



GUIDE TO CLAIMING
REFUNDS OF
MONEY PAID
TO A SOLICITOR





GUIDE TO CLAIMING REFUNDS OF MONEY PAID TO A SOLICITOR

Section 1:

How and when you can claim compensation because you say your solicitor was dishonest.

Section 2:

How and when you can claim refunds from a solicitor's firm where the courts or the Law Society now controls the money.

The same application form covers Section 1 and Section 2.

COMPENSATION FUND CONTACT DETAILS:

Address

Claims Administrator
Law Society of Ireland
George's Court
George's Lane
Dublin 7
Or
DX 1025 Four Courts

Other contact details:

P (01) 879 8700
F (01) 879 8969
E cfclaims@lawsociety.ie
W www.lawsociety.ie

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SECTION 1:

HOW AND WHEN YOU CAN CLAIM COMPENSATION BECAUSE YOU SAY YOUR SOLICITOR WAS DISHONEST

What is the Law Society of Ireland Compensation Fund?

The Law Society of Ireland Compensation Fund (the Fund) helps people who have lost money because their solicitor (or employee of the solicitor) was dishonest. All practising solicitors in Ireland must contribute to the Fund every year.

Who can make a claim on the Fund?

You can make a claim on the Fund if you were the client of a solicitor and you have lost money that you gave them because they were dishonest.

You can also make a claim if you were the client of a solicitor and you have lost money that was:

- received by the solicitor on your behalf; and
 - to be passed on to you or to others.
-

What can I claim for?

Can I claim missing money?

Yes. You can claim for money paid to the solicitor that is now missing because of the solicitor's dishonesty.

Can I claim back money paid to the solicitor on my behalf?

Yes. You can claim for money that:

- the solicitor received on your behalf;
 - was to be passed on to you or to others; and
 - is now missing because of the solicitor's dishonesty.
-

Can I claim back stamp duty?

Yes. You can claim back stamp duty if:

- you were buying a property;
- you gave your solicitor money to stamp and register your deeds;
- your deeds have not been stamped or registered; and
- the money is missing.

You can make your claim for stamp duty before or after you actually pay the stamp duty to the Revenue Commissioners.

Can I claim from the Fund if my solicitor was negligent?

No. If you have lost money because of your solicitor but not because of dishonesty, you may wish to consult a new solicitor about taking an action against your previous solicitor. An example of this is if your previous solicitor was negligent.

If I have to pay a new solicitor to finish the work, who will pay my new solicitor's fees?

You can claim legal fees from us for your new solicitor if you:

- are claiming for missing money;
- have already paid your previous solicitor to do the work; and
- now have to go to a new solicitor to get them to finish the work for you.

For example, if you have a conveyancing transaction that your new solicitor must finish and they have to do the typical work, we will pay them the current guideline fee. (See the section Will the Fund pay conveyancing fees? on page 9) If they have to do less than the usual work, we will pay them a smaller fee.

Does the fund cover legal fees I may have to pay to make my claim?

No. The Fund does not cover any legal fees you may have to pay for preparing and submitting a claim on the Compensation Fund.

Do I have to use a solicitor to make a claim?

No, we are happy to receive forms directly from you.

My claim has been paid, but I have lost more money than I first realised. Can I make another claim?

Yes. You can claim for further losses that are discovered after you submit your claim or we pay it. If these losses relate to the same solicitor, you do not need to submit a new claim form. You should just send us the details of the loss.

Are there circumstances where the Law Society can refuse a claim even where dishonesty has been proven?

Yes. The Law Society may refuse to pay compensation where:

- the solicitor did not hold a practising certificate;
- your own dishonesty or negligence of the client contributed to the loss;
- you assisted with the misconduct of the solicitor; or
- the loss did not arise from providing legal services.

In addition, we will not compensate you if the loss is because of something other than dishonest misappropriation of money. For example, a loss incurred due to the negligence of the solicitor.

We will not pay damages or for other losses relating to this loss. (These are called consequential loss).

Will there be any deductions from the amount of my claim?

When we decide how much you are due, we may deduct money for other fees or outlays, such as travel expenses or outlays that you owe your previous solicitor.

We will only deduct fees for work that was properly done by your previous solicitor and that did not have to be redone by your new solicitor. If your new solicitor has to redo the work, we will pay for it.

My solicitor was not dishonest but is not practising now and my money is tied up in court or held by the Law Society. How do I claim it back?

If you simply want a refund of money you paid your solicitor and is now in the control of the courts or the Law Society, please see **Section 2**. How to claim refunds from a solicitor's firm where the courts or the Law Society now controls the money on page 10.

What is the maximum claim on the fund?

The maximum claim is €700,000 for each client.

How do I claim compensation from the Fund?

Where do I get a form?

You may have already received a form, but if not, you can get one from us. See our contact details on the front cover.

You can also download a form from our website: www.lawsociety.ie

How soon must I make a claim?

You must submit your claim to our Fund **within 12 months of the date you first become aware that your money is missing**. For example, if you find out your money is missing on 1 October 2018, you must make your claim before 1 October 2019.

If there are exceptional circumstances, you can apply to us to extend this time.

Your money may be taken long before you find out about it. But we take the date you find out about the loss as the date the loss happened. This applies even if you do not know exactly how much you have lost.

If you do not know the total of your loss when you apply for compensation, you still need to write the date you found out about the loss on your application. When you do find out all the details of the loss, you can give us the details.

If you make a claim more than 12 months after you find out about your loss and we believe there is no good reason to extend the deadline, we will not accept your claim even if it is valid.

How do I prove how much is due to me?

To prove how much you are due, please read Section 1 and Section 2: How can I prove my claim? on page 12 of this guide.

Who are other interested parties? How do I reply to this question?

Other interested parties are people or organisations who are entitled to some or all of the money that is missing. Write the name of any person or organisation you feel is entitled to this money.

I know that my money is missing, but I do not know how my solicitor was dishonest. Will this be a problem?

Our application form asks you what you know about your solicitor's dishonesty. Answer this question. You may have no knowledge of the dishonesty. If this is the case, say so. Even if this is the case, we may know that there has been dishonesty. If this is the case, you will have enough evidence to make a claim.

Does my previous solicitor have to pay the money back?

No. If we pay all or part of your claim, your previous solicitor owes this amount to us. When we pay you compensation, the rights you had against the solicitor for that amount pass to us. For instance, we might decide to sue the solicitor to get back the amount the Fund has paid to you. We ask you to agree to this in the claim form.

In the claim form, you agree that we may sue the solicitor in your name, if we need to. If this happens, we will pay the legal costs of pursuing such a claim.

Do I have to confirm what I say is true?

Yes. When you have completed your form, you must formally swear that its contents are true. To do this, you must bring the form to a practising solicitor or Commissioners for Oaths. (A Commissioner for Oaths is a person who has been specially appointed by the courts to be available for people who want to swear oaths in front of them.) Any solicitor will be able to help you.

The solicitor or Commissioner for Oaths will ask you to affirm that what you have said in the form is true. By doing this, you are confirming that the documentation is true and accurate as far as you are aware. Then you will have to sign the form in front of the solicitor or Commissioner of Oaths. You will be charged a set fee for each signature on the form. The fee is about €12. If the solicitor or commissioner does not know you, you should bring your passport or national identity card.

If a person swears something that they know to be untrue, it can be perjury, which means lying to a court. If you commit perjury, you may be prosecuted. If you are convicted, a court may fine you, imprison you or both.

Where should I send the application form?

Send your application form to the address on the front cover. We will then check your form. We will contact you if we need more information to process the claim.

How long does it take to deal with the claim?

Normally, we deal with a claim within three months of getting it. It may take longer if:

- you don't fill in your application correctly;
 - you don't include all the relevant supporting documentation; or
 - the circumstances of the case are complex.
-

What are the possible decisions the Law Society will make?

We will decide to:

- pay the claim in full;
- pay part of the claim;
- refuse the claim; or
- postpone the decision to a later meeting because more information is needed.

When we have made our decision, we will write to you. If we are going to pay only part of your claim, or if we are refusing your claim, we will tell you why.

If we are paying all or part of your claim, we will also send you a cheque.

In some circumstances, we will pay your claim in instalments. However, this is unusual. If it happens in your case, we will explain the reasons why.

What happens if my claim is approved?

If we approve your claim, our claims section staff or a Law Society solicitor will contact you. They will explain the procedure in your particular case. If we need to apply to court to process your claim, we will do so as soon as we can and will keep you informed of the progress.

What if I am unhappy with the Law Society's decision?

If you are unhappy with how we handled your claim, you can refer the claim to a person known as the Independent Adjudicator. The Independent Adjudicator makes sure that we deal with claims on the Fund fairly and impartially.

The Independent Adjudicator can look at the Law Society's file about your claim. If the Independent Adjudicator is not satisfied with how we handled your claim, they can direct us to reopen your file and look at it again.

You must contact the Independent Adjudicator within three years of our decision.

You can contact the
Independent Adjudicator by writing to them at:

The Independent Adjudicator
26/27 Upper Pembroke Street
Dublin 2
Phone: (01) 662 0457

Will the Fund pay for work that my previous solicitor started but has not finished?

We consider each case individually. We will consider the benefit of your previous solicitor's work and whether your new solicitor is able to use that work. Then we will pay a reasonable part of your new solicitor's fee.

We will not pay a full fee if your new solicitor is able to use the work that your previous solicitor did.

Will the Fund pay conveyancing fees?

Most claims to the Fund relate to buying a property. If you were a purchaser, and your new solicitor has had to finalise the transaction for you, we will usually pay up to €750 plus VAT. We will also pay expenses that you have already paid for. The work involved typically includes the following, although there are other tasks that may also be done:

- taking up the file from the Law Society;
 - reviewing the file and title documents;
 - paying the stamp duty;
 - arranging mapping;
 - paying local authority charges;
 - registering the title, including any mortgage; and
 - dealing with queries from the Land Registry or Registry of Deeds.
-

How we run the Compensation Fund is governed by the Solicitors Acts 1954-2015.

This leaflet is not a full explanation of the law. You should get legal advice if you would like more detailed information about the Solicitors Acts or a second opinion on a Law Society decision about your claim.

SECTION 2:

HOW TO CLAIM REFUNDS FROM A SOLICITOR'S FIRM WHERE THE COURTS OR THE LAW SOCIETY NOW CONTROLS THE MONEY

My money is not missing, but I have been told that it is now under the control of the courts or the Law Society. How can I get it back?

You should complete the Law Society of Ireland claim form and send it to us at the address on the front cover.

What is the procedure for refunding money under the control of the courts or the Law Society?

Fill in the claim form Claims for Refunds of Money paid to a Solicitor if you want to:

- claim from the Law Society Compensation Fund; or
- be paid back your money now in the control of the courts or the Law Society; or
- claim back money from both.

If you need to apply to have your money released from the control of the courts, we will handle this for you free of charge.

Do I need to show evidence to support my claim?

Yes. We will need evidence to support your application. See **Section 1 and Section 2: How can I prove my claim?** on page 12 of this guide

Do I have to confirm what I say is true?

Yes. When you have completed your form, you must formally swear that its contents are true. To do this, you must bring the form to a practising solicitor or Commissioner for Oaths.

(A Commissioner for Oaths is a person who has been specially appointed by the courts to be available for people who want to swear oaths in front of them.) Any solicitor will be able to help you.

The solicitor or Commissioner for Oaths will ask you to affirm that what you have said in the form is true. Then you will have to sign the form in front of the solicitor or Commissioner of Oaths. You will be charged a set fee for each signature on the form. This would be about €12. If the solicitor or commissioner does not know you, you should bring your passport or national identity card.

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Where should I send the application form?

Send your application form to the address on the front cover. We will then check your form. We will contact you if we need more information to process the claim.

What happens if my claim is approved?

If we approve your claim, our claims section staff or a Law Society solicitor will contact you. They will explain the procedure in your particular case. If we need to apply to court to process your claim, we will do so as soon as we can and will keep you informed of the progress.

SECTION 1 AND SECTION 2: HOW CAN I PROVE MY CLAIM?

Do I need evidence to support my claim?

Yes. Along with your application form, please send us the following information:

- the amounts that were paid by the solicitor; or
- the amounts paid by others to your solicitor that should have been paid to you,
- relevant documents and an explanation for each individual document.

The requirements are the same whether you are making a claim on the Compensation Fund or a claim for a refund of money under the control of the courts or the Law Society. The type of evidence we need includes:

- receipts given to you by your solicitor;
- relevant bank statements from you;
- copies of any cheques you paid to the solicitor – usually you can get these from your bank;
- copies of any bills the solicitor may have sent you for payment – if you cannot get these, we will need details of the fee you agreed with the solicitor for the work; and
- details of any other matters the solicitor was dealing with for you.

If you do not have any supporting documents, you must fully explain the facts of the case in the claim form.

If the Law Society need additional information, they will write back to you shortly after they receive your claim form.

How we run the Compensation Fund is governed by the Solicitors Acts 1954-2015.

This leaflet is not a full explanation of the law. You should get legal advice if you would like more detailed information about the Solicitors Acts or a second opinion on a Law Society decision about your claim.



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