

Step 1. Should I claim when I am not at fault and insured?

The following sets out some factors to consider: **When you might claim with your own insurer** The factors that may lead you to claim with your own insurer may include the following:

- 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 a hire car benefit under your insurance policy that is generous ,
- The other party:
 - is not insured;
 - cannot be found;
 - won't admit fault;
 - won't tell you who their insurer is.

If you decide to claim with your own insurer you:

- may need to pay an excess (even if you are not at fault);
- may need to pay the remaining portion of your insurance premium (if you have been paying monthly);
- 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. What follows will depend on the terms and conditions set out in your Product Disclosure Statement. If you have a problem with your insurer you can take any dispute to the free dispute resolution of the Financial Ombudsman Service.

When you might pursue the other party: The other party:

- admits fault, and tells you who their insurer is;
- insurer agrees to pay you the repair cost or market value of your vehicle;
- you want to repair your car and if you claim on your insurance your insurer may write off the car;
- there is only minor damage (possibly less than your excess).

You can start by trying to negotiate with the other party, and if that fails make a claim on your own insurance. However, in doing so, you must be careful not to breach your policy terms and conditions by delaying, or otherwise interfering with your insurers rights. For example, if you agreed with the other party for a set amount you could not change your mind later and claim on your own insurance. When you are not claiming on your insurance and pursuing the other party directly, 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 will need to take them to Court.