This information is for adult clients and their family members.
It aims to help you understand fault, or negligence, particularly as it relates to common law compensation.

What is fault or negligence?
Fault (or negligence) means a failure to take reasonable care to avoid causing injury or loss to another person.

Who can be at fault?
A person, party or organisation can be determined to be at fault.

What are some examples?
Some common examples of a person being at fault are:
• failing to give way at a stop sign
• running into the back of another vehicle.

How do I know who was at fault?
A police report is the most common way to know who may be at fault in an accident.
Sometimes it is not immediately clear who was at fault. When this happens there may be an investigation into the accident circumstances to help identify who was at fault.
Sometimes there may be more than one person, party or organisation who contribute to the accident. This is called ‘contributory negligence’ or ‘partial negligence’.

What if someone I know was at fault?
In most cases the TAC will pay common law compensation to the person injured in the accident. We pay this on behalf of the person, party or organisation who was at fault.
It doesn’t matter if the accident was caused by someone you know, or a stranger to you.
Generally, if your accident was in Victoria and did not involve an interstate vehicle, the TAC will pay the common law compensation. The person at fault in the accident will not be out of pocket.
For example, if a woman suffered a ‘serious injury’ in a transport accident caused by her husband, the TAC will cover the costs of compensation. In this example the TAC acts as the husband’s insurer to pay out any eligible common law compensation to his wife.

I don’t know who was at fault – what should I do?
If you are unsure who was at fault, you need to discuss the circumstances of the accident with a personal injury lawyer.
They will be able to provide you with independent legal advice about who may be at fault.
We recommend choosing a law firm that specialises in TAC claims and operates within the Common Law Protocols. Engaging a lawyer who follows the Protocols will generally result in a faster and easier outcome for your common law compensation claim.

Where can I get more information?
You can find more information on our website: tac.vic.gov.au/commonlaw