any relevant questions that you may have in respect of the Toyota class action and has been split into categories of common queries (see Legend above).

For ease of access, the index of questions (right) has been set up with hyperlinks that allow you to navigate to the relevant section efficiently. To access the hyperlinks, click on the relevant question.

Within each relevant section, key terms that are defined in other sections of this document have also been set up with hyperlinks and can be accessed in the same manner as described above. These items are denoted with [underlined blue text](#).

Within each section, you may also find references to material external to this document. These have also been set up with hyperlinks and can be accessed in the same manner as described above. These items are denoted with [underlined blue text](#).

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1 | BACKGROUND & OVERVIEW

01 | What is a class action?



A class action is a legal proceeding where seven or more people have claims against the same individual or corporation in respect of, or arising out of similar circumstances, such that their claims give rise to a substantial common issue of law or fact. Where these criteria are met (as in the Toyota class action), class action proceedings can be commenced by one or more of those people on behalf of some or all of them.

The class action process is intended to save time and expense and avoids the need for the court to determine common issues of fact or law more than once. It enables disputes and claims involving large numbers of people to be resolved via a single case.

02 | What is the Toyota class action about?



The Toyota class action claimed compensation (that is, money) for defects in Toyota Hilux, Fortuner and Prado vehicles with a 1GD-FTV or 2GD-FTV diesel engine acquired between 1 October 2015 and 23 April 2020 in Australia (**Relevant Vehicles**).

On 16 May 2022, the Court delivered judgment in favour of the applicants and group members. Copies of the [judgment orders](#) made on 16 May 2022 and the Court's [reasons for judgment](#) (which sets out the Court's findings on liability and the applicants' and group members' entitlement to receive compensation (money) from Toyota, and which was published on 7 April 2022) can be accessed through the embedded links above.

The Court found that:

- the Relevant Vehicles were not of acceptable quality because of their defective DPF systems;
- Toyota engaged in misleading or deceptive conduct in connection with marketing and selling the Relevant Vehicles;
- the value of the Relevant Vehicles at the time of initial supply was reduced because of their defective DPF systems;
- the amount of the reduction in value was 17.5% (measured against Average Retail Price); and
- eligible [group members](#) are entitled to be paid money to compensate them for this reduction in value and for the excess GST they paid as a result of acquiring their vehicles at prices which were higher than the true value of those vehicles.

The representative applicant was awarded **\$7,474.59** for the **reduction in value** of its Toyota Prado and a further **\$747.46** for the **excess GST** it paid to acquire the vehicle.

The representative applicant was also awarded **\$246.60** for **excess stamp duty** paid in connection with acquiring its Toyota Prado, **\$1,650.32** for **excess financing costs** paid in connection with acquiring its Toyota Prado, **\$4,725** for **income lost** due to having its Toyota Prado serviced for issues associated with the DPF system and **\$3,559.79** in **interest** on the above amounts.

In total, the representative applicant was awarded **\$18,401.76** in damages.

If you think you are a [group member](#) and have not already done so, please register your interest to receive any money to which you may be entitled under the Court's judgment [here](#).

It is in group members' interests to register. If group members do not register, they will not be able to receive any money to which they may otherwise be entitled under the judgment.

03 | What is happening now?



On 16 May 2022, the Court delivered judgment in favour of the applicants and group members. Copies of the [judgment orders](#) made on 16 May 2022 and the Court's [reasons for judgment](#) (which sets out the Court's findings on liability and the applicants' and group members' entitlement to receive money (damages) from Toyota, and which was published on 7 April 2022) can be accessed through the embedded links above.

On 16 May 2022, the Court also made orders regarding the next steps in the proceeding. These steps include:

- group members being sent a notice in June 2022 which will explain how they can register their interest to receive any money to which they are entitled under the judgment;
- group members registering their interest to receive any money to which they are entitled under the judgment;
- determining the process by which money will be distributed to those group members entitled to receive it under the judgment (a process known as a “distribution scheme”); and
- determining the manner in which the remaining issues in dispute between the parties will be resolved (something which is to be considered by the Court at a case management hearing on 21 July 2022).

If you think you are a [group member](#) and have not already done so, please register your interest to receive any money to which you may be entitled under the Court's judgment [here](#).

It is in group members' interests to register. If group members do not register, they will not be able to receive any money to which they may otherwise be entitled under the judgment.

2 | RELEVANT VEHICLES & GROUP MEMBERS

04 | Which Toyota vehicles are affected?



This class action relates to any model of Toyota motor vehicle in the Hilux, Prado and Fortuner ranges fitted with a 1GD-FTV or 2GD-FTV diesel engine which was acquired between 1 October 2015 and 23 April 2020, in Australia (**Relevant Vehicle**).

An inclusive but non-exhaustive list of Relevant Vehicles can be found [here](#).

If you can't find your vehicle on this list or if you are unsure whether your vehicle is one of the Relevant Vehicles in the class action, you can register your interest to receive any money to which you may be entitled under the Court's judgment [here](#) and by providing the vehicle identification number (or VIN) for your vehicle we will be able to confirm whether your vehicle is one of the Relevant Vehicles in the class action.

05 | Am I a group member?



Group members are people who meet certain criteria. You are likely to be a group member in the class action if:

- you acquired a Toyota Hilux, Fortuner or Prado with a 1GD-FTV or 2GD-FTV diesel engine between 1 October 2015 and 23 April 2020;
- you did not acquire the vehicle in an auction;
- you did not acquire the vehicle for the purpose of re-supply; and
- you acquired the vehicle from a Toyota dealership or other retailer (including Toyota Motor Corporation Australia itself), including second-hand through used car dealers, or from any person who directly acquired the vehicle from a Toyota dealership or retailer.

If you meet the group member criteria, then you are a group member automatically and do not need to take any further steps to become one. Group members will be [bound](#) by the outcome of the class action unless they previously took steps to “opt out”.

Pursuant to a [judgment](#) delivered by the Court on 16 May 2022, eligible group members are now entitled to be paid compensation (money).

If you think you are a [group member](#) and have not already done so, please register your interest to receive any money to which you may be entitled under the Court’s judgment [here](#).

It is in group members’ interests to register. If group members do not register, they will not be able to receive any money to which they may otherwise be entitled under the judgment.

06 | Do I need to register or sign up to be a group member in the class action?



No.

Anyone who satisfies the [relevant criteria](#) and who has not already opted out of the class action is automatically a group member.

However, to receive any money to which you are entitled under the judgment, you need to register your interest in doing so [here](#).

It is in group members' interests to register. If group members do not register, they will not be able to receive any money to which they may otherwise be entitled under the judgment.

3 | JUDGMENT & CLAIMS

07 | Does the judgment mean I receive money? If so, how much will I receive?



You are entitled to receive money under the judgment if you:

- are a [group member](#) in the proceeding;
- acquired your [Relevant Vehicle](#) new;
- did not sell your [Relevant Vehicle](#) during the Relevant Period (between 1 October 2015 and 23 April 2020); and
- have not already been paid a refund by Toyota in respect of your [Relevant Vehicle](#) or had your [Relevant Vehicle](#) replaced by Toyota in the manner explained further below.

To receive any money to which you are entitled under the judgment you **must** register your interest [here](#).

It is in group members' interests to register. If group members do not register, they will not be able to receive any money to which they may otherwise be entitled under the judgment.

The amount of money to which you may be entitled under the judgment will also depend on whether Toyota's "[2020 Field Fix](#)" (a specific countermeasure introduced by Toyota from May 2020) has been applied to your Relevant Vehicle.

The [2020 Field Fix](#) has not been applied to your [Relevant Vehicle](#).

If you are eligible to receive money under the judgment and the [2020 Field Fix](#) has not been applied to your Relevant Vehicle, you will be entitled to receive:

- an amount of money equal to 17.5% of the Average Retail Price of your Relevant Vehicle at the time of initial supply, less any amount by which the Average Retail Price of your vehicle exceeds the price you paid to acquire the vehicle (**Reduction in Value Damages**);
- an additional amount of money equal to 10% of the amount of your Reduction in Value Damages for excess GST paid in connection with acquiring your Relevant Vehicle (**Excess GST Damages**); and
- interest on those amounts.

By way of example, the representative applicant will receive **Reduction in Value Damages** in the amount of **\$7,474.59** and **Excess GST Damages** in the amount of **\$747.46**.

Answer continued [over page](#)

07 | Does the judgment mean I receive money? If so, how much will I receive? (Cont.)



The [2020 Field Fix](#) has been applied to your [Relevant Vehicle](#).

If you are eligible to receive money under the judgment and the [2020 Field Fix](#) has been applied to your [Relevant Vehicle](#):

- you will be entitled to receive Excess GST Damages in an amount equal to 10% of the amount of the Reduction in Value Damages applicable to your [Relevant Vehicle](#) and interest on that amount; and
- your entitlement to receive Reduction in Value Damages has not yet been determined by the Court. That is, group members whose [Relevant Vehicles](#) have had the [2020 Field Fix](#) may still be found to be entitled to receive Reduction in Value Damages in due course. We will provide an update in respect of when these claims are likely to be determined following a hearing on 21 July 2022.

Group Members who have already received refunds, replacement vehicles or compensation from Toyota

If you have not already been paid a refund by Toyota in respect of your [Relevant Vehicle](#) or had your [Relevant Vehicle](#) replaced by Toyota, this section is not relevant to you.

Refunds

If you have already been paid a refund by Toyota in respect of your [Relevant Vehicle](#), then you are not entitled to money under the judgment.

Replacement vehicles

If your [Relevant Vehicle](#) was replaced by Toyota *during the Relevant Period* (between 1 October 2015 and 23 April 2020) with another [Relevant Vehicle](#), then you are entitled to be paid money for reduction in value and excess GST under the judgment and the amount of money you will be paid (if you register) will be assessed in the manner described above.

If your [Relevant Vehicle](#) was replaced by Toyota:

- *after the Relevant Period* (i.e., after 23 April 2020); or
- *during the Relevant Period* (between 1 October 2015 and 23 April 2020) with a vehicle other than a [Relevant Vehicle](#),

then you are entitled to money for excess GST (assessed in the manner described above), but your entitlement to receive money for reduction in value has not yet been determined. That is, group members in this category may still be found to be entitled to receive money for reduction in value in due course. We will provide an update in respect of when these claims may be determined following a hearing on 21 July 2022.

Answer continued [over page](#)

07 | Does the judgment mean I receive money? If so, how much will I receive? (Cont.)



Compensation payments

If you have already received a compensation payment from Toyota in respect of your [Relevant Vehicle](#) for:

- the reduction in value of that vehicle; or
- the difference between the price you paid to acquire your vehicle and the price at which you traded it in to Toyota or sold it,

then this payment will be taken into account in assessing your eligibility to receive money under the judgment and the amount of any such money you may be eligible to receive.

Group members' claims for money for losses other than reduction in value and excess GST

Group members' entitlements to receive money for **excess stamp duty**, **financing costs** and **income lost** due to excess servicing (being damages awarded to the representative applicant) and **excess fuel costs** (being damages the representative applicant was not able to quantify to the Court's satisfaction) were not determined at the initial trial. We are considering how group members may be able to establish their entitlement to receive these types of claims and will provide a further update on this topic as soon as we are able to do so.

08 | How do I receive any money to which I am entitled under the judgment?



[Group members](#) received a notice from the Court in June 2022 inviting them to register their interest in receiving any money to which they are entitled under the judgment.

You can register your interest to receive any money to which you are entitled under the judgment [here](#).

It is in group members' interests to register. If group members do not register, they will not be able to receive any money to which they may otherwise be entitled under the judgment.

09 | What is the 2020 Field Fix and how do I know if it has been applied to my vehicle?



The 2020 Field Fix is a specific combination of repairs which Toyota applied to some [Relevant Vehicles](#) from around May 2020 onwards to address the DPF issues suffered by those vehicles. The 2020 Field Fix involves:

- replacing the diesel oxidation catalyst in the DPF with an updated unit;
- introducing a modified additional injector assembly; and
- reprogramming the vehicle's software to remove a cooling pulse and add a 'soot blow' function.

If you register your interest to receive any money to which you are entitled under the judgment (which you can do [here](#)), we will be able to make a preliminary assessment as to whether the 2020 Field Fix has been applied to your specific Relevant Vehicle.

If you think you are a [group member](#) (whether or not you think the 2020 Field Fix has been applied to your vehicle) and have not already done so, please register your interest to receive any money to which you may be entitled under the Court's judgment [here](#).

10 | Am I entitled to receive money under the judgment if the 2020 Field Fix has been applied to my vehicle?



If you are eligible to receive money under the [judgment](#), and the 2020 Field Fix has been applied to your [Relevant Vehicle](#):

- you will be entitled to receive money for **excess GST** in an amount equal to 10% of the amount of the Reduction in Value Damages (see [here](#)) applicable to your Relevant Vehicle and interest on that amount; and
- your entitlement to receive money for the **reduction in value** of your vehicle (see [here](#)) has not yet been determined by the Court. That is, group members whose Relevant Vehicles have had the 2020 Field Fix may still be found to be entitled to receive money for reduction in value in due course. We will provide an update in respect of when these claims are likely to be determined following a hearing on 21 July 2022.

If you think you are a [group member](#) (whether or not you think the 2020 Field Fix has been applied to your vehicle) and have not already done so, please register your interest to receive any money to which you may be entitled under the Court's judgment [here](#).

11 | I bought my vehicle second hand. Will I receive any damages?



[Group members](#) who acquired their [Relevant Vehicles](#) second-hand during the Relevant Period (1 October 2015 to 23 April 2020) were found to have suffered damages for the reduction in value of their Relevant Vehicles and excess GST paid in connection with acquiring those vehicles. However, the amount of those damages was held not to be able to be determined other than on an individual basis. That is, these group members are not eligible at this time to receive an award of damages under the judgment (which addressed the eligibility of group members to receive an aggregate award of damages on a common basis).

We are considering this finding and will provide an update in respect of this issue when we are able to do so.

If you think you are a [group member](#) (whether or not you bought your vehicle second hand) and have not already done so, please register your interest to receive any money to which you may be entitled under the Court's judgment [here](#).

12 | I've already sold my Toyota vehicle. Will I receive any damages?



[Group members](#) who acquired their [Relevant Vehicles](#) during the Relevant Period (1 October 2015 to 23 April 2020) but who also sold those vehicles during the Relevant Period were found to have suffered damages for the reduction in value of their vehicles at the time of acquisition and excess GST paid in connection with acquiring those vehicles. However, the amount of the damages suffered by those group members was held not to be able to be determined other than on an individual basis. That is, these group members are not eligible at this time to receive an award of damages under the judgment (which addressed the eligibility of group members to receive an aggregate award of damages on a common basis).

We are considering this finding and will provide an update in respect of this issue when we are able to do so.

If you think you are a [group member](#) (whether or not you have already sold your vehicle) and have not already done so, please register your interest to receive any money to which you may be entitled under the Court's judgment [here](#).

4 | WHO IS INVOLVED IN RUNNING THE TOYOTA CLASS ACTION?

13 | Who is conducting the Toyota class action?



Gilbert + Tobin are the solicitors on the record in the Proceedings and are working with a team of barristers, consisting of Stephen Free SC, Patrick Meagher and Peter Strickland.

14 | Who is Balance Legal Capital?



[Balance Legal Capital](#) (**Balance**) is an experienced litigation funder which is funding the class action. This means that Balance agreed to pay the costs of bringing this class action against Toyota, including to pay the legal costs of Toyota if the class action was unsuccessful, in return for repayment of those costs plus a funding commission, should the class action be successful (that is, if money was recovered from Toyota).

Group members are not, and will not be, responsible for any “out of pocket” legal costs by remaining as group members in this class action (whether or not they signed a funding agreement with Balance).

However, because it funded the litigation, Balance intends to ask the Court to deduct an amount from the damages to be paid to all eligible group members. Whether such a deduction can be made and, if so, the amount of that deduction, will be determined by the Court and you have a right to raise before the Court any issues you have in respect of such a deduction. If there is to be a deduction, this will occur before any money is paid to eligible group members. Balance does not intend to seek an amount exceeding 25% of the damages to be paid to eligible group members (and it may seek a lesser amount if more group members register their interest in receiving money under the judgment).

15 | Who is Deloitte and what is their role?



[Deloitte](#) is a one of Australia's leading professional services firm, and provides audit, tax, consulting, risk advisory and financial advisory services.

Deloitte has been engaged by Gilbert + Tobin to provide class action administration and support services, which includes (but is not limited to):

- Deployment of the online Group Member Platform for:
 - Collection, storage and management of Group Member data
 - Group Member registration, claim submission, eligibility and claim assessment
 - Communicating with Group Members regarding the registration process.

5 | OTHER QUERIES

16 | What will it cost me to become a part of the Toyota class action?



You do not need to pay any “out of pocket” legal fees.

That is because a company called Balance Legal Capital I UK Ltd ([Balance](#)) agreed to pay the costs of bringing the Toyota class action, including to pay the legal costs of Toyota if the action was unsuccessful, in return for reimbursement of those costs plus a funding commission in the event the class action was successful (that is, if money was recovered from Toyota). Because it funded the litigation, Balance intends to ask the Court to deduct an amount from the damages to be paid to all eligible Group Members. Whether such a deduction can be made and, if so, the amount of that deduction, will be determined by the Court and you have a right to raise before the Court any issues you have in respect of such a deduction. If there is to be a deduction, this will occur before any money is paid to eligible Group Members. Balance does not intend to seek an amount exceeding 25% of the damages to be paid to eligible Group Members (and it may seek a lesser amount if more Group Members register their interest in receiving money under the judgment).

If you think you are a [group member](#) and have not already done so, please register your interest to receive any money to which you may be entitled under the Court’s judgment [here](#).

It is in group members’ interests to register. If group members do not register, they will not be able to receive any money to which they may otherwise be entitled under the judgment.

17 | What if I opted out of the class action?



The Toyota class action is an “open class action” meaning it was brought by the applicants on their behalf and on behalf of other persons who also own or have owned the affected Toyota vehicles (known as “group members”). The criteria for group members can be found [here](#).

In an open class action, any group members who do not wish to participate in the class action must “opt out” of the class action. An Opt Out Notice and Supplementary Opt Out Notice ordered by the Court was previously issued to group members, setting out their options for opting out of the class action. A copy is available [here](#).

The deadline for opting out of the class action has now passed.

If you did not opt out by the deadline, you remain a group member.

If you opted out by the deadline, you are not a group member. You may seek special leave of the Court to opt back into the class action. You should seek independent legal advice should you wish to do so.

18 | How long will the action take?



The class action was commenced in July 2019 and the initial trial concluded in December 2021, with the Court delivering its judgment on 16 May 2022.

The next case management hearing is scheduled for 21 July 2022. At this time (or shortly afterwards), the Court will determine the manner in which the remaining issues in dispute between the parties (including group members' claims for additional damages) will be resolved.

19 | What if the warranty applicable to my Relevant Vehicle has expired?



Whether or not your warranty has expired does not impact your ability to participate in the Toyota Class Action. That is, even if your warranty has expired, provided you satisfy the other [eligibility criteria](#), you are still a Group Member in the Toyota Class Action.

20 | Does it matter if my Relevant Vehicle was / is financed?



No.

Financing of the vehicle does not affect your ability to be a part of the class action, provided that you meet the [group member criteria](#).

Group members' entitlements to receive compensation for excess financing costs was not determined at the initial trial. However, we are considering how group members may be able to establish their entitlement to receive compensation for excess financing costs and will provide a further update on this topic as soon as we are able to do so (likely following a hearing on 21 July 2022).

21 | What if I have not experienced any issues with my Relevant Vehicle?



In its reasons for [judgment](#), the Court found that all [Relevant Vehicles](#) were not of acceptable quality because of their defective DPF systems. This was so even if the consequences of the defective DPF system had not yet manifested in some vehicles.

Pursuant to a [orders](#) made by the Court on 16 May 2022, eligible group members are entitled to be paid money (damages) for the reduction in value of their Relevant Vehicles resulting from those vehicles not being of acceptable quality.

If you think you are a [group member](#) and have not already done so, please register your interest to receive any money to which you may be entitled under the Court's judgment [here](#).

It is in group members' interests to register. If group members do not register, they will not be able to receive any money to which they may otherwise be entitled under the judgment.

22 | Should I have my vehicle serviced?



While the approach you take to servicing your vehicle is a matter for you, having your vehicle serviced at its regular recommended servicing intervals and/or as needed will not impact your eligibility to receive money to which you are entitled under the judgment.

If you think you are a [group member](#) and have not already done so, please register your interest to receive any money to which you may be entitled under the Court's judgment [here](#).

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