FSCS Podcast - Episode 28: Why might a claim be rejected by FSCS?

Lila Pleban 00:01
Welcome to protect your money with FSCS, a podcast from the Financial Services Compensation Scheme. I'm Lila Pleban, Chief Communications Officer at FSCS. And in this series, the fantastic FSCS team will help you understand how we can help to protect your money, so you can feel confident your money is safe. I hope you enjoy the podcast!

Amy Alford 00:29
Welcome to the FSCS podcast. My name is Amy Alford and I'm a Content Editor at FSCS. I'll be your host for today's episode. FSCS, which is short for the Financial Services Compensation Scheme, exists to protect customers of authorised financial services firms that have gone out of business by paying eligible people compensation.

Today, we're going to dig a little deeper into what we mean when we talk about being eligible to receive compensation and we'll look at some of the situations in which we might have to reject a claim. It's worth noting that for some of the financial products we protect, you wouldn't actually have to make a claim to receive compensation from FSCS. For example, if your bank, building society or credit union fails, we have systems in place to automatically return your money within our compensation limits. In this episode, we'll be focusing on some of the areas you would need to make a claim about, which includes mortgages and other home finance products, pensions, payment protection insurance (or PPI), protected investments, as well as certain debt management and funeral plan business.

Joining me today to talk about this is my colleague Rachel McIvor, who is a Pensions Claims Specialist here at FSCS. Hi, Rachel.

Rachel McIvor 01:49
Hello, thanks for having me.

Amy Alford 01:51
Now, the first thing I think we should say is that this episode is in no way designed to put you off making a claim with FSCS. This podcast series aims to give you a better understanding of our protection, so we thought it would be useful to talk more about the rules we follow when considering a claim and explain why sometimes we might not be able to pay compensation, so that you're as informed as possible.

Rachel McIvor 02:12
Yes, that's right. So, if you think you might have a valid claim, please do come to us. We've got a really friendly customer support team available to help and we do assess every claim that we receive individually. So even if we don't think you're eligible to receive compensation from FSCS, we'll always try to explain the next steps that you could take and refer you to an organisation who might be able to help. We also do try to make the process of claiming and getting your money back as simple as we can. So please do get in touch with us if you think you need some help.

Amy Alford 02:40

Brilliant. Yes, and remember that you can claim direct with FSCS for free, which means that if your claim is successful, you'll keep all of the compensation you're entitled to and there'll be no fees to pay. If you need any help, you can speak to our customer support team as Rachel mentioned, or you could actually nominate a friend or family member to act as your personal representative. That option can be really handy if you struggle with forms or with using a computer. If you'd like some more information about how to go about making a claim, you can visit our website at www.fscs.org.uk and I can also recommend listening to episode eight of this podcast.

Now I touched briefly on the fact that we follow certain rules at FSCS and that we use these to assess the claims we receive. Let's explain that in a bit more detail. These rules are set by the UK financial services regulators. That's the Financial Conduct Authority (or FCA) and the Prudential Regulation Authority (or PRA). Broadly, they specify who is eligible to receive compensation, the firms that fall under FSCS protection, what activities trigger our protection, what financial products trigger our protection and how much compensation can be paid to a customer. These are the rules we apply when deciding if a claim is eligible for FSCS compensation. They are also, therefore, the underlying reasons when we reject a claim. To be able to uphold a claim, we need to be satisfied that there is what we term a 'protected claim' by reference to these rules. We investigate each claim thoroughly to establish this.

So, Rachel, let's say we've received a claim from a customer. What does our investigation start with? What's the first thing we have to check?

Rachel McIvor 04:19
So, we call the first stage the default investigation. So here we have to satisfy ourselves that the financial firm in question has failed and is unable to pay, or is likely to be unable to pay, any claims made against it. I'll just mention here that FSCS was set up mainly to assist private individuals, although smaller businesses are also covered and there are some exceptions. But that's what we mean when we talk about customers.

Amy Alford 04:43
That's great. And what would happen if the financial firm was still trading, or if we found that it could pay a customer's claim itself?

Rachel McIvor 04:50
So, in that situation, FSCS would not be able to pay the compensation. The customer would need to raise a formal complaint with the company itself. So, if you were to do that and were unhappy with the company's response, or if they failed to reply to you, you would then take your complaint to the Financial Ombudsman Service for them to reconsider.

Amy Alford 05:07
So that's the first thing we check, what comes next?

Rachel McIvor 05:09
So, the next step of our claim investigation is to look at what the financial firm was actually doing for the customer. So, for FSCS protection to apply, the firm must have been authorised by a UK regulator, so that's the FCA or the PRA, and it must have been carrying out a regulated activity for the customer. The

government decides which activities are regulated and examples include advising on, arranging or managing certain types of investments. Not all activities carried out by an authorised firm will be regulated activities, so we have to check this part carefully. I should also add that not all types of financial services business which is regulated by the FCA comes within FSCS protection.

Amy Alford 05:50
Okay, if you're listening to this, and it's made you wonder whether your money would be FSCS protected, there are actually some handy protection checkers you can use on our website. We have a Pension Protection Checker, an Investment Protection Checker, and a Bank and Savings Protection Checker available. You just need to put in some details to see how much of your money would be protected if your provider went out of business or we'll tell you what other steps you'd need to take to check this. You'll find all three of these online at fscs.org.uk.

Rachel McIvor 06:18
Yes, you can also check the FCA's Financial Services Register online at register.fca.org.uk, which will give you more information about the financial firms you're using and what they are regulated to do. It's actually a really useful website and very easy to use.

Amy Alford 06:34
Thanks, Rachel. So, we might have to reject a claim if the financial firm either isn't authorised, or if the activity it's carrying out for the customer isn't a regulated one. Something else we need to establish is whether the firm owes the customer a civil liability, which means that if you were to sue the firm, the court would decide in your favour and award you damages. Examples of a civil liability are negligence or breach of contract, and we would need sufficient evidence of this to be able to uphold a claim.

That actually brings us neatly on to another point - providing sufficient evidence. When you submit a claim, we will request certain documents from you to prove your claim for compensation is eligible under the rules we follow. Sometimes we do have to reject claims due to a lack of evidence. Rachel, I think you have an example of this to share.

Rachel McIvor 07:19
Yes, that's right, I do. So, this claim was in relation to advice from an authorised firm to transfer the customer's existing pensions into a small self-administered scheme (also known as a SSAS), which is an occupational pension scheme, along with the subsequent investment advice that took place. So, when we are investigating a claim like this, we firstly need to establish and find proof that the firm the claim is actually against provided the advice or were involved in the regulated activity which took place. So, ultimately that they are responsible for the pension transfer taking place and the investments that then followed.

So, to do this, we will gather information from all possible sources and will also rely on the information and evidence provided by the customer or their representative if they have one. We will request the firm's client file from whichever source is available, we'll write to the previous pension scheme provider and the new scheme provider, asking for details of the advising firms involved with the transactions and obviously for any documentary evidence of this as well. So, if we're unable to find evidence of the firm's advice or their involvement from the information that we gather, we will always again just ask the customer or the representative, just to confirm that they've definitely provided us with all documentation and correspondence that they have. Just to be sure that we have everything because sometimes the customers will only provide what they think might be useful, but not realising that the other information may be useful. So, we just always want to make sure that they've given us absolutely everything that they have. We really will try to exhaust every avenue, but unfortunately if we can't find this evidence then we would have to reject the claim, which is what happened in this instance.

Once we'd reviewed all of the evidence that we were able to obtain, we were unfortunately unable to link the firm to the advice. However, we did find some evidence of the potential involvement of another FCA-authorised firm who were still an active trading firm. Their name was mentioned on the transfer documentation provided by a previous pension scheme provider. So, in our decision letter, we explained to the customer that whilst we were unable to find any evidence of the firm they had claimed against providing the advice, we had noted the possible involvement of the other firm who were still active. So, we just explained that they may be liable for any losses resulting from these transactions, and we provided the customer with the contact details for the other firm, so that they could contact them or potentially make a claim to them instead.

Amy Alford 9:44
That's really interesting and I think it highlights how important it is to keep hold of any documents or correspondence you receive about your financial products. If you're listening and don't already do this, maybe consider setting up an email folder to put messages into rather than deleting them and keep paper documents somewhere safe so you can refer back to them if you ever need to.

Rachel McIvor 10:02
Yes, absolutely do hold on to these documents. It would mean that if you're ever in the unfortunate position of having to make a claim with FSCS, you'll have the information and evidence available so that we can fully and properly assess it.

Amy Alford 10:14
Okay, we've covered a lot there. Is there anything else we have to look for when we're assessing the eligibility of a claim?

Rachel McIvor 10:19
Yes. So, there's another key point to mention. We also need to establish whether the customer has suffered an actual financial loss as we can only pay compensation if this is the case. So, we can't accept claims about poor service or because a financial product hasn't performed as well as hoped.

I specialise in pension claims and as part of a claims assessment, our team will carry out a calculation to determine the customer's financial loss. If these calculations show that no loss has actually occurred, then we would have to reject the claim, but we would fully explain this in our decision letter and include details of our reasoning and our calculations. We're actually seeing an increase in the number of no loss outcomes for pension transfer claims at the moment, really just due to current economic factors.

Amy Alford 11:03
Do you have an example of a claim you've had to reject on this basis that you could share with us?

Rachel McIvor 11:08
Yes, I do. So, in this particular example, the customer was advised to transfer their personal pension to a SIPP, within which some investments were made into higher risk illiquid funds. So a SIPP is a self-invested personal pension, which is basically a pension wrapper, which allows more flexibility with the investments chosen within that compared to like a standard type of personal pension. So, our assessment of the claim agreed that the advice to transfer was unsuitable for the customer. But when we performed our calculations, they resulted in a no loss outcome, which meant that we had to reject the claim.

Our calculation compared what the customer's previous personal pension would be worth today if it had never been transferred with the current value of the customer's SIPP, which is made up of cash in the SIPP and the value of the investments within it. We also accounted for the lump sums and income that the customer had already withdrawn from the SIPP in previous years, and actually, our calculation showed that the customer had made a gain of just over £20,000.

Current economic factors will have played some part in this. The customer transferred around £33,500 to the SIPP in 2017, but in 2023, the notional transfer value of that pension, so that's really what the plan would be worth now if it had never been transferred, was around £38,500. So, it hadn't actually increased much in value over those six years. But the liquid investments within the customer's new SIPP, however, had increased in value in previous years, which had allowed the customer to be able to take significant lump sums and income from it.

Amy Alford 12:45
Tell us a bit more about how you work out the values you compared there.

Rachel McIvor 12:48
Yes, of course, the notional transfer value of the previous pension is calculated by that provider. So, we request this from them as part of our standard data gathering request on all pension transfer claims and, of course, our calculations rely on this being accurate. The valuation of the current scheme, the SIPP, is also calculated by that provider. So, we will of course check these valuations to ensure that they relate to the correct policy and that the dates are current. But ultimately, we're relying on the provider giving us accurate information. If any information given by a provider seems incorrect for whatever reason, or doesn't look quite right, we will of course challenge or clarify this with them. We just always want to ensure that our calculations are as accurate as possible and right first time.

If a customer or their representative had any questions about our calculations or did not agree with them, for whatever reason, they're most welcome to contact FSCS and we can help to explain them and answer any questions they may have. We really would like all of our customers to feel assured that they have been given the correct outcome, so we'd absolutely encourage them to get in touch if anything was unclear or didn't feel quite right.

Amy Alford 13:56
Thanks very much, Rachel. So that brings us to the end of our discussion today. I hope it's been helpful to hear more about some of the factors that make a claim eligible for FSCS compensation. As we

mentioned at the start, if you think you might have a valid claim, please do come to us. FSCS is a free service. We don't charge any fees, and we have a friendly team on hand to help you with your claim application. You'll find our contact details on the FSCS website along with lots more information about what our protection covers.

Now there's one final thing to do, which is to ask Rachel the question all of our guests answer. We're all about keeping your money safe, but what was the toy that got you breaking open your piggy bank as a child?

Rachel McIvor 14:34
Oh, I think it has to be a Scalextric! I always really wanted one when I was a kid and whenever I went to my cousin's house, I used to play with the one that they had and it was just hours of fun. I'm sure I put one on my Christmas list one year, but it just seems that Santa Claus never took me seriously unfortunately, and I never did get one.

Amy Alford 14:53
Good choice. Thank you for joining me today, Rachel, it's much appreciated. If you want to hear more from FSCS you can find all of our podcast episodes on our website, and wherever you usually listen to your podcasts. Give us a follow and you'll never miss a new episode. Thanks very much for listening.