

Step 1. Should I claim when I am being chased for money but not at fault and insured?

Things to think about in deciding whether to claim or not Things to consider include:

1. How much damage has the other party sustained?
2. How much damage have you sustained? How much will it cost to fix?
3. Will you be able to negotiate with the other side? Will you be able to respond to letters of demand or court action?
4. How clear cut is the question of fault? Does the other party accept any fault on their part?
5. The terms of your own insurance policy.

You may wish to consider **not claiming** where:

- The cost of repairing the **total** damage (to your car and your alleged liability for the other car) is less than or just over the amount of your excess. You should also consider if there is likely to be towing, hire car, or other possible costs that may be claimed
- The cost of repairing your car is close to the value of your car and you do not want the car to be “written off”. You should be mindful of how much the other party is claiming from you.
- There is very minor damage to your car and you are confident you can negotiate an acceptable settlement to the other party's demands about the damage to their car.
- The other party agrees they contributed to the accident (i.e. admits partial fault).

You may wish to consider **claiming** where:

- The other party does not agree they contributed, and believes you are completely liable.
- The question of fault is disputed and unclear, and you would prefer your insurer to deal with responding to any letters of demand or court action.
- The damage to both cars is extensive.

- You have an Agreed Value policy, which means your insurer will pay you more than what you could pursue from the other party in damages.
- You have generous hire car benefit under your insurance policy.
- The other party is not insured (or refuses to claim) and you have concerns whether they have the funds to pay for your damages

If you decide to claim with your own insurer, you:

- may need to pay an excess (even if you are not at fault: see our [“Do I have to pay my excess or multiple excesses?”](#) fact sheet on our website);
- may need to pay the remaining portion of your insurance premium if your car is a total loss and you have been paying monthly premiums;
- are subject to your contract of insurance about how the vehicle may be repaired or written off;
- are subject to the terms and conditions of your insurance, including any no claim bonuses; and
- may have higher premiums moving forward, and having too many claims can impact on your ability to get insurance.

If you have a dispute with your insurer you can:

1. Tell your insurer. You can complain to your insurer’s Internal Dispute Resolution (IDR) department. Find your insurer’s IDR details using the Australian Financial Complaints Authority (AFCA’s) [member search function](#).
2. If the dispute is not resolved within 45 days you can lodge in the AFCA. You can make a claim in AFCA by going to the [AFCA website](#), or calling 1800 931 678. For information on AFCA go to our [Dispute Resolution](#) fact sheet on our website.

If you decide not to claim and deal with the other party directly If you do not claim, and try and negotiate with the other party yourself, you need to be careful. You may not be able to change your mind later and claim on your own insurance if you have:

1. admitted fault or partial fault;
2. admitted to an amount of damage you are liable for; or
3. delayed the resolution of the matter.

Under most insurance policies, your own insurer has the right to conduct negotiations and settlements on the best terms they can. If you have interfered with this process or prejudiced the insurer’s interests in any way your insurer may reject or reduce your

claim as a result. If you repair your car, this may also impact on your insurer's right to assess your car and repair it in accordance with your policy (for example, choice of repairer). When you are not claiming on your insurance, you will need to respond to the other party's claim against you promptly. If you want to recover damages yourself, your claim is a claim for negligence and what you are entitled to is set out in the common law as to damages. If you have a problem or cannot negotiate with the other party, you may need to take them to Court or respond to a claim made by them in court. Court proceedings are risky and you should get advice first, as you may be ordered to pay the other side's costs (e.g. if you lose). If you choose to not make a claim and deal with the at fault party yourself, click the **"I have decided not to claim on my insurance"** button below.