

## **FSCS Podcast – Episode 37: Mini-pod: Making a claim for mortgage advice and mis-selling**

**Jess Spiers** 00:01

Welcome to Protect your money with FSCS, the podcast from the Financial Services Compensation Scheme. Today, we've got a mini-pod for you- a special bitesize episode where we talk through a particular topic to explain it all simply. In this series, we explain how we can help to protect your money, so you can feel confident your money is safe. Let's get into the conversation now.

**Nigel Yeates** 00:27

Welcome to this short episode of the FSCS podcast. I'm Nigel Yeates, your host. I'm Communications and Stakeholder Business Partner at FSCS. I'm joined today by my colleague Caroline Chall, who is a Claims Specialist at FSCS and an expert in mortgage advice and arranging. Thanks very much for joining me, Caroline.

**Caroline Chall** 00:44

Hi, Nigel. Great to be here, I'm looking forward to our chat.

**Nigel Yeates** 00:47

So today we're talking about one of the smaller and perhaps lesser-known areas of our claims, but by no means less important. We're discussing mortgage advice and mortgage endowment claims. A mortgage advisor has an obligation to provide advice that is suitable for the customer's needs.

A customer may be able to claim compensation from FSCS if they received unsuitable advice that caused them to lose money, or a product was mis-sold to them. In all cases, the firm, the broker or adviser you dealt with must have been regulated and then have failed or gone bust for us to be able to help. Caroline, can you please set the scene by explaining what this claim type covers?

**Caroline Chall** 01:23

Whilst a smaller workstream, we still have claims in this area and people may not be aware that they are able to claim. Last year we had around about 150 claims for mortgage advice, and also a small number of mortgage endowment claims. Under our rules in the mortgage area, we protect and can accept claims in relation to both mortgage advice and mortgage endowments.

Customers could claim compensation from FSCS if they've received unsuitable mortgage advice that caused them to lose money, or if they were mis-sold a repayment vehicle such as a mortgage endowment or a pension. When we refer to repayment vehicles, we mean the arrangement the customer has in place for an interest only mortgage to repay the balance at the end of the mortgage term.

**Nigel Yeates** 02:10

Great, thank you. And to be really clear, can I just jump in and ask what you mean by mortgage advice? And how does FSCS cover this?

**Caroline Chall** 02:17

If you were given unsuitable mortgage advice on or after 31st October 2004, and lost money as a result, you could be eligible for FSCS compensation up to £85,000. Mortgage advisers are required to consider your circumstances and recommend the most suitable option available to you.

**Nigel Yeates** 02:37

Thank you. And can you explain what a mortgage endowment is and how these are covered by us?

**Caroline Chall** 02:37

An endowment policy is a type of life insurance that doubles up as an investment vehicle, which pays out a lump sum at the end of its term, or if you cash it in early, or on the death of the policyholder. If this was mis-sold to you, you could be eligible to FSCS compensation, again, as I said, up to £85,000.

**Nigel Yeates** 03:03

Great, thank you. Right, let's focus on claims in relation to mortgage advice first.

**Caroline Chall** 03:08

The bulk of these claims relate to not having a repayment vehicle for an interest only mortgage and customers feel they were mis-advised when taking the mortgage out. In all cases, the firm, the broker, or the advisor you dealt with must have failed for us to be able to help, and there are other eligibility criteria, which you can find out on our website, which is [www.fscs.org.uk](http://www.fscs.org.uk). We always say that it's important to make sure, and check, if anyone you use is authorised, and whether FSCS protection could extend to you.

**Nigel Yeates** 03:44

Thanks, and can you share some other common reasons that lead to mortgage advice claims?

**Caroline Chall** 03:48

Sure, other common reasons why we see claims are: if you lost money because you weren't advised about the different types of mortgages and took out a product that was unsuitable; if you were sold a mortgage that was unaffordable or incurred unnecessary or disproportionate fees, for example, a high charge for repaying your mortgage early; and finally, if you lost money, because you were advised to take out a lifetime mortgage that was unsuitable for you at the time.

These claims are often really difficult to hear as customers are likely to be in a vulnerable position where they have lost significant sums of money, are at risk of losing their home, and are struggling to meet their mortgage payments.

**Nigel Yeates** 03:52

Yeah, absolutely. And do you have any other examples in the mortgage advice area that you could share?

**Caroline Chall** 04:31

Another example is if you've lost money because you were advised to switch mortgages but weren't given an adequate explanation of why. It's important to say we can only protect advice that relates to a property in the UK, which is your main residence, not a commercial or buy-to-let mortgage for example.

It's also important to remember our investigation must apply the regulatory obligations of the firm at the time that mortgage was sold.

For example, if the mortgage in question was taken out in 2008, which is pre-mortgage market review, which came into effect in April 2014 and the claim is in regard to say, a self-certified mortgage. Before the mortgage market review, this was standard industry practice, and the majority of high street lenders would have offered a type of mortgage on that basis.

**Nigel Yeates** 05:27

Great, thanks - that's all clear. Let's discuss the second area further now, mortgage endowment claims.

**Caroline Chall** 05:33

If you think you were mis-sold your endowment policy, and it was linked to the mortgage, you could be eligible for FSCS compensation. You must have lost money as a result of this, and you must have received the advice after 28th August 1988. Claims in the mortgage endowment area are now few and far between as most of these types of policies were sold quite some time ago. Mortgage endowments are no longer a common product and by 2000, the sale of endowments to repay a mortgage was virtually seen as taboo.

**Nigel Yeates** 06:05

Thanks. And what about examples in the mortgage endowment area?

**Caroline Chall** 06:08

I'll use some example situations where we've received claims in the past for compensation. So, let's say your advisor didn't properly explain that because the return from your endowment policy is actually linked to the stock market, there was a real risk that your policy could leave you with a mortgage shortfall at the end of the term.

Another example is where your endowment is due to pay out after retirement, but actually, it was clear at the time the advice was given to you, you wouldn't even be able to carry on paying premiums after your stated retirement age. We've also had an example where the endowment was not due to mature until after the mortgage loan had finished. And this wasn't made clear to the customer when they received the advice. And finally, perhaps you already had an endowment and were asked to surrender it and take out a new one.

**Nigel Yeates** 07:00

Am I right in saying that the uphold rates (which is the rate of successful claims) for both these areas is now quite low?

**Caroline Chall** 07:06

Historically, a lot of mortgage endowment claims were upheld. The majority of endowments were sold in the 1980s or early 1990s. It was rare for an endowment to have a term of more than 25 years, so by now, most policies would have matured over 10 years ago. That means it's important to bear in mind that because most of these are about policies that matured or were surrendered several years ago, many of these are now time barred. There is more information about time bar on our website

www.fscs.org.uk. Just enter 'time bar' in the search box. If you are unsure, always submit a claim and we can assess it.

**Nigel Yeates** 07:50

Absolutely, thanks. For customers claiming in the mortgage area, how long does the process usually take?

**Caroline Chall** 07:55

The majority of customers who submit a claim to FSCS regarding mortgages will get a decision within 4-6 months.

**Nigel Yeates** 08:03

Thanks. Are there any other bits of guidance or tips you would give customers more specifically about mortgage advice claims?

**Caroline Chall** 08:08

Yeah, as these types of claims are concerning the advice provided by the firm, point of sale documentation, such as a suitability letter, key fact illustration, and fact find, would have been given to the customer at the time and kept by the firm. As the firm is no longer trading, we can only get these documents from the customer. These documents are crucial to find out what was actually discussed.

Documents obtained from the lender would be post sale, such as the mortgage offer and mortgage statements, and for an interest only mortgage, these documents would fully inform the customer there is a need to repay the balance at the end of the term. Of course, in an ideal world, it would be great if customers kept these documents, but realistically due to the passage of time, this is not always the case.

It is important to remember, there are always options available to a customer who did not have a repayment vehicle. As mentioned earlier, the repayment vehicle is the resource you have in place to repay the mortgage balance at the end of the term. Where we are unable to uphold their claim for mis-selling, we would always signpost customers to organisations that may be able to help. But please note, we are not associated with any of the organisations that we may signpost customers to.

The majority of mortgage claims come direct to FSCS which we always recommend as our friendly teams are here to help. And of course, claiming direct you get to keep 100% of any compensation due to you.

**Nigel Yeates** 09:44

Thanks so much for that useful information, Caroline. We also have more information and background on our website [www.fscs.org.uk](http://www.fscs.org.uk). We hope everyone listening enjoyed this mini podcast. You can find all of our podcasts on our website and the usual places you find your podcasts. Please do follow us so you never miss a new episode. Thanks for listening.