

## Step 1. I want to pursue the other party

*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. Your **first step** is to work out how much your damage you have suffered by the collision. This means gathering evidence and quotes for repair or if your car cannot be repaired its market value. 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 costs you can recover are limited to what is ‘reasonable’ given the circumstances, such as the

- age, make and model of the car
- condition of the car
- the 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](#). 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 in the Australian Financial Complaints Authority (AFCA) if *(and only if)*:
  - a. You are not at fault (the other party caused the accident)
  - b. The damage is less than \$15,000 (or you are willing to accept \$15,000 as your maximum loss) and
  - c. The other party is insured (and claims on their insurance) or the other party has died or cannot reasonably be found and
  - d. you did not have comprehensive insurance when the accident happened;

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 either go back to the **"What is your situation?"** page and select **"I've had an accident and I'm being chased for money to pay for the damages"**, or click on the **"I'm in dispute over fault"** button below to read more about fault disputes.