

## **Step 1. I am insured, not at fault but don't want to make a claim**

**If you decide not to claim, you may not be able to change your mind later.** If you are insured, your insurer has the right to handle negotiations and act on your behalf, and to assess your car and repair it in accordance with your policy (for example, choice of repairer). If you repair your own car and/or pursue the other party, who then disputes liability, your insurer may decline or reduce your claim depending on how much you hurt your insurer's interests. You will need to work out how to respond to the claim the other party (or their insurer) has made against you if:

- you are being chased for money
- believe you are not at fault, and
- decide not to claim on your insurance.

Do not ignore the demand! For more information see:

- [Responding to a claim](#) on the LawAccess NSW website.

Generally in car accidents, the other party is entitled to recover damages caused by the at-fault party's negligence. The damage in a motor vehicle repair claim is usually made up as follows:

- The lesser of:
  - the cost of the repair; or
  - the market value of the vehicle LESS salvage value

If the car is cheaper to replace than to repair, then you are generally expected to act reasonably and minimise the loss by replacing the car.

- PLUS towing costs
- PLUS hire car costs, lost wages or profits (called "demurrage")

The party (or the insurer) can only recover what is 'reasonable' given the circumstances, such as the:

- age, make and model of the car
- condition of the car

- availability of car repairers in the area.

If you want to chase the other party to recover your losses, you need to mitigate or minimise those losses. You cannot recover compensation for losses which you ought reasonably have avoided following the accident. This means you must keep your costs reasonable. It is generally advisable to get more than one quote so that you can show that your costs are reasonable. If you want to claim hire car costs, you need to consider what make/model of car would be reasonably comparable to the one that was damaged. If you are considering using a hire car management company (one that gives you a hire car then chases the other party for the cost) – see our [Should I get a courtesy car through a credit hire company? fact sheet](#). **Should I let the at fault party's insurer assess my car?** Sometimes the at fault party's insurer may ask to assess your vehicle. They may even offer to repair it for you. If you want your car repaired, but it is possible the car may be uneconomical to repair (the repair cost plus salvage cost exceeds the market value) you should **not** let the insurer assess your car because they may write it off. When an insurance assessor assesses a vehicle they have obligations under the Written Off Vehicle Register (WOVR). The WOVR is a national initiative designed to deter crime and ensure road safety. The national framework applies to light vehicles less than 15 years old and includes cars, motorcycles, trailers and caravans. All insurance companies who assess cars (whether it be the car of their own insured or not) are obliged to notify the WOVR and are not required to notify you or get your permission beforehand. Once the WOVR is notified it may be impossible to remove. If your car is listed as a repaired written off vehicle it may diminish in value. For more information about the WOVR read our [Your vehicle has been 'written off'](#) fact sheet on our website.