

Terms of engagement

Section 1: Overview

1.1 These terms of engagement set out the standards that FSCS requires all professional representatives (including claims management companies, solicitors, barristers, and other professional representatives) to follow / comply with when submitting claims to FSCS.

1.2 All professional representatives operating in the UK must be authorised by the FCA for carrying out claims management activities unless a relevant exclusion or exemption applies under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.

1.3 These terms sit alongside (but do not take precedence over) any obligations that regulators, including but not limited to the Financial Conduct Authority, Solicitors Regulation Authority, Law Society of Scotland, Law Society of Northern Ireland, Bar Standards Board, Faculty of Advocates and Bar of Northern Ireland, as applicable, have in place and are designed to make sure that professional representatives follow the relevant rules, standards, and processes to ensure customers can receive the best possible service.

1.4 FSCS expects all professional representatives to comply with the spirit as well as the letter of the regulatory standards to which they are subject.

1.5 FSCS expects all professional representatives to conduct themselves / act in the best interests of their customers when bringing a claim to FSCS and when engaging with FSCS throughout the claims process. It is the responsibility of all professional representatives to ensure that they are complying specifically with all relevant regulatory rules that apply to them.

1.6 FSCS works with professional representatives in a professional and reasonable way. It will provide claim updates via the Online Claims Service. FSCS also has useful information for professional representatives on its website (see section 8 below).

1.7 FSCS will report any concerns it has about a professional representative, including but not limited to examples of poor conduct to the relevant regulator(s) with supporting evidence.

1.8 If a professional representative does not comply with these terms when bringing a claim to FSCS and / or when engaging with FSCS during the claims process, FSCS may take such action as set out in section 9 below.

1.9 On behalf of their customers, FSCS expects professional representatives to comply with the following terms.

Section 2: Treating customers fairly

2.1 Professional representatives will: Make FSCS aware if the customer has any vulnerabilities or care needs so FSCS can process the customer's claim appropriately to meet those needs.

2.2 Ensure customers are kept up to date throughout their claim's progress.

2.3 Ensure compensation due to customers is paid promptly and in line with regulator rules.

2.4 Act honestly, fairly, and professionally in accordance with the best interests of the customer.

Section 3: Before making an application, the professional representative will

3.1 Confirm with the customer in writing that they know they can make a claim direct to FSCS and that it is free of charge to do but that they have chosen to use a representative to make their claim.

3.2 Determine that the customer does not have a claim against a live firm. If they do, this must be exhausted first.

3.2 Ensure they and the customer understand that the burden of proof is on the customer and professional representative to prove they have a protected claim. This includes cooperating with the relevant firms to obtain the necessary evidence to support the claim.

3.4 Ensure they and the customer understand the claims which FSCS can consider and the relevant compensation limits.

3.5 Only submit a claim to FSCS once sufficient steps have been taken to investigate and substantiate the existence and merits of each element of a potential claim and once all relevant supporting evidence has been obtained.

3.6 Only submit claims to FSCS which they are satisfied are complete.

3.7 Satisfy themselves that each claim has a good arguable base, the facts relied on are true and not misleading or an exaggeration. If an application for compensation contains any material inaccuracy or omission, FSCS may reject the application.

3.8 Satisfy themselves that they are not submitting a fraudulent claim to FSCS. FSCS expects professional representatives to be alert to any fraud on an ongoing basis.

3.9 Ensure that any claims they submit are not frivolous or vexatious.

3.10 Ensure each claim accurately reflects the customer's individual circumstances.

3.11 Learn from previous decisions and guidance that FSCS has provided and apply these learnings to existing and future claims.

3.12 Engage with FSCS prior to submitting large volumes of claims by engaging with the Relationship Management Team via Rep@fscs.org.uk

3.13 When large volumes of claims or appeals are very similar in nature, FSCS will find efficiencies in how these claims are considered, for example, taking a sample approach. This will allow the professional representatives an opportunity to consider the approach to certain issues and to take on board any learnings before submitting further claims or appeals.

Section 4: When making an application, the professional representative will

4.1 Ensure all elements of the customer application are fully completed. For example, the application form is signed by the customer, is dated, a Letter of Authorisation is provided, and evidence is provided. Uploading blank documents or placeholders to bypass the application progress is not satisfactory. This may result in FSCS rejecting the application.

4.2 Ensure each claim accurately reflects the customer's individual circumstances.

4.3 The burden of proof is on the customer to present their claim to FSCS. FSCS expects professional representatives to properly present a claim from the outset and provide all supporting evidence. This includes cooperating with the relevant firms to obtain the necessary evidence to support the claim.

4.4 Consider whether a customer has any vulnerabilities or care needs and make FSCS aware so FSCS can process the customer's claim appropriately to meet those needs. (See Treating customers fairly.)

Section 5: When a claim is in progress, the professional representative will

5.1 Work in a professional and reasonable way with FSCS, including cooperating openly and fully with improvements and efficiencies that can be made to customer journeys and processes.

5.2 If FSCS asks for additional evidence, these requests should be actioned and returned in a timely manner and adhering to FSCS deadlines. Failure to respond to deadline requests set by FSCS is likely to result in the investigation of a claim being paused.

5.3 Use FSCS's resources to keep customers informed of the claim's progress. There are many tools available to monitor claim progress and manage your customers' expectations (See Useful information and resources.)

5.4 Work with FSCS in accordance with the standards and principles as set out by their regulator.

5.5 Make sure that FSCS has up-to-date information and is immediately made aware of any changes to the professional representative's or customer's circumstances. These changes include any changes to the professional representative's authorisations / permissions, customer care needs, and contact details.

5.6 If you have concerns about the progress of a claim, please contact enquiries@fscs.org.uk. FSCS should not be contacted for general or routine update requests.

Section 6: After receiving a decision, the professional representative will

6.1 Carefully consider whether to challenge a decision and only do so where the basis for doing so has merit and is not frivolous.

6.2 Comply with the FSCS Appeals process when making an appeal request, this can be located at <https://www.fscs.org.uk/making-a-claim/claims-process/appeal-claim-decision/>.

6.3 Avoid bulk appeals which raise the same issue. If you consider there is an appeal basis that affects a number of claims, please follow the process outlined in section 7 below.

6.4 FSCS expects professional representatives to learn from previous decisions and guidance that FSCS has provided and apply these learnings to existing and future claims.

6.5 FSCS expects professional representatives to familiarise themselves and comply with the relevant time limits.

Section 7: Bulk claims or appeals

7.1 Professional representatives should engage with FSCS prior to submitting large volumes of claims or appeals. These should be raised in the first instance to Rep@fscs.org.uk who will advise on how to proceed. Individual appeals should be raised to reviews@fscs.org.uk

7.2 If you consider there is an appeal basis that affects a number of claims, please provide one letter with a list of the claims which are being appealed and highlight a lead claim for the appeal. The responsibility is on the professional representatives to detail which claims are subject to an appeal request and make FSCS aware of the volume.

7.3 When claims or appeals are very similar in nature, FSCS will find efficiencies in how these claims are considered, for example taking a sample approach. This will allow the professional representatives an opportunity to consider our approach to certain issues and to take on board any learnings before submitting further claims or appeals.

Section 8: Useful information and resources

8.1 Online Claims Service: <https://claims.fscs.org.uk/>

8.2 Failed firms list: <https://www.fscs.org.uk/making-a-claim/failed-firms>

8.3 Professional Representatives Newsletter: <https://www.fscs.org.uk/professional-representatives/newsletter/>

8.4 Industry Resources, including Outlook: <https://www.fscs.org.uk/industry-resources/>

8.5 Subscribing to Emerging Issues pages: <https://www.fscs.org.uk/making-a-claim/failed-firms/>

8.6 FSCS Appeals Process: <https://www.fscs.org.uk/making-a-claim/claims-process/appeal-claim-decision/>

8.7 Information for Professional Representatives page: <https://www.fscs.org.uk/professional-representatives/>

Section 9: Consequences of failing to follow the Terms of Engagement

9.1 If a professional representative does not comply with these terms of engagement when bringing a claim to FSCS and / or when engaging with FSCS during the claims process, FSCS may, in its discretion, take such any steps it considers necessary in the discharge of its statutory functions, including having regard to the need to use its resources in the most efficient and economical way, securing an appropriate degree of protection for consumers and protecting and enhancing the integrity of the UK financial system.

9.2 These steps may include but are not limited to: (i) ceasing to process claims submitted by the relevant professional representative until the breach of these terms is resolved; and / or (ii) paying any compensation which is payable in connection with claims submitted by the relevant professional representative to the customer directly, rather than to the professional representative.

June, 2023