

Law Society of Ireland

**GUIDE TO CLAIMING REFUNDS
OF MONEY PAID TO A SOLICITOR**



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GUIDE TO CLAIMING REFUNDS OF MONEY PAID TO A SOLICITOR

Section 1: How and when you can claim compensation because 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
North King Street
Dublin 7

Or

DX 1025 Four Courts

Other contact details

Phone: (01) 879 8700 Fax: (01) 879 8969
Email: cfclaims@lawsociety.ie
Web: www.lawsociety.ie

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Section 1: How and when you can claim compensation because your solicitor was dishonest

What is the Law Society of Ireland Compensation Fund?

Our compensation fund helps people who have lost money because their solicitor was dishonest. All practising solicitors in Ireland must contribute to the Fund every year.

Frequently Asked Questions

The following are the answers to some of the questions most frequently asked about our Fund.

Who can make a claim on the Fund?

You can make a claim from our Fund if you were the client of a solicitor and you have lost money that you gave them.

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
- was 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 and that was to be passed on to you, or to others, but that is now missing because of the solicitor's dishonesty.

Can I claim back stamp duty?

Yes. You can claim this money if you were buying a property and you gave your solicitor money to stamp and register your deeds, but 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.

Who will pay my new solicitor? If I now 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
- you have already paid your previous solicitor to do the work, but you 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 more details about this on page 5.) If they have to do less than the usual work, we will pay them a smaller fee.

Can I claim interest that I have had to pay because of what happened?

Yes. You can claim for that interest. If you have not actually had to pay interest, but it is reasonable for you to claim interest, we will pay the same rate of interest as the current rate that a court would award.

Can I make a second claim if I discover, after my first claim has been paid, that I have lost more money than I first realised?

Yes. You can make a second claim if new information is discovered.

Are there any claims that you will not consider?

Yes. Our fund only pays actual amounts that have been lost. We cannot pay money for stress or inconvenience or other reasons. If you want to claim against the solicitor for these matters, you should discuss your options with a new solicitor.

Can I claim from the Fund if my solicitor was not dishonest, but I still lost money?

No. This fund is specifically for cases of dishonesty. If you have lost money because of your solicitor, for reasons other than dishonesty, for instance because they were negligent, you may wish to consult a new

solicitor about taking an action against your previous solicitor. Your previous solicitor may be insured. All solicitors in private practice must have insurance that covers mistakes they may make.

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 that you owe the first 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.

Can you give me a guideline for fees for a new solicitor?

We will consider each case individually when we assess the fees for completing outstanding work for which a first solicitor was paid. We will pay a reasonable fee, but we will not pay a full fee if the second solicitor is able to use the work that the first solicitor had done.

What about conveyancing fees?

The most typical claim for legal fees relates to the purchase of a property. If you were a purchaser, and your new solicitor has had to finalise the transaction for you, we will usually pay a fee of €600, plus VAT and properly incurred outlays. The work involved would typically include the following, although this list is not exhaustive:

- taking up the file from the Law Society
- reviewing the file and title documents
- paying stamp duty
- arranging mapping
- paying local authority charges
- dealing with queries from the Land Registry or Registry of Deeds
- registering the title, including any mortgage
- certifying the title for the lender
- helping a client to submit a claim to the Compensation Fund
- all other related matters.

In exceptional cases, where we believe that your new solicitor should be paid more than €600, we may get a report on the case from a legal costs accountant. They would recommend the appropriate fee and, if applicable, explain why a higher fee was justified. (A legal costs accountant is an accountant who specialises in legal bills.) We will

usually accept the amount recommended by the legal costs accountant, and if we do, we will pay it.

How do I claim my money if my solicitor was not dishonest, but he is not practising at present and my money is tied up in court or held by the Law Society?

If you simply want a refund of money you paid your solicitor, which is now in the control of the courts or the Law Society, a claim on the Fund is not necessary. (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.)

How do I claim compensation from the Fund?

I want to make a claim. How do I do this?

You may have already received a form, but if not, you can apply to us for one. (See contact details on page 1.)

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

How soon must I claim?

You must submit your claim to our Fund within six months of the date you first became aware that your money was missing. If there are exceptional circumstances in your case, you can apply to us to extend this time.

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

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

What if my case is complicated?

If you wish, you can employ a solicitor to help you with your claim. When we pay a solicitor for completing work for which you already paid the first solicitor, we take into account the work the new solicitor has done to help you with your claim. (See more information about fees on page 5.)

How do I prove how much is due to me?

Later in this note we set out the best way for you to show us the amount you have lost. (See “How can I prove my claim?” on page 12.)

I now know that my money is missing, but if 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 have direct knowledge that there has been dishonesty. This will be enough evidence for you to make your claim.

Does my former solicitor have to pay the money back?

If we pay all or part of your claim, your former solicitor owes this amount to us. When we pay you compensation, the rights you had against the solicitor for that amount then 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 acknowledge this in the claim form.

In the claim form, we also ask you to agree that we may sue the solicitor in your name, if necessary. If this happens, we will pay the legal costs.

Do I have to confirm that what I said is true?

Yes. When you have completed your form, you must formally declare that the contents of your form are true. To do this, you must bring the form to a 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 local solicitor will be able to help you. You will be asked to swear or affirm that what you have said in the form is true. You will then be asked to sign the form in the presence of the solicitor or Commissioner for Oaths. You will be charged €10 for each signature on the form. If the solicitor or commissioner does not know you, you should bring your passport or national identity card. If a person swears something that is untrue, they may be prosecuted, and a court can impose penalties on them.

Where should I send the application form?

Send your application form to the address on page 1. We will then check your form. We will contact you if we need more information before we can process your claim.

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
- postpone the decision to a later meeting because more information is needed.

When we have made our decision, we will write to you telling you what it was. 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 you 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 would be unusual and if it were to happen in your case, we would fully explain the reasons why.

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 relating to your claim. You must contact the adjudicator within three years of our decision. If the adjudicator is dissatisfied with how we handled your claim, they can direct us to reopen your file and look at it again.

How do I contact the Independent Adjudicator?

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

Where can I get more information about the Fund?

If you need further information about the Compensation Fund please contact us – our contact details are on page 1.

PLEASE NOTE

How we run the Compensation Fund is governed by the Solicitors Acts 1954 – 2008.

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 decision by the Law Society in relation to your claim.

Section 2. How to claim refunds from a solicitor's firm where the courts or the Law Society now controls the money

How can I get my money back? 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 paid back to me?

You should complete the Law Society of Ireland claim form and send it to us at the address on page 1.

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

You use the same claim form whether you want to

- claim from the Law Society Compensation Fund
- be paid back your money now in the control of the courts or the Law Society
- you want to 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 “How can I prove my claim?” on page 12.)

Do I have to confirm that what I have said is true?

Yes. When you have completed your form, you must formally declare that what you have said is true. To do this, you must bring the form to a 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 local solicitor will assist you. They will ask you to swear or affirm that what you have said in the form is true. You will then be asked to sign the form in the presence of the solicitor or Commissioner for Oaths. You will be charged €10 for each signature on the form. If the solicitor or commissioner does not know you, you should bring your passport or national identity card.

If a person swears something that is untrue, they may be prosecuted and the court may impose penalties on them.

Where do I send the form?

When you have declared that what you have said in your form is true, send it to the address on page 1.

We will check your form and contact you if we need any more information before we can process your claim.

We will consider your application. 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 we will keep you informed of the progress.

Section 1 and Section 2:

How can I prove my claim?

This applies to both types of claim:

- 1. Claims on the Compensation Fund; and**
- 2. Claims for refund of money now under the control of the courts or the Law Society**

Do I need evidence to support my claim?

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

- that were paid by you to the solicitor
- paid by others to your solicitor that should then have been paid to you.

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
- your relevant bank statements
- 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
- 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.

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