Endowment mortgage complaints

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About this guide

This guide is for you if you want to make a complaint about the way your endowment mortgage was sold to you.

When you read it you will know:

- what you can complain about and how to do it
- what the time limits for complaining are, and
- how compensation is worked out.

Contents

How endowment mortgages work

If you took out an interest-only mortgage, you may have been sold an endowment policy.

An interest-only mortgage means that your monthly payments to the lender only cover the interest on the loan. They do not pay off any of the capital.

An endowment policy is an investment plan that you usually pay into each month. Your money is invested – for example in shares or bonds – with the aim of making it grow enough to pay off the original loan when the mortgage term ends.

The combination of an interest-only mortgage and an endowment policy to pay it off is known as an **endowment mortgage**.

See the *Jargon buster* on page 16 for an explanation of some words you may come across.

Your endowment mortgage

As the growth of investments can vary, there is usually no guarantee that the endowment policy will pay out enough to repay the mortgage at the end of the term.

If you are worried that your policy value won't be enough to repay your mortgage, don't make any hasty decisions. Check the facts first. Never cash in your policy or stop your payments without taking professional advice. You could lose out if you do.

Review your endowment mortgage

If you have an endowment policy, you should have received regular letters over the last few years telling you whether your policy is on track to repay your mortgage. These are called reprojection letters.

They tell you:

- whether your policy is still on track to pay out the amount needed to repay your mortgage at the end of the term
- the amount of any projected shortfall
- the options open to you, and
- what further action you need to take.

If you haven't received a reprojection letter, contact your policy provider and ask for one. If you have received a reprojection letter, make sure you read it and take action if you need to.

How you're protected

The Financial Services Authority (FSA) regulates financial services firms, including those that sell endowment policies. This means the FSA sets standards that firms have to meet and can take action if they don't.

The FSA also has rules about the way firms should handle consumer complaints and gives guidance to firms about how they should calculate compensation. The FSA is the UK's financial services regulator.

Key points

- Check you've had a reprojection letter from your endowment policy provider.
- Read it and take action if you need to.
- Never cash in your policy or stop your payments without taking professional financial advice.

Key things to think about

If you think there is likely to be a shortfall and you may have been mis-sold your endowment mortgage, you may be able to get compensation.

Grounds for complaint

Before you can get compensation you need to show that you have grounds for a complaint and that you have lost out financially as a result.

You may have grounds for complaint if your adviser did not:

- tell you how your money would be invested and explain the risks involved; or
- explain that an endowment policy is a long-term commitment that often gives a poor return if you cash it in early; or
- check you were comfortable with the risks of your money being linked to investment performance, including the stock market; or
- check there was a reasonable expectation you would be able to keep up payments until the end of the term; or
- explain any fees and charges and how they would affect the return on your savings. If you bought your endowment policy between 29 April 1988 and 31 December 1994, you should have been given 'product particulars'. These are various details about your policy, including charges and surrender values for the first five years. If you bought your policy on or after 1 January 1995, you should have been given a 'Key Features' document. This gives details of fees and charges and how they affect your savings over the longer term.

You may also have a valid complaint in the following situations:

- **Your endowment policy finishes after you retire** – if the adviser did not check that you were likely to be able to afford to carry on paying the premiums after you retired.
- **You were advised to cancel one endowment policy and take out another.** An endowment policy is a long-term investment that often gives a poor return if you cash it in early. You should usually avoid cashing in one policy and taking out another for the same purpose.
- **Your endowment policy runs on after your mortgage loan is due to finish** – because an endowment policy sold to repay a mortgage loan will not normally be suitable if it finishes after the date when the loan has to be repaid.

- **You were given a guarantee that the endowment policy would pay off your mortgage loan** – as long as you can show that you were told that the endowment policy was guaranteed to pay out enough to pay off your mortgage loan **and** that this was part of the legal contract between you and the firm. This is likely to be rare.

For information on how to make a complaint see page 8.

If you haven't lost out, but are still unhappy with the risks of an endowment policy, you may be able to switch to a repayment mortgage. If the firm that sold you the policy has upheld your complaint, it should help you switch. It should also ensure that you don't lose out if you have to pay any charges, such as charges for transferring your mortgage.

An endowment policy includes life insurance cover so that the mortgage loan will be repaid if you die early. If you stop the endowment when you move to a repayment mortgage and you need life cover, you should make other arrangements through a mortgage protection policy or other life insurance policy.

Getting compensation

If you have a valid complaint, you will still only receive compensation if you have lost out financially because of the endowment policy you were sold. No compensation is due, for example, if your endowment policy has grown and is now worth more than the capital you would have repaid on an equivalent repayment mortgage.

How compensation is calculated

Compensation is usually based on what your position would have been now if you had not been sold the policy but had taken out a repayment mortgage instead. It is not based on what you expected the policy to be worth.

When calculating mortgage endowment compensation, firms should follow the guidance set by the FSA. So, if the firm has offered compensation in line with the FSA's guidance, you can assume it is a fair offer.

If you don't understand how the firm calculated it, or you think there may be a mistake in the calculation, contact the firm and ask for a breakdown of the figures.

The calculation involves comparing:

- the mortgage interest and endowment policy premiums you have actually paid and the current surrender value of your mortgage endowment policy, with
- the mortgage interest and capital repayments you *would* have paid on an equivalent repayment mortgage, and how much capital you *would* have paid off the mortgage.

In some cases other factors need to be considered in the overall calculation. For example:

- whether life assurance was needed;
- whether the policy ran past your retirement date;
- the type of endowment policy (for example, low start); or
- the extent to which you could reasonably have avoided or reduced the loss by taking prompt action. (This is also called mitigation.)

If you have already surrendered your endowment policy and changed to a repayment mortgage

Calculating compensation involves comparing:

- the mortgage interest and endowment policy premiums you had *actually* paid, up to when you surrendered the policy, and the amount you received when the policy was surrendered, with
- the mortgage interest and capital repayments you *would* have paid on an equivalent repayment mortgage, and how much capital you *would* have paid off your mortgage, up to the point when you changed to a repayment mortgage.

If you changed to a repayment mortgage after receiving a reprojection letter but still have an endowment policy in place

The advising firm will usually calculate compensation up to the date when you changed to a repayment mortgage. This is because the endowment policy was originally taken out to repay a mortgage.

So compensation is usually calculated up to the point when the endowment policy stopped being used to repay the mortgage.

Paying tax on compensation

Where the compensation simply puts you back in the position you would have been in if you had taken a repayment mortgage instead, then usually you won't have to pay tax on it.

But sometimes, the particular circumstances of the case mean that the compensation calculation includes an amount of additional interest, and then you will have to pay tax on the interest in the normal way.

In certain other cases, for example if the policy is sold, surrendered or varied, the FSA's guidance to firms is that it may be appropriate for *them* to pay any personal tax liability that may arise.

If you are not sure where you stand, or need help with calculating the amount of tax that may be due, you should contact HM Revenue and Customs – see *Useful contacts* on page 18.

Key points

- You need to show that you have grounds for a complaint **and** that you have lost out financially as a result.
- No compensation is due if you are not worse off financially.
- If you haven't lost out but are still unhappy with the risks of an endowment policy, you may be able to switch to a repayment mortgage.
- If you switch to a repayment mortgage and need life cover, you will need to make other arrangements through a mortgage protection policy or other life insurance policy.

How to make a complaint

If you want to make a complaint, do it now, as there are time limits – see page 10.

Making a complaint is easy and free.

It is usually best to make your complaint in writing. If you phone, make sure you keep detailed notes of your conversation, including the name of the person you spoke to and the date and time you called.

Step 1 – First complain to the firm that sold you the endowment policy.

This may be a financial adviser, the endowment company or your mortgage lender. Check with the endowment company if you're not sure who you should complain to, as they will have the details.

Firms regulated by the FSA must have a formal complaints procedure and tell you how to use it.

Try to find all the paperwork and any notes you made at the time. You are entitled to copies of the sales paperwork from the firm that sold you the endowment policy.

When you make a complaint, the firm may send you a questionnaire (usually called an endowment mortgage questionnaire) to complete and return to them. Fill this in as far as you can – it will speed up the process.

Step 2 – If you're not happy with the firm's decision, you can usually take your complaint to the Financial Ombudsman Service

(the Ombudsman) – see *Useful contacts* on page 18.

You must do this within six months of the firm sending you a 'final response' letter.

The Ombudsman is independent and provides a free, effective, straightforward process for resolving disputes. If you are thinking of taking your complaint to the Ombudsman, you can call their Contact Centre for help.

You can choose whether or not to accept the Ombudsman's decision. If you accept, it is binding on both you and the firm. If you don't accept, you can take your case to court. There will be a charge for doing this, and depending on what your claim is for, time limits may apply.

If you were advised to take out your policy before 29 April 1988

Selling and giving advice about endowment policies did not become regulated until 29 April 1988. Some firms voluntarily agreed to allow the Ombudsman to look at complaints about advice and sales before this date. However, not all firms did, and most independent financial advisers did not.

You can contact the Ombudsman to check if the firm you are complaining to signed up to the voluntary arrangements.

If the firm you are complaining to signed up to the voluntary arrangements, it should handle your complaint in line with the FSA's complaint-handling rules. These include telling you when you can refer your complaint to the Ombudsman.

If the firm did not sign up to the voluntary arrangements, you can still complain to it, but it need not follow the FSA's rules. This also means that if you cannot resolve your complaint with the firm, you will not be able to take your complaint to the Ombudsman.

If you were advised *before* 29 April 1988 but took out the policy *after* that date, you may still be able to refer your complaint to the Ombudsman, even if the firm did not sign up to the voluntary arrangements. Check with the Ombudsman if you are unsure.

Endowment policies bought on advice from a solicitor

If you bought your policy on advice from a solicitor, complain to the solicitor first. If you are unhappy with the solicitor's decision, and bought your policy before 1 December 2001, you will need to take your complaint to the relevant complaints scheme. Depending on where the solicitor is, contact either the Scottish Legal Complaints Commission, the Law Society of Northern Ireland or the Legal Ombudsman for England and Wales – see *Useful contacts* on page 18.

However, if you bought your endowment policy on advice from a solicitor on or after 1 December 2001, you should follow the usual complaints procedure – see page 8.

If your solicitor has ceased trading, contact the relevant law society – see *Useful contacts* on page 18.

Complain as soon as possible

You should make your complaint as *soon as possible* as you can only make a complaint about the sale of your endowment policy within certain **time limits**. If you complain after these time limits a firm can usually reject your complaint as being out of time – known as 'time-barring'. It can also ask the Ombudsman to reject the complaint on similar grounds.

For example, your complaint can be rejected if:

- you receive a letter warning of a high risk of a shortfall; then receive a subsequent letter giving you at least six months' notice of a 'final date' by which you have to complain; and
- that 'final date' is at least three years after the date you received the first letter (and at least six years since you bought the policy); but
- you complain only after that 'final date'.

Even if the firm rejects your complaint as being out of time, you can still refer your complaint to the Ombudsman if you think:

- there are exceptional circumstances, or
- the time bar was wrongly applied, or
- the time bar was unfair.

You should do this within six months of the firm sending you a 'final response' letter.

Using a complaints management company

Some companies offer to help people pursue their complaints with financial services firms and with the Ombudsman. In return, you have to pay them a fee, usually a fixed share of any compensation that is awarded for a successful complaint.

Some companies ask for a fee up front, and you may still have to pay a fee if you decide not to use them. So make sure you understand what you may have to pay and when you would have to pay it.

A number of these companies focus on mortgage endowment complaints, where the 'success fee' you would have to give them can amount to hundreds or even thousands of pounds. This is money that you obviously won't then be able to put towards paying off your mortgage. And using these companies does not necessarily increase the chances of your complaint succeeding or of you getting compensation.

If your circumstances mean that you may find it helpful to use one of these companies, remember to check the following:

- the costs and benefits of using a complaints company
- the fees and conditions before you sign any contract, and
- that the company is regulated by the Ministry of Justice or is a member of a professional body such as the Law Society because these firms have to meet certain standards – see *Useful contacts* on pages 18–20.

Key points

- If you want to complain, do it now – time may be running out.
- You will not be charged if you complain to the firm that sold you the policy. The Ombudsman service is also free.
- If you get compensation from making a complaint about the sale of your endowment policy, consider using it to reduce the amount you owe on your mortgage.
- If you take a claim to court, there are costs and time limits involved. If you are considering taking any action through the courts, seek legal advice as soon as possible.

When making an endowment mortgage complaint:

Check whether you have received a reprojection letter showing that there is a risk that your endowment policy will not repay your mortgage.

Check whether you have grounds for a complaint and that you have lost out financially as a result.

Check that you have all the relevant paperwork and any notes you made at the time you bought the policy. You are entitled to copies of the sales paperwork from the firm that sold you the endowment policy.

Check that you are aware of any time limits that may apply to your complaint – see page 10.

Your questions answered

Question:

I can't remember the name of the firm that sold me the endowment policy – what can I do?

Answer:

If you bought your endowment policy through an independent financial adviser, your endowment company should have the details of who sold it to you.

If you're not sure the firm still exists, contact the FSA's helpline or check the FSA Register – see *Useful contacts* on page 18.

Question:

I've surrendered my policy – can I still complain?

Answer:

Yes, you may have a valid complaint and be due some redress – as long as you can show that you weren't properly advised at the time of sale and you have lost out financially – see page 6.

Question:

I never got a warning of a 'final date' by which to complain, but have been time-barred by the firm anyway – is that right?

Answer:

It can be, because the FSA's rules changed. So, if:

- you received a letter warning of a high risk of a shortfall before 1 June 2001, and
- you received a second or similar warning before 1 December 2003,

then the time limit for you to make a complaint ended at the latest of:

- six years from when you bought your policy, or
- three years from the date you received the first warning of a high risk of a shortfall, or
- six months from the date you received the second or similar warning.

If you made your complaint after the latest of these dates, your complaint is likely to be time-barred, even if you got no warning of a 'final date'.

Question:

The firm that sold me the endowment policy has stopped trading – who should I contact?

Answer:

You can contact the Financial Services Compensation Scheme (FSCS) – see *Useful contacts* on page 18.

The FSCS is a 'fund of last resort' for consumers who have a claim against a firm that the FSA regulates, but is unable (or likely to be unable) to pay claims against it, often because it has stopped trading.

The FSCS is unlikely to be able to help you if the advice was given before 28 August 1988.

Question:

I have been offered compensation by the firm. If I take my complaint to the Financial Ombudsman Service, could the Ombudsman award more?

Answer:

Firms and the Financial Ombudsman Service use the FSA's guidance to decide how much compensation is due.

So, if the firm has offered compensation in line with this guidance, it is unlikely that the Ombudsman would require the firm to pay more – unless, for example, the firm has made an error in its calculation, or new factors come to light that require the Ombudsman to use a different method of calculation.

Next steps

Step 1

Check whether you have grounds for complaint. Think back to what you were told when you bought the endowment policy and check any paperwork you were given at the time.

Step 2

If you think that you have a valid complaint, complain in writing to the firm that sold you the endowment policy as soon as possible.

Step 3

Keep copies of any letters and notes of telephone calls.

Send copies of documents if these are needed, but always hold on to the originals.

The firm should respond within eight weeks.

Step 4

If you are unhappy with the response from the firm, take your complaint to the Ombudsman within six months of the date that the firm sent its final response letter.

Or you can go to court.

Jargon buster

Some key words and phrases explained.

Acknowledgement

Where a firm confirms they have received your complaint.

Adjudication

A decision on a dispute by an alternative dispute resolution scheme.

Alternative dispute resolution

When a third party, such as the Financial Ombudsman Service, helps you and a firm reach a solution through mediation and, where necessary, issues a decision.

Capital

The amount you borrow to help buy your home.

Final response

A response sent by an FSA-regulated firm giving its final answer to a complaint and telling the complainant they have six months to go to the Ombudsman if still unhappy.

FSA register

An online register of firms that the FSA regulates to provide financial services in the UK. You can check online or by phone to see whether a firm is on the Register – see *Useful contacts* on page 18.

Initial response

A response sent by an FSA-regulated firm giving its initial answer to a complaint (within eight weeks).

Interest

The charge that lenders make when you borrow their money.

Investment performance

The way an investment has performed including the return during any given period.

Mediation

Helping two parties who are in dispute to reach a settlement that both agree on.

Mortgage

A loan secured on your home. When a loan is 'secured' on your home, it means the lender can repossess your home and sell it to get their money back if you don't keep up your repayments.

Redress

Actions and/or payments to put the complainant back in the position they would have been in before things went wrong.

Regulators

Official bodies who set and monitor standards of market behaviour.

Repayment mortgage

A mortgage in which you repay the loan amount (capital) and interest at the same time.

Return on investment

The profit or loss resulting from your investment.

Shortfall

The money left owing at the end of the mortgage period (the term).

Small claims track

A less formal court process for smaller amounts and disputes.

Surrender value

The cash value of your endowment policy if you surrendered it.

Useful contacts

Money Advice Service

For advice based on your own circumstances or to order other guides

Money Advice Line: 0300 500 5000
Typetalk: 1800 1 0300 500 5000

(Calls should cost no more than 01 or 02 UK-wide calls, and are included in inclusive mobile and landline minutes. To help us maintain and improve our service, we may record or monitor calls.)

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Call rates to the following organisations may vary – check with your telephone provider.

Financial Services Authority (FSA)

To check the FSA register or to report misleading promotions

0845 606 1234
Minicom/textphone 0845 730 0104
www.fsa.gov.uk

To check if a claims management company is authorised

Ministry of Justice

Claims Management Regulation
Monitoring and Compliance Unit
57-60 High Street
Burton–upon–Trent
Staffordshire DE14 1JS

0845 450 6858
01283 233 309
www.claimsregulation.gov.uk/search.aspx

To find a solicitor

Look in the Yellow Pages under 'Solicitors'.

The Law Society

The Law Society's Hall
113 Chancery Lane
London WC2A 1PL

020 7242 1222
www.lawsociety.org.uk

The Law Society of Northern Ireland

96 Victoria Street
Belfast BT1 3GN

028 9023 1614
www.lawsoc-ni.org

The Law Society of Scotland

26 Drumsheugh Gardens
Edinburgh EH3 7YR

0131 226 7411
www.lawscot.org.uk

Complaints and compensation

Financial Ombudsman Service

South Quay Plaza
183 Marsh Wall
London E14 9SR

0800 0234 567
0300 1239 123
www.financial-ombudsman.org.uk

Financial Services Compensation Scheme (FSCS)

7th Floor Lloyds Chambers
Portsoken Street
London E1 8BN

0800 678 1100
020 7741 4100
www.fscs.org.uk

Legal Ombudsman

(England and Wales)
PO Box 15870
Birmingham B30 9EB

0300 500 0333
www.legalombudsman.org.uk

Scottish Legal Complaints Commission

The Stamp Office
10-14 Waterloo Place
Edinburgh EH1 3EG

0131 528 5111
www.scottishlegalcomplaints.org.uk

The Law Society of Northern Ireland

96 Victoria Street
Belfast BT1 3GN

028 9023 1614
www.lawsoc-ni.org

HM Revenue and Customs

Your local tax office (look in the phone book under 'HM Revenue and Customs')

www.hmrc.gov.uk

Financial advisers/ planners

Unbiased.co.uk

For independent financial advisers in your area

www.unbiased.co.uk

Institute of Financial Planning

For help in planning your finances

www.financialplanning.org.uk

MyLocalAdviser

For a mortgage, insurance or investment adviser in your area

www.mylocaladviser.co.uk

The Personal Finance Society

For financial advisers in your area

www.findanadviser.org

the Money Advice Service™

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Other titles in this series include:

- Complaints about banking services
- Endowment mortgage compensation
- Making a complaint

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0300 500 5000

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