# Car Insurance Claim

## Description

This fact sheet is for information only. You should get professional advice about your personal situation from a lawyer.

Also visit our Motor Vehicle Accidents problem solver

### Main ideas

**• Different insurance policies provide different benefits. Understand your policy.**

**• Claiming on your policy may impact your ability to get, and the cost of, future insurance policies.**

**• It's your choice whether or not you claim – think it through.**

## In this fact sheet:



## Understand your policy

The details of your insurance policy are explained in the Product Disclosure Statement and the Policy Schedule. Your insurer will have provided these to you when you bought the policy.

Generally, there are two types of vehicle insurance policies you can choose to buy: Comprehensive and Third Party Property Damage.
Be careful not to confuse these with Compulsory third party insurance (also called CTP or Green Slip) which you must get to cover personal injury, usually when you renew your vehicle's registration.

## Comprehensive insurance policies

Comprehensive policies cover damage to your vehicle as well as damage you cause to other people's vehicles or other property.
Some policies also provide a hire or replacement vehicle for a limited time while your vehicle is being repaired.

### Agreed or market value

The amount the insurer will pay you depends on whether you have insured your vehicle for an agreed value or a market value. This will be shown in your Policy Schedule. Some policies provide a 'new for old' replacement if certain conditions are met.

The insurer can deduct money from your payout for your excess, the rest of the year's premiums, any unused registration and CTP insurance. If they write-off your vehicle, they will also keep the wreck or deduct the salvage value of the wreck if they let you keep it.
Read our Written-off Vehicles fact sheet for further details.

**Agreed value** – you and the insurer agree what you will be paid if the vehicle is a total loss, shown in the Policy Schedule. For example, if the agreed value is $20,000 and the vehicle is a total loss, the insurer will pay you $20,000 less deductions.

The agreed value will usually reduce each time you renew your policy. This is because vehicles generally depreciate (go down in value) over time.

Always check your yearly renewal to see what your new agreed value is. If you dispute the agreed value, discuss it with the insurer immediately and consider shopping around. If you think you have been treated unfairly, get advice.

**Market value** – what your vehicle was worth if you sold it just before the accident. It will normally be less than the price you paid for it as your vehicle generally loses value over time as you use it. For example, if you bought your car for $20,000 and two years later the car is a total loss, the market value may only be $15,000 or less. In unusual circumstances (such as the coronavirus manufacturing shut-downs), second-hand car prices may go up over time. Always do your own research.

It can be difficult to work out the market value of a car. If you dispute the market value the insurer gives your vehicle, get evidence. For example, obtain an independent valuation, find advertisements for comparable vehicles, check websites such as RedBook or Glass's guide.

### Third Party Property Damage insurance policies

Third Party Property Damage policies only cover damage you cause to other people's vehicles or other property.

**If you are at fault**, you need to pay for repairs to your vehicle yourself.

**If you are not at fault**, or only partly at fault, you may be able to recover your costs from the other driver or their insurance company. Or you may be able to claim under an Uninsured Motorists Extension.

If you are uninsured or only have third party property insurance, read our fact sheet Car Accident when Uninsured.

#### Uninsured Motorists Extension

Some Third Party Property policies have an optional extension that allows you to claim a limited amount for damage to your car, usually up to $3,000 or $5,000. Check your Policy Schedule.

You can usually claim if you can show the other driver was at fault, uninsured and you can identify the driver of that car.

It can be difficult to claim this benefit; if your claim is refused, seek legal advice.

## Decide whether or not to claim on your policy

Consider whether you should claim on your insurance. Making a claim on your insurance can affect:

- your ability to get insurance later, too many claims may mean insurers think you're too risky to keep or take on as a customer
- the cost of future premiums
- your no claim bonus.

When you claim on your insurance you may have to pay an 'excess' (the amount of money you agree to pay if there is a claim – see your Policy Schedule and our Paying Insurance Excess fact sheet).

Also consider:

- Is it certain who was at fault?
- Is the other driver insured or not, do they admit fault, and how easy would it be for you to recover your losses?
- How much is the damage compared to your excess? Think about the cost of repairing or replacing your car, as well any other vehicles you could be responsible for. Think about other costs like hire car expenses, towing, lost wages or profits (usually for work cars like taxis).

**If you choose not to claim, you may have difficulty claiming through your own insurer later.** Most policies give your insurer the right to deal directly with the driver or owner at fault. If you have interfered with their ability to do this, your insurer may reduce or reject your claim.

If you decide not to claim on your policy, you may still need to **tell your insurer about the accident when your policy comes up for renewal or if you are applying for a new policy**. You have a 'duty of disclosure' to make sure information the insurer is relying on is accurate and up to date each year. If you don't provide this information, your insurer may cancel your policy and refuse your claim if they later discover they would not have insured you.

## Chasing the other party's insurer to pay for the damage

You cannot 'claim' on the other driver's insurance in the same way as your own insurance. It is not your insurance policy, and their insurer has no obligations to you.

For the other driver's insurer to be involved, the other driver needs to lodge a valid claim. You cannot force the other driver to claim if they do not want to. (But you may be able to force the insurer to get involved if the other driver has died or cannot be found.)

Once a claim is lodged, the driver's insurer stands in the shoes of their customer. They may be willing to negotiate with you, but they do not have to.

They may ask to inspect your car or to use their repairer or hire car company. If you are worried your car may be a write-off, read our Written-off Vehicles fact sheet before you agree to an insurer assessing your car. You have the right to refuse and to use your own repairers, but act reasonably and minimise the amount you want to recover. Otherwise you may end up out of pocket. If you cannot reach an agreement with the other driver's insurer, you may need to pursue them in court.

## Deciding not to claim and going directly to court

Going to court is risky.

Even if you win, you may not be able to recover all of your legal costs, meaning you will be out of pocket.

If you lose, you may need to pay your own legal costs as well as the other party's legal costs (as well as the damages in the accident).

Some states may have a tribunal for car accident claims too.

Get legal advice before considering any legal proceedings in a court or tribunal.

If you go back to your insurer after you lose, or incurred unnecessary costs, your insurer is likely to reject your claim, or reduce it by any extra costs that could have been avoided had you claimed earlier. The insurer has a right to handle the matter as they see best, and they can reduce or reject your claim if you deny them this right.

# Claiming on a vehicle insurance policy

## Complete a claim form

Ring the insurer and ask for a claim form. Getting a paper claim form gives you time to think about what happened so you can describe it clearly. Or use the insurer's online claim form.

Many insurers process claims over the phone. Your conversation may be recorded. (If English is your second language, ask for an interpreter.)

If the insurer tells you over the phone that you cannot claim or your claim will be rejected, this may not be right. **Get advice**.

## Pay your excess

The excess is your contribution to an insurance claim. It is defined in your Policy Schedule.

**Do not drop your claim because you can't pay the excess.** The insurer cannot refuse your claim just because you cannot pay the excess up front. The insurer may allow you to pay off your excess over time. If you don't claim, you will have to pay for the damage yourself – including repairs to your vehicle, repairs to the other vehicle, and for other damage and losses.

Read our fact sheet about Paying Insurance Excess.

# Insurance claim outcomes

Sometimes it can take a long time for your claim to be decided. For further details, read our fact sheet Insurance Claim Delay.

If you are being asked for too much information or too many documents, or you are being investigated, read our fact sheet Insurance Investigations.

## If your claim is denied

If your claim has been refused read our fact sheet about Car Insurance Claim Refused.

## If your claim is accepted

Most policies give your insurer the right to choose to:

- repair the vehicle
- pay you to do the repairs
- write-off the vehicle (either for the sum insured or market value).

Some policies may give you the right to choose your own repairer. Be careful about the limitations in these policies – the insurer may decide how repairs are done, or be able to adjust your repairer's quote.

Your insurer must act in the utmost good faith (fairly and reasonably). Your insurer cannot insist on repairing your vehicle if it cannot be done safely to its previous condition. Read our Written-off Vehicles fact sheet.

If there are no safety concerns but you have a preference on whether the car should be repaired or written-off, negotiate with your insurer. But be reasonable and do not expect the insurer to pay for a total loss if the vehicle can be repaired.

### If the insurer repairs your vehicle

When your insurer authorises and pays the repairer directly, the insurer becomes responsible for the quality of the workmanship and materials. The insurer must also handle any complaint about the timeliness of the work or conduct of the repairer.

If the repairs are faulty or incomplete, then the insurer is responsible for fixing this. Your policy may also give you other rights, such as 'lifetime guarantees' for repairs. If there are problems with repairs your insurer performed, read our fact sheet about Problems with Insurance Repairs.

**If the insurer gives you money to repair the vehicle**

Before accepting money for repairs, get your own quotes to be sure it is enough to do the repairs properly. It will be up to you to find a repairer, and you will need to deal with any issues that come up between you and your repairer.

Once you accept the money, the insurer has no further involvement and takes no responsibility for the repairs.

If your insurer is not offering you enough money, or only agreeing to pay some of your claim, read our fact sheet about Part Payment of Insurance Claim.

**If your vehicle is written-off**

There are two reasons a vehicle will be written-off:

1. The vehicle is so badly damaged it would be unsafe to repair it (sometimes called a 'statutory write-off').
2. The vehicle can be repaired but the insurer considers repairing the vehicle uneconomical (sometimes called a 'repairable write-off').

If the car is a write-off, then the insurer will pay you the sum insured less deductions and either:

- take the damaged vehicle, or
- give you the option of keeping the damaged vehicle but deduct its salvage value out of the amount they pay you.

The insurer must notify your state's roads and traffic authority that the vehicle has been written-off. It will be recorded in a register of written-off vehicles.

Be very careful before repairing a vehicle that has been declared a repairable write-off. Check all the additional requirements and costs so that the vehicle can be re-registered.

Read our fact sheet about Written-off Vehicles.

## Need more help?

Call the Insurance Law Service on 1300 663 464 for free and independent legal advice.

Also visit our Motor Vehicle Accidents problem solver

For additional resources, visit our Useful Links page.

*Last updated: October 2022*