

Step 1. The other party has breached their policy

Not all accidents are covered by insurance. Sometimes a claim made by an insured is excluded by their insurer. Examples include:

- If the insured has a blood alcohol reading above the legal limit;
- They have not paid their insurance premiums; or
- The driver is under the age limit of the policy.

If the other party has breached their policy, then for the purposes of the accident the other party is not insured. If you are not insured, you will need to pursue the driver as an individual. 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's party negligence. The damage in a motor vehicle repair claim is usually made up as follows:

- Repair cost of the damage caused or the market value of the vehicle, whichever the lesser;
- PLUS towing costs
- PLUS hire car costs, lost wages or profits (called "demurrage")
- LESS salvage value (if market value of the car is claimed)

The costs you can recover are limited to what is 'reasonable' given the circumstances (such as the age/make/model/condition of the other car, and the availability of car repairers in the area). You have an obligation to mitigate or minimise their losses. 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. 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 if the demand is not paid by the demand date,
2. **commence a claim in Court.**