

PRESS CUTTING



Source: Financial Ombudsman Service

Life companies are being challenged under Scots Law over their use of time-bars on endowment claims

Picture: Phil Wilkinson

Life firms under fire on endowment claims

Scots have longer than FSA limit to pursue mis-selling of mortgages, says specialist

SCOTTISH-based life companies using a time-barring tactic to avoid claims from policy holders are misleading the public, warns a Scottish endowment claims specialist.

Gerry Diamond, founder and managing director of the Glasgow-based Endowment Compensation Centre (ECC), is to challenge the companies on the basis that Scottish endowment policy holders are being time-barred from making complaints after three years, while Scots Law allows a period of five years for complaints to be made.

Diamond also claims the re-projection or "red alert" letters used in starting the clock ticking for time-barring purposes are misleading.

ECC's solicitors have now been instructed to write to Scotland-based life companies and endowment sellers asking for their comments on these points and requesting a change in practice, which would be hugely significant for the thousands of home owners currently time-barred.

ECC says this development comes after Lloyds TSB effectively time-barred home owners from March this year while Standard Life expects 70 per cent of its policy holders to be time-barred from April 2007.

Diamond said: "We have received numerous complaints from Scottish policy holders who now find themselves time-barred by companies who initially promised not to im-

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pose these restrictions. As a Scottish firm we're committed to exploring every avenue for home owners who are faced with the distressing situation of being landed with a major debt in later life when they were under the impression their endowment policy would comfortably pay off their mortgage.

"We have invested considerable time and effort looking at the legality of this situation and there is no doubt that Scots Law allows five years for a dispute to be taken to court

'There is no doubt ... Scots Law allows five years for a dispute to be taken to court'

arising from a contractual problem or from negligence or from misrepresentation.

This means that people should have two more years to claim than the three-year Financial Services Authority (FSA) rule currently applied by many sellers of endowment policies. So as far as we are concerned the law of the land should have precedence over this so-called 'rule'.

At the moment members of the public aggrieved by possible mis-selling are told about the current three-year time limit but

are not clearly advised that they have a right to take court action for up to five years.

ECC says it is estimated that up to 400,000 Scots could have been mis-sold endowment mortgages and the firm is currently processing more than 5,000 compensation claims in Scotland.

The company has helped more than 25,000 homeowners claim for compensation on mis-sold mortgages since its launch in November 2003.

Diamond added: "I am hopeful our intervention will lead to more consumers who were mis-sold policies having their claims for compensation satisfied. They should certainly not abort their claim based on a misunderstanding that they only have three years for doing so when the law allows them five years."

The FSA said it would address the company's concern if and when it puts the case before them.

The Financial Ombudsman Service (FOS) said Scottish legal time limits do differ from those in England and Wales so it would be up to a Scottish court to look into this point under the country's legal structure.

A Standard Life spokesman said: "The rules on time limits for referring mortgage endowment complaints to the FOS are laid down by the FSA. Standard Life has followed these rules."