

# Elder Law Fact Sheet

## Powers of Attorney – Compensation Claims in Victoria



If a principal loses money as a result of an appointed attorney breaching their obligations, a compensation claim can be brought at VCAT or in the Supreme Court of Victoria.

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### What are an attorney's duties?

An appointed attorney must act in the principal's best interests, must avoid any conflict transactions (except in certain circumstances) and must act honestly, diligently and in good faith among other things.

### Compensation claims

A breach by an attorney of their duties exposes them to compensation claims. Compensation claims can seek orders that the attorney compensate the principal for losses caused by inappropriate use of the power. VCAT or the Supreme Court is the appropriate jurisdiction for compensation claims, depending on when the offending conduct occurred.

### Misappropriation

If a principal's funds or property is misappropriated by an attorney, the principal has a number of additional options:

- Revoke the power of attorney document;
- Ask the attorney to account for all decisions made as attorney;
- Ask VCAT to suspend the power of attorney and seek an audit of the accounts;
- Ask VCAT or the Court to order an investigation into the circumstances;
- Recover funds or property that has been misappropriated.

## Contact us

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