

## Step 1. I don't agree with the insurer's settlement offer?

Keep trying to negotiate. If you cannot agree on repair costs, you should consider getting another quote. If you cannot agree on the market value of the vehicle, you should gather as much evidence as you can as to your losses. The amount should allow you to buy a reasonably similar replacement car. You should research car values on online used vehicle websites. You should consider factors that distinguish your car. What is considered includes:

- kilometres
- wear and tear
- pre-existing damage.

When working out the market value, the market is that of your local area. So, if you live in Sydney don't compare with cars in Darwin or Tasmania, as they represent different markets that have other factors like distance and a smaller market. When negotiating, you need to consider reducing what you are asking for and meeting the insurer at a compromise. If you believe the offer is still far less than what you are entitled to, then you can either:

- commencing action in court; or
- if you are not insured and the damage is under \$15,000, lodging in the Australian Financial Complaints Authority (AFCA)

REMEMBER: both Court and AFCA will make a decision based on independent, objective evidence. The usual process you follow is: The next steps are to:

1. **send a letter of demand**, which outlines your damages and the date in which you want the money paid by; and then
2. if the demand is not paid by the demand date **commence a claim in Court**.

OR

3. **make a claim** in the Australian Financial Complaints Authority (AFCA) if (*and only if*):
  - You are not at fault (the other party caused the accident)

- The damage is less than \$15,000 (or you are willing to accept \$15,000 as your maximum loss) and
- The other party is insured (and claims on their insurance) or the other party has died or cannot reasonably be found.

**AFCA** AFCA is not a court. They cannot take evidence on oath. They are not experts on the interpretation of road rules. AFCA can exclude disputes if they believe there is a better jurisdiction, such as a Court. If your dispute is over who is at fault, AFCA may not be the best jurisdiction to hear your matter. You can always try to begin in AFCA and see if you can negotiate a resolution you are happy with it. But be prepared that you may still end up in Court! *Tip: If you do not meet the requirements for AFCA, you are limited to sending a letter of demand and/or commencing a claim in court (if the demand is not paid); see below.* You must lodge any complaint in AFCA by the earlier of:

- 6 years of the date when you first became aware (or should reasonably have become aware) that you suffered the loss (usually the date of the accident); and
- 2 years of the date of any final written internal dispute resolution response from the insurer.

If you need advice about dealing with the other insurer in AFCA, [email](#) or call the Insurance Law Service on 1300 663 464. **If AFCA does not work for you** If you do not meet the requirements for AFCA, you are limited to Options 1 and 2, that is send a letter of demand and commence a claim in court (if the demand is not paid). If the other party's insurer is contacting you demanding payment, this means they think you are at fault for the damages and fault is disputed. You need to read about fault disputes. Click on the "**I have a dispute about fault**" button below