



Dear Representatives,

## Our appeals policy is changing in 2024

We are making some updates to FSCS's appeal policy. The new appeals policy will apply from 21 February 2024 and is subject to a three-month notification process which starts today, 20 November 2023.

The details of the updated appeal policy can be found [here](#). You should read this newsletter in conjunction with the policy.

The FAQ document is accessible [here](#).

We have also attached the FAQ document in Appendix 1 at the bottom of this email.

## What changes are being made?

FSCS is making two key updates to our appeals process. These will apply from 21 February 2024:

1 – We are introducing a time limit of three months that will apply at each stage of the two-stage appeal process.

Any appeal submitted after the three-month time limit has expired will not be considered unless FSCS is satisfied that there are exceptional circumstances that prevented you from submitting your appeal within the three-month time limit.

2 – All relevant evidence and grounds for the claim must be included in the original claim submission. FSCS will no longer consider new or amended bases of claims at the appeal stage.

If at appeal stage your client wants FSCS to consider any new evidence, you will need to show that the evidence:

- Was not available at the time you made your original claim.
- Would be likely to have an important influence on the outcome of the appeal

- Presents as credible

For the full details of FSCS's updated appeal policy please go to the [appeal policy](#).

FSCS is introducing these time limits for a number of reasons including:

- a - finality and certainty in FSCS decision making;
- b - the public interest in the good administration of the scheme;
- c - FSCS's responsibility to ensure it is carrying out its functions in an efficient and effective manner; and
- d - concerns about the evidential quality of appeals submitted significantly after a decision.

Details of how to make an appeal can be found on our appeals page. This can be found [here](#).

The email address which should be used when requesting an appeal is [appeals@fscs.org.uk](mailto:appeals@fscs.org.uk). Further details can be found [here](#).

## When will these updates apply?

Because the update to the appeals policy has an impact on customers and third parties such as customer representatives the updates are subject to a notification period of three months before the changes will start to apply. That notification period starts today.

This means the updates to the Appeals policy will apply to all decisions issued on or after 21 February 2024.

The wording in our decision letters will also change to make it clear when the updated appeals process applies.

## What will this mean for representatives?

The appeals process serves a very important function in the FSCS claims process. The changes FSCS is introducing may require you to change some of your own procedures. The notification period will give you time to review the changes and make any necessary adjustments.

It remains your responsibility to ensure you are able to provide the highest standards of representation for your clients and that you understand and adhere to the changes that will apply to appeals your clients wish to bring to FSCS.

You may need to review how you:

- Communicate with your customers before and after receiving a decision from FSCS
- Identify each of your customers' individual circumstances
- Identify claims decisions which on their individual facts have a legitimate basis for appeal and those that do not
- Submit claims and appeals to FSCS
- Package and provide FSCS with high quality appeals

It will also be vitally important to ensure that requests for an appeal are clearly worded so that representatives avoid any potential uncertainty about whether a request for an appeal was made within the relevant time limit.

Please note the email address which should be used when requesting an appeal is [appeals@fscs.org.uk](mailto:appeals@fscs.org.uk).

## Uncooperative practices

FSCS does not expect the introduction of the policy to lead to bulk appeals by representatives in circumstances where they wouldn't have otherwise brought an appeal.

It is important that customers know they have a right to challenge a decision reached on their claim for compensation. However, it is also important that in deciding to request an appeal, that decision should be considered at an individual claim level. Any request for an appeal should clearly state by reference to the facts of the case why the decision is not agreed with.

Should there be appeals in circumstances where insufficient consideration has been given at an individual claim level, FSCS may regard this as an abuse of process and reserves the right to raise that matter with the relevant regulator.

If you have any questions about this or ideas about how we can work better together for the best customer experience, please get in touch with us [relationshipteam@fscs.org.uk](mailto:relationshipteam@fscs.org.uk).

Regards,

The Relationship Management Team

## Appendix 1

### **What changes are being made?**

FSCS is making two key updates to our appeals process from 21 February 2024:

- We are introducing a time limit of three months to challenge a decision FSCS has made on your claim.
- All relevant evidence and grounds for the claim must be included in the original claim submission. FSCS won't consider a new or amended basis for a claim at the appeal stage unless there are exceptional circumstances.

### **Can I submit new evidence at appeal stage?**

FSCS will not consider any new evidence at the appeal stage unless certain conditions are met. If at appeal stage you want FSCS to consider any new evidence, you or your representative will need to show that the evidence:

- Was not available at the time you made your original claim
- Would be likely to have an important influence on the outcome of the appeal; and
- Presents as credible

### **When will these updates apply?**

Because the update to the appeals policy has an impact on customers and third parties, such as customer representatives, the updates are subject to a notice period of three months before the changes will start to apply.

This means the updates to the appeals policy will apply to all decisions issued on or after 21 February 2024.

The wording in our decision letters will also change to make it clear when the updated appeals process applies.

### **What about decisions issued before 21 February 2024?**

For decisions that FSCS has issued at any time before 21 February 2024, the rules will come into effect as if the decision had been issued on 21 February 2024. This means anyone who received a decision from FSCS before 21 February 2024 will have until 21 May 2024 to raise an appeal.

If you are considering submitting an appeal, and have a valid basis for doing so, please make sure you are fully prepared before this date. Each appeal is considered on its own merits and must include all the detail and evidence necessary for FSCS to be able to investigate and make a decision.

### **Are open appeals affected?**

No, any appeals that have already been opened by FSCS before 21 February 2024 will remain open.

### **Is the two-stage process for FSCS appeals changing?**

No. If you wish to challenge a decision it will still be subject to a two-stage internal appeal process as explained on our [main Appeals page](#).

### **How will FSCS calculate the three-month time limit?**

The time limit for submitting an appeal will run for three calendar months from the date of the decision being appealed. The three-month time limit will not be different if there are any bank holidays falling within the three-month period.

Examples:

- FSCS emails the decision on your claim to you or your representative on 12 March 2024.

The three-month time limit if you wish to appeal the decision will end at midnight on 12 June 2024.

- The date on your decision letter is 01 March 2024. The decision letter is sent to you in the post. The three-month time limit if you wish to appeal the decision will end at midnight on 01 June 2024.

- On 18 March 2024, FSCS emails you its decision on your first-stage appeal against the decision we reached on your claim for compensation. The three-month time limit if you wish to request an escalated appeal will end at midnight on 18 June 2024.

### **What decisions does the time limit apply to?**

Decisions include not only decisions to accept or reject a claim for compensation, but also decisions FSCS takes about:

- the amount of compensation;
- the terms on which a payment is made;
- the exercise of FSCS discretions.

### **Are there any exceptions to the three-month time limit?**

FSCS will consider a request to accept an appeal outside of the time limit due to exceptional circumstances.

For FSCS to review an appeal submitted outside of the new time limits, customers or their representatives would have to show that there were exceptional circumstances that prevented customers from submitting an appeal in time.

Examples of exceptional circumstances may include periods of serious ill health or where the claim was submitted by the customer but has been continued by the customer's estate.

Exceptional circumstances does not include when a new legal basis of claim becomes available to the customer after the expiry of the time limit. For example, following a Court judgment that changes the law about an issue relevant to the claim.

To ensure consistency in our approach, any request to appeal outside the time limit will require the approval of the Chief Customer Officer or Chief Counsel (or a member of staff delegated by them).

### **What does FSCS mean by ‘basis of claim’ or ‘all bases of claim’?**

The basis of your claim is the civil liability you rely on when bringing your claim for compensation to FSCS.

Examples of a basis of claim include negligence, breach of contract, misrepresentation or breach of the FCA Rules.

### **Should there be any changes made to how claims are submitted?**

The responsibility remains on the customer, and where relevant their representative, to submit properly evidenced claims when applying to FSCS for compensation.

The submission of evidence-based claims in the first instance plays an important role in an efficient and timely outcome for all customers.

### **Why is FSCS introducing a time limit to its appeals process?**

FSCS is introducing these time limits for five main reasons:

- finality and certainty in FSCS decision making;
- the public interest in the good administration of the scheme;
- FSCS's responsibility to ensure it is carrying out its functions in an efficient and effective manner;
- FSCS' responsibility to use its resources in an efficient way; and
- concerns about the evidential quality of appeals submitted after a significant amount of time has passed.

For claims being considered by the courts or by other public bodies similar to FSCS, it is standard practice for appeals to be subject to a time limit.

We recognise that the decisions that we make have an impact first and foremost for the individual who brought the claim and secondly for a range of third parties who are impacted by our decisions.

Introducing the time limit will mean customers can make a timely appeal at a point when they are likely to be best equipped to prepare and submit their appeal, while the issues raised are fresh in the mind. It will also enable FSCS to meet its obligation to have fair and efficient procedures.

We also recognise that it is of benefit to everyone that decisions we make on

claims are finalised within a reasonable period of time and can be relied upon with certainty by the recipient and others.

### **Have you considered whether the changes are compatible with the European Convention of Human Rights ("ECHR")?**

The rules set by the Regulator that we are required to follow require us to act in a way which is compatible with the ECHR.

We are satisfied that the updates to the appeal policy are reasonable, proportionate and consistent with our responsibilities under the ECHR.

### **Does FSCS have the power to make these changes?**

Yes, FSCS has the power under section 214(1)(h) of the Financial Services and Markets Act 2000 to make provision "*as to the procedure to be followed in making a claim*".

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