

Office of Fair Trading

Making a claim in relation to property marketeering

Under the *Agents Financial Administration Act 2014* (the Act), when purchasing your principal place of residence, you can make a written claim for compensation if you have lost money because of the actions of a real estate agent, auctioneer or their employees.

What is a marketeering claim?

A claim against a property agent may relate to certain types of conduct that we class as *marketeering*. This does not apply to motor dealers or auctioneers.

Marketeering could be:

- misleading conduct
- unconscionable conduct
- false representations.

Misleading conduct

Misleading conduct could be:

- lying to you
- leaving out important details
- deliberately giving you a false idea
- making false claims about the property.

Unconscionable conduct

Unconscionable conduct could be:

- using high-pressure tactics
- taking unfair advantage of your personal circumstances
- not giving you time to read an agreement, ask questions or get advice
- using a friend or relative to influence your decision
- not explaining the key terms of a contract.

False representations

False representations could be about:

- the property's details
- the property's value
- any facilities they said were available or going to be available.



When you can make a claim

You can make a claim only if:

- you have on-sold the property within 6 years of the purchase contract date
- you suffer a capital loss, that is, if you sell it for less money than you paid for it (this is why you must have already sold the property)
- the property is not an investment property
- the property is located in Queensland.

Timeframes for making a claim

You must:

- submit a marketeering claim form within 1 year of signing the contract to give us notice of your intention to claim in the future
- sell your property within 6 years of signing the contract
- submit the regular claim form after you sell the property.

We will assess if you made your claim in time. If you have not complied with the above timeframes and requirements your claim will be dismissed.

Claim process

You can't make a claim about marketeering if you do not lodge the notice of intention to claim and sell the property within 6 years of the contract date.

Notify the Office of Fair Trading of your intention to make a claim

Complete the *Form 2 – Notice of intention to claim for a marketeering claim* attached to this factsheet within 1 year of signing the contract.

Lodge your form via:

Post:
Claims and Recoveries
Office of Fair Trading
GPO Box 3111
BRISBANE QLD 4001

Email:
claimsandrecoveries@justice.qld.gov.au

Complete and lodge your claim

After you sell your property, complete the *Form 1 - Claim against the claim fund*. There is a factsheet attached to the form with more information about the claim process.

For more information

OFT website: www.qld.gov.au/fairtrading and search for [Claim for financial loss](#)
Phone: 13 QGOV (13 74 68)

For QCAT related enquiries, phone 1300 QLD CAT (1300 753 228) or visit www.qcat.qld.gov.au.

Disclaimer

This is an overview of the claims provisions only and is not intended to be a substitute for the Act, which should be referred to for more precise information about making a claim.

This information is provided for your general information and does not profess to offer legal, professional or commercial advice. If you are unsure as to what course of action you should take, you should obtain independent professional legal advice.



Agents financial administration Form 2



Queensland
Government

Notice of intention to claim for a marketeering contravention

Agents Financial Administration Act 2014

This form is effective from 10 August 2020

ABN: 13 846 673 994

OFFICE USE ONLY

Date received

No fee is payable

WARNING

Please read the following information carefully before completing the claim form.

Privacy statement—please read

The Office of Fair Trading collects information, including personal information, on this form and in the supporting material as required by the *Agents and Financial Administration Act 2014* to assess your claim. In accordance with the Act, some personal information will be passed to the persons identified as respondent/s and to their representatives, appointed Receivers, appointed Special Investigators and the Queensland Civil and Administration Tribunal (where applicable). Additionally, information on this form can be disclosed without your consent where authorised or required by law. Under the *Fair Trading Act 1989* information may also be shared on a confidential basis with other Australian fair trading agencies.

If you give the OFT an email address to communicate with you, the personal information in these communications will be stored on your email service provider's servers. These servers may be outside of Australia. By giving us your email address, you are consenting to the personal information contained within the emails to and from the OFT to be transferred outside Australia.

Part 1—Claimant details

Claimant 1 details

Party making the claim, usually yourself.

A post office box is not acceptable.

Please note: if the property was purchased by more than one person, please state all names as only one claim can be made.

Preferred title Mr Mrs Ms Miss Other (specify)

Surname

Given names

Company/Trading name (if applicable)

ACN/ABN

Address

Suburb State Postcode

Business phone Home phone

Fax number..... Mobile

Email address

Claimant 2 details

A post office box is not acceptable.

Preferred title Mr Mrs Ms Miss Other (specify)

Surname

Given names

Company/Trading name (if applicable)

ACN/ABN

Address

Suburb State Postcode

Business phone Home phone

Fax number..... Mobile

Email address

Part 2—Respondent details

Respondent details

Agent, Auctioneer or their employee who you are claiming against and whose actions caused the loss.

Please provide as much information about the respondent as possible to assist the office to process your claim.

Address to which all documents/notices are to be sent.

A post office box is not acceptable.

Preferred title Mr Mrs Ms Miss Other (specify)

Surname

Given names

Company/Trading name (if applicable)

ACN/ABN

Address

Suburb State Postcode

Business phone Home phone

Fax number..... Mobile

Email address.....

Name of person-in-charge

Name of person you dealt with.....

Position

Part 3—Details of proposed claim

Property address

The property for which you are making the claim. Please note, claims can only be made for property located in Queensland

* Claims can only be made for a principal place of residence. You cannot make a claim about an investment property

Please refer to the *Making a Claim in relation to a Marketeering Contravention* fact sheet for further information.

Address

Suburb State Postcode

Did you purchase the property as your principal place of residence? Yes No*

What is the contract date for the purchase of the property? / /
D D / M M / Y Y Y Y

Which marketeering contravention do you allege has occurred?

Misleading conduct

Unconscionable conduct

False representation and other misleading conduct.

Part 4—Notice of Intention to lodge claim

Claimant/s' signature and date

All claimants stated in Part 1 must sign the claim form.

Note: If the claimant is a corporation, this form may be signed by any person duly authorised by the corporation.

I/we hereby give notice to the Chief Executive of my/our intention to lodge a claim against the *Agents Financial Administration Act 2014* claim fund for capital loss suffered due to a marketeering contravention by the respondent/s.

I/we understand that for this claim to be valid, I/we must lodge a claim against the claim fund (using AFA Form 1) within six years of the date of purchasing my/our principal place of residence. I/we also understand for a claim to be valid I/we must lodge this notice (AFA form 2) within one year of purchasing my/our principal place of residence.

Claimant 1 full name

Signature Date / /
D D / M M / Y Y Y Y

Claimant 2 full name

Signature Date / /
D D / M M / Y Y Y Y