



neglect**assist**

Five Ways To Calculate Your Financial Mis-selling Claim To Achieve The Maximum Compensation You Deserve

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Know what you can and can't claim for

When making a financial mis-selling claim, it is crucial to understand what losses you can and cannot claim for.

Many people make the mistake of only seeking to recover their capital losses. If an investment cost the victim £10,000 – and they have lost everything – then they might think that their claim is only worth up to £10,000.

In fact, there are also many other associated losses which can be claimed for such as the lost opportunity to gain a return on the £10,000 that was originally invested.

On the other hand, there are some losses that simply cannot be claimed for, usually because they do not flow directly from the mis-sale of the financial product. For example, it is not usually possible to claim cash sums because of any stress, upset or worry when an investment fails. An exception to this general rule is that the Financial Ombudsman Service (FOS) has the ability to award up to £500 for distress and inconvenience.

You also have a duty to mitigate your losses. This means taking reasonable steps to reduce the losses you that have incurred to a minimum.



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Make sure to include all of your associated losses

Typically, the role of the Court, the FOS or the Financial Services Compensation Scheme (FSCS) is to put the investor back into the position they would have been in if they had been properly advised in the first place.

Importantly, the aim of compensation is not to punish a negligent adviser. Rather, it is to compensate the person who has suffered as a result of bad advice.

As well as the lost chance to earn returns on a failed investment, some other examples of the broad types of associated losses that can be claimed as part of a financial mis-selling claim include; the loss of any income, the diminution or reduction in value of an asset, wasted fees and costs associated with the investment and any fees and commissions paid, plus the costs paid for legal advice. Don't forget to also apply a suitable rate of interest to your overall losses.



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But don't be greedy!

However, whilst it is vital to ensure that all of the different types of losses are included within your claim, it is also important to be realistic when presenting your final total.

Very often, people make the mistake of thinking that the compensation they might be entitled to is the same as what they were promised.

For example, an unscrupulous adviser might have convinced an investor to make an esoteric and unusual investment. Fantastic returns of 10% per annum will have been 'guaranteed'. Of course, if it sounds too good to be true, it probably is, and these sorts of high-risk investments very rarely perform as expected.

This doesn't mean you can claim a loss of chance of 10% per annum. In this scenario, the correct advice might have been for this claimant to invest in a more sensible and mainstream fund, paying returns of 5-6% per annum. This is the sum that should be claimed as the lost opportunity, not the 10% that was never obtainable.



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Calculate your losses correctly

When calculating your losses, different types of claims will require different methodologies to be used.

In a straightforward investment loss claim, claims are typically quantified on a 'money-in, money-out' basis.

For example, in order to prove your loss, the Court, FOS or FSCS might need you to compare the return of the failed investment with how much the sum you lost would have earned in interest if it had been invested more suitably. An appropriate benchmark, such as the FTSE UK Private Investors Income Total Return Index, could make an appropriate comparison.

In more complicated pension transfer cases, there are rules for calculating redress which are advisable to follow.

From time to time, the Financial Conduct Authority has released guidance on how to calculate losses in pension transfer cases, and it is important to be appraised of the correct methodology to be used in a particular case.



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Employ a specialist adviser

In more complicated claims, it might be necessary for you to employ an expert with specialist knowledge in order to fully calculate your losses.

For example, in a pension mis-sale case involving the transfer of a final salary pension, an expert will be required to quantify the equivalent cash value of the pension benefits given up upon transfer, based upon actuarial principles and by applying the rules of the pension scheme that was transferred.

Generally speaking, it is possible to instruct such experts directly if you can find the right person. Alternatively, a solicitor might be able to recommend experts to you, negotiate terms of engagement on your behalf and instruct them to complete a calculation.



NEXT STEPS

Please do not hesitate to contact Tim Hampson at Wixted & Co. Solicitors for a free consultation to see if we could act for you on our “no win, no fee” basis.

5 minutes of your time spent now could make a huge difference to your future financial security.

ACT FAST, DO NOT DELAY. PROTECT YOUR FINANCIAL SECURITY FOR TOMORROW BY ACTING TODAY.



ABOUT THE AUTHOR

Tim Hampson is Head of the Professional Negligence at Wixted & Co and a Partner in the Firm. He has litigated on behalf of clients in the County Court, the High Court and the Court of Appeal, including recent success in the ground-breaking 'SIPP mis-selling' case of Russell Adams –v– Options UK Personal Pensions LLP (formerly Options SIPP UK LLP and Carey Pensions UK LLP) [2021] EWCA Civ 474, the first reported case dealing with the operation of sections 27 and 28 of the Financial Services and Markets Act 2000.

On behalf of clients, Tim has brought claims via the Financial Ombudsman Service and the Financial Services Compensation Scheme. He acted for a company and its individual directors in a claim against a financial adviser that had been rejected by the Financial Ombudsman Service, which resulted in a negotiated financial settlement for each of the individual directors at a mediation.

Tim also has considerable experience working within a team of lawyers and third parties on behalf of clients, including successfully obtaining a Group Litigation Order on behalf of more than 170 claimants in a claim brought by multiple investors: Arif & Ors v Berkeley Burke SIPP Administration Ltd [2017] EWHC 3108 (Comm). He is always happy to provide advice and considers all options for clients to achieve their desired outcome.

For a free initial discussion, please email thampson@wixtedandco.co.uk or call **0808 164 6696** and ask to speak to **Tim Hampson** in relation to a new financial mis-selling claim.

