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# Elder Financial Abuse

## Powers of Attorney – Compensation Claims in Victoria

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*Compensation claims can seek orders that the attorney compensate the Principal for losses caused by inappropriate use of power.*

If a Principal suffers financial loss 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. The same principals apply to loss caused by a VCAT appointed Administrator.

### What are an attorney's duties?

An appointed attorney must act honestly, diligently and in good faith and must avoid any conflict transactions (except in certain circumstances), 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. The claim can be brought by the Principal or anyone else that has a "special interest" in the affairs of the Principal.

### Misappropriation

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

- Remove the attorney and appoint a family member, friend or independent professional as Administrator for the Principal (if the Principal lacks decision making capacity);
- Ask the attorney to account for all decisions made as attorney and all transactions conducted;
- Ask VCAT to order an audit of the accounts;
- Ask VCAT or the Court to order an investigation into the circumstances;
- Commence proceedings against third parties or professional advisers who have caused or contributed to the financial loss;
- Seek that the matter be investigated for criminal liability

### Contact Us

If you need further assistance or advice, please do not hesitate to contact our Elder Financial Abuse team on (03) 9843 2171.