

## Step 1. I don't know if I am at fault

*\*\*Note: The Insurance Law Service is unable to give advice about whether you are at fault or not\*\**

Fault will be determined by a court if the parties to an accident cannot agree or there is conflicting evidence and versions of events. Generally Court decisions about fault will be based on:

- the availability and credibility of witnesses
- physical evidence (photos/footage, damage reports, skid marks on roads etc) and
- interpretation of the road rules

Generally, any driver who is negligent (does not take reasonable care) and causes damage as a result is at fault and will be responsible for the damage caused. If the insurer for the other party is contacting you and demanding payment, they may hold the belief you are at fault based on what their insured has told them (whether rightly or wrongly). You should write a statement about what occurred. Draw a diagram of where the incident took place and any photos of damage to your car or the other driver's car is also useful. You should read the road rules that apply in the State where the accident occurred and see what rules may support you not being at fault. If you are not sure, you should consider speaking to a lawyer. For contact details and links to state based Legal Aid commissions and community legal centres see the [Getting Help factsheet](#).