



GUIDE TO COMPLETING THE FIDELITY GUARANTEE ACCOUNT CLAIM FORM

Effective: 10 October 2012

You must use the attached form if you wish to claim reimbursement for any loss you believe you have suffered as the result of defalcation by a licensee. For assistance with some of the terms used in this form and for general and important information you should refer to Consumer Protection's [Fidelity Guarantee Account: Information Bulletin No: 1](#).

You should lodge your completed claim form as soon as possible after you become aware of your loss, as there are time limits you must comply with.

Company Claims

Where a company is making a claim, it must be accompanied by a resolution showing that the person lodging the claim is authorised by the company to make the claim on its behalf.

Statutory Declarations

The information in the claim form must be verified by a statutory declaration. Read your claim form carefully before you sign the declaration. It is an offence to make a false declaration. Each claimant must sign the declaration at the end of the claim form in front of a person who is authorised to witness a statutory declaration and who will also sign as a witness.

Authorised Witness

A list of Authorised Witnesses can be found by visiting www.dotag.wa.gov.au. A relative cannot be an authorised witness. No person under 18 years of age can be an authorised witness. If you are making the declaration outside of Western Australia, please contact www.dotag.wa.gov.au or call (08) 9425-2896 for advice on who is an authorised witness outside Western Australia.

Disclosure

Information provided by the claimant may be disclosed to other people for the purposes of investigating and deciding the claim, or to assist the police with any investigation.



Subrogation

Where a claim is allowed, the *Settlement Agents Act 1981* and the *Real Estate and Business Agents Act 1978* give Consumer Protection a right of subrogation.

Subrogation is a right to take proceedings in the name of the claimant to enforce any rights and obtain any remedies against the licensee, which the claimant could have recovered from the licensee.

Consumer Protection may exercise its right of subrogation and seek to recover from the licensee the amount that has been paid out of the Fidelity Account. In exercising its right of subrogation, Consumer Protection will commence proceedings in the name of the claimant but be responsible for the action. Any legal fees incurred in taking subrogation proceedings remain with Consumer Protection, and the claimants will not be asked to contribute. Claimants may, however, be asked to assist Consumer Protection by giving evidence in those proceedings.



LODGEMENT GUIDE

Fidelity Guarantee Account Claim Form

Settlement Agents Act 1981; Real Estate and Business Agents Act 1978

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Information Required: Check List

- Each claimant has provided their own details.
- Where the claimant is a Company evidence showing the person lodging the claim is authorised by the Company to make the claim on its behalf.
- Information where a claim is beyond the three-year time limit.
- Additional written pages have been attached (where required).
- All questions answered fully and clearly or stated to be n/a.
- Copies of all relevant documents are attached.
- Each claimant has signed the Statutory Declaration which includes the information disclosure and subrogation acknowledgement.
- Copy of the completed claim form retained for your own records



FIDELITY ACCOUNT CLAIM FORM

Settlement Agents Act 1981; Real Estate and Business Agents Act 1978

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1. Details of claimant(s)

Claimant 1 (If there are 2 or more claimants, give details for each one)						
Title & Family name						
Given name						
Home address						
Postal address						
Telephone	h:		m:		w:	
Email						

Claimant 2						
Title & Family name						
Given name						
Home address						
Postal address						
Telephone	h:		m:		w:	
Email						

* If there are more than 2 claimants please make a copy of this page and the claimant statutory declaration for any additional claimants.



Where the claimant is a Company						
Company						
Person to act on behalf of Company (name & position held)	<i>*Please attach copy of company resolution of appointment to act</i>					
Company address						
Postal address if different from above						
Telephone	h:		m:		w:	
Email						

2. Details of dealings with licensed settlement agent or real estate agent (licensee) or other employee of the licensee

Name of licensee	
Address of licensee	
Description of the services provided by the licensee or other persons employed by the licensee	



3. Details of loss suffered by you

Description of loss to include:

- The amount of the loss taking into account any monies or benefits already received as compensation.
- The nature of the loss (e.g. stolen purchase monies, stamp duty, tenancy bond, sales deposit, rental income etc)
- The address of the property(s) to which the loss relates
- When and how the funds or property were misappropriated.

If more space is required please provide details under question 7 "other information"



4. Civil proceedings

Please state details of any civil proceedings in respect of this loss.

5. Criminal proceedings

Please state details of any complaint you have made with the police in respect of this loss.

6. Time limits

Please state when and how you first became aware of your loss, providing the date on which you first became aware of your loss. If you have previously written to Consumer Protection to give notice that you intend to make a claim please state when and attach a copy of that written advice.

(Note: claim form will be returned if a date is not entered)

Note: If you have not previously given notice in writing to Consumer Protection, and your claim has not been lodged within a period of three years from the time that you first became aware of your loss, your claim may be outside the time limits advised on page 2 of *The Fidelity Guarantee Account Information Bulletin No: 1*. If this is the case please provide an explanation and supply any information which you think may be relevant to assist Consumer Protection in deciding whether it should receive your claim.



7. Other information

Please state details of any other information that you think may be relevant to your claim.
You should attach all documents which show what you have lost and how that loss occurred (such as bank statements, receipts).



STATUTORY DECLARATION: CLAIMANT 1

You must sign this statutory declaration and it must be witnessed by a person authorised by law to receive a declaration.

I, (NAME) _____,
 (ADDRESS) _____,
 OCCUPATION) _____,

Sincerely declare as follows --

- I am able to speak of the facts set out in this claim form of my own knowledge;
- the information given in this claim form and any attachments is true and correct in every respect, and;
- I acknowledge that I have been informed that Consumer Protection has a right of subrogation and that it may exercise this right to take proceedings in my name to enforce any rights, and obtain remedies against the licensee, and that I may be called as a witness in those proceedings.
- I consent to any information provided in or together with this Notice of Claim being divulged or communicated to the Commissioner for Consumer Protection and/or any person designated as an investigator under Part 6 of the *Fair Trading Act 2010* for the purposes of the investigation of any breach of legislation administered by the Commissioner.
- I consent to any information provided in or together with this Notice of Claim being divulged or communicated to the Police to assist with any investigation.

This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the *Oaths, Affidavits, and Statutory Declarations Act 2005*

At (PLACE) _____,

On (DATE) _____,

By - (SIGNATURE OF DECLARANT) _____,

In the presence of,

 (SIGNATURE OF AUTHORISED WITNESS)

 (NAME & QUALIFICATION OF AUTHORISED WITNESS)

For a list of Authorised Witnesses please visit www.dotag.wa.gov.au.



STATUTORY DECLARATION: CLAIMANT 2

You must sign this statutory declaration and it must be witnessed by a person authorised by law to receive a declaration.

I, (NAME) _____,
 (ADDRESS) _____,
 OCCUPATION) _____,

Sincerely declare as follows --

- I am able to speak of the facts set out in this claim form of my own knowledge;
- the information given in this claim form and any attachments is true and correct in every respect, and;
- I acknowledge that I have been informed that Consumer Protection has a right of subrogation and that it may exercise this right to take proceedings in my name to enforce any rights, and obtain remedies against the licensee, and that I may be called as a witness in those proceedings.
- I consent to any information provided in or together with this Notice of Claim being divulged or communicated to the Commissioner for Consumer Protection and/or any person designated as an investigator under Part 6 of the *Fair Trading Act 2010* for the purposes of the investigation of any breach of legislation administered by the Commissioner.
- I consent to any information provided in or together with this Notice of Claim being divulged or communicated to the Police to assist with any investigation.

This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the *Oaths, Affidavits, and Statutory Declarations Act 2005*

At (PLACE) _____,

On (DATE) _____,

By - (SIGNATURE OF DECLARANT) _____,

In the presence of,

 (SIGNATURE OF AUTHORISED WITNESS)

 (NAME & QUALIFICATION OF AUTHORISED WITNESS)

For a list of Authorised Witnesses please visit www.dotag.wa.gov.au.