

## Step 1. Make a claim in the Australian Financial Complaints Authority (AFCA)

You can make a claim in the Australian Financial Complaints Authority (AFCA) if (*and only if*):

1. You are not at fault (the other party caused the accident)
2. Your damage is less than \$15,000 (or you are willing to accept \$15,000 as your maximum loss) and
3. The other party is insured (and claims on their insurance); or the other party has died or cannot reasonably be found.

You can make a claim in AFCA by going to the [AFCA website](#), or calling 1800 931 678. 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! *Remember: 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).* **Time limits** 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 the 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.

In the event you are unsuccessful in AFCA, you can send a letter of demand and consider court action. Read:

- information on [letters of demand](#) on the LawAccess NSW website.

- [Should you go to court](#) on the Law Access NSW website.

The other party may also commence court action. If you are going to commence a claim in Court you should get legal advice. The Court may make orders that one party pay the other party's costs – for instance, the Courts may order the losing party pay the reasonable legal costs of the winning party. If the claim is under \$20,000 and run in the Small Claims Division of the NSW Local Court, the amount of legal fees is capped according to a scale based on the amount being disputed. Information about court fees and legal fees in the Small Claims Division can be found on LawAccess NSW's [What can they claim?](#) page. Start by contacting LawAccess NSW on 1300 888 529. LawAccess NSW also provides information about [making a claim](#) following a car accident. If the other party commences court action, you would then need to file a defence to a claim against you (and prove any cross-claim you chose to make against the other party asking the Court to order they pay you damages). The LawAccess NSW website has more information about [representing yourself](#) after a car accident, including how to [respond to a statement of claim](#). The LawAccess NSW website has more information about [going to court](#). You may need to get legal advice from a private solicitor before commencing legal action or filing a defence. To find a private solicitor, go to the [NSW Law Society](#) website. If you have limited means, contact your local Community Legal Centre for advice. To find your nearest Community Legal Centre, use the Community Legal Centre NSW's [directory](#).