

## **GRG Helpdesk – Consequential Loss Appeals FAQs**

These FAQs should be read alongside the [Consequential Loss Principles](#) available on the website. The Consequential Loss Principles includes definitions of some of the terms used in the FAQs.

### **1. What is a Consequential Loss Appeal?**

If you are unhappy with the outcome of your Consequential Loss Claim to the Bank (or any part of it), you may appeal the outcome of the Bank's decision to the Independent Third Party, Sir William Blackburne. This is referred to as your Consequential Loss Appeal.

If you do wish to appeal, you must set out in your Consequential Loss Appeal the reasons why you consider that the Bank has reached an incorrect conclusion to your Consequential Loss Claim, explaining which of its findings you challenge and why, and referring to the evidence which you say supports your challenge to those findings.

The Independent Third Party (ITP) will then reach his own conclusion on your Consequential Loss Appeal. He will do so by considering the strength of the challenges to the Consequential Loss outcome that you present in your Appeal. Any decision made by him will be binding on RBS.

### **2. How do I submit a Consequential Loss Appeal?**

You can submit an Appeal by completing and signing a Consequential Loss Appeal Form.

You should have received a Consequential Loss Appeal Form with your Consequential Loss Outcome Letter. You cannot access blank forms online (they are pre-populated with details of your Claim), so if you would like another form, please email [GRGCustomerHelpdesk@rbs.co.uk](mailto:GRGCustomerHelpdesk@rbs.co.uk).

Should you be unable to fit all the relevant details of your Appeal on the form itself, the ITP will consider any additional materials you submit alongside it. However, all appeal submissions must include a signed Consequential Loss Appeal Form.

The ITP would prefer you to submit your Consequential Loss Appeal Form by email.

To email the Consequential Loss Appeal Form, please send it as a scanned attachment to [appeals@itp.org.uk](mailto:appeals@itp.org.uk).

If you are unable to email it, you can post it to: Independent Third Party Review, PO Box 74346, London, EC3P 3DU. The ITP recommends you send items in the post by Recorded Delivery.

You will receive an acknowledgment of receipt once the ITP team receives your Consequential Loss Appeal Form.

### **3. Where can I get a Consequential Loss Appeal Form?**

You will receive a Consequential Loss Appeal Form with your Consequential Loss Outcome Letter. You cannot access blank forms online (they are pre-populated with details of your Consequential Loss Claim), so if you would like another form please email [GRGCustomerHelpdesk@rbs.co.uk](mailto:GRGCustomerHelpdesk@rbs.co.uk).

#### 4. Who is the ITP?

The Independent Third Party is Sir William Blackburne, a retired high court judge. Sir William has been appointed by RBS to oversee the Bank's GRG Complaints Process, and to consider any Appeals, both on the outcome of complaints and the outcome of Consequential Loss Claims. The ITP is funded by RBS and reports into the Financial Conduct Authority (FCA) and the Board of RBS. Sir William's role is to provide external independent scrutiny to the Complaints Process and the Consequential Loss Process, and help ensure that fair outcomes are reached for Customers.

Sir William has selected an appropriately qualified team to support him in his role without any involvement of RBS, and they too act entirely independently of RBS.

#### 5. What is eligible for Appeal and are there any restrictions around what I can Appeal?

You are eligible to appeal if you have accepted the outcome of an upheld eligible complaint from the RBS GRG Complaints Process, have made a Consequential Loss claim and have received a Consequential Loss Outcome Letter from RBS.

There are a few restrictions around when and what you can appeal. These are summarised below.

- (i) **56-day deadline:** A Consequential Loss Appeal must be received by the ITP team by email (preferable) or mail (please allow sufficient time for delivery) within 56 days of the date specified on your Consequential Loss Outcome Letter – this is the date that is set out on the right hand side of the first page of that letter. Informing the ITP or GRG Helpdesk that you will appeal does not constitute having made a Consequential Loss Appeal, and does not affect the 56-day deadline;
- (ii) **In-scope Complaint:** If any part of your Consequential Loss Claim does not relate to an upheld eligible complaint, you will not be able to appeal the outcome of that part of your Consequential Loss Claim. Any outcomes which you cannot appeal will be made clear to you in your Consequential Loss Outcome Letter;
- (iii) **Goodwill and discretionary payment:** You cannot appeal any goodwill or discretionary payment offered in your Consequential Loss Outcome Letter; this is a purely discretionary payment offered to you by RBS;
- (iv) **Changes to banking facilities:** You cannot appeal any offer to change your current banking facilities; this is a purely discretionary offer given to you by RBS;
- (v) **New Complaint:** You cannot submit new complaints as part of your Consequential Loss Appeal;
- (vi) **New Head of Loss:** The ITP will only consider appeals against a Head of Loss already considered by RBS; and
- (vii) **Ongoing litigation and/or Financial Ombudsman Service Complaints:** You cannot be engaged in ongoing litigation against RBS on matters related to your Consequential Loss Claim or Complaint, or have your Consequential Loss Claim or Complaint currently being considered by the Financial Ombudsman Service ("FOS") during the Appeals Process. If you have commenced such litigation or filed a Complaint with the FOS since you received your Consequential Loss Outcome Letter, you can only appeal if you suspend those proceedings. In addition, the ITP will not consider your Consequential Loss Appeal if the FOS has already made a determination on your underlying Consequential Loss Claim.

## 6. What will happen after I submit my Consequential Loss Appeal?

You will receive an acknowledgment of receipt once the ITP team receives your Consequential Loss Appeal Form.

The ITP will then review your Consequential Loss Appeal, along with relevant underlying documents and files.

Once your Consequential Loss Appeal has been assessed, you will receive a Consequential Loss Appeal Outcome Letter from the ITP letting you know the outcome of your Appeal. This will also include a short summary of the reasons for the ITP's decision.

The ITP team will also notify RBS of the outcome of your Consequential Loss Appeal, who will then issue you an updated Consequential Loss Outcome Letter incorporating the outcome of your Consequential Loss Appeal, as well as reconfirming any decisions or offers that you did not appeal (such as any offer of a goodwill payment or any offer to change banking facilities).

If the ITP cannot consider your Consequential Loss Appeal for any reason, you will be contacted and informed of any next steps open to you.

## 7. How will the ITP assess my Consequential Loss Appeal?

In assessing a Consequential Loss Appeal, the ITP will, as appropriate, apply the tests set out in the Consequential Loss Principles, namely:

- (i) **Causation**, determining whether the loss was caused (whether directly or indirectly) by the unfair action of RBS;
- (ii) **Remoteness**, determining whether the loss (although not the extent of that loss) was reasonably foreseeable at the time of the action in question;
- (iii) **Mitigation**, determining the extent to which the loss was, or could reasonably have been, mitigated by the Customer, or conversely was aggravated by reasonable attempts by the Customer to avoid or reduce the loss;
- (iv) **Quantum**, determining the quantum of Consequential Loss that was suffered by the Customer.

The ITP will assess these tests in order, and in the case where the assessment of a Head of Loss on appeal fails against one of the tests, any subsequent tests will not be assessed (e.g. if on appeal a Head of Loss fails the Causation test, the ITP will not assess the Head of Loss against the Remoteness or Mitigation tests).

## 8. How long will it take to receive an outcome for my Consequential Loss Appeal?

Your Consequential Loss Appeal will be assessed as soon as is practically possible. The Consequential Loss Appeals Process is a very important one, and delivering fair outcomes to customers is the upmost priority of the ITP. The thorough investigation of each Consequential Loss Appeal will involve careful consideration of your Consequential Loss Appeal and the Bank's outcome, and this process will take time. Unfortunately, given every claim is both unique and complex, it is difficult to indicate how long it will take the ITP to reach an outcome.

**9. I am unhappy with part of my Consequential Loss outcome, but I want to retain the Consequential Loss offer set out in another part of my outcome. Can I do that?**

Yes, you can choose to appeal part of your Consequential Loss Claim outcome rather than all of it. You should indicate in the Consequential Loss Appeal Form that you are appealing part of your Consequential Loss Claim outcome, and should indicate which Head(s) of Loss you wish to appeal.

Any Consequential Loss offers that you are not appealing will carry forward to your final Consequential Loss Outcome Letter, and will remain available for acceptance regardless of the outcome of your Appeal.

**10. What will happen to my offers when I make a Consequential Loss Appeal?**

If the Bank upholds your Consequential Loss claim and makes you a Consequential Loss offer which you then appeal, that offer will be held open subject to the outcome of your Appeal. In your Appeal, you should set out the reasons why you consider the Bank's Consequential Loss offer was too low. If the ITP considers that the reasons set out in your Appeal do not provide a sufficient challenge to warrant an increase in the Bank's Consequential Loss offer, the Bank's previous Consequential Loss offer that you appealed will be open for you to accept in accordance with the final outcome letter issued to you by the Bank post appeal. If the ITP decides that your Appeal does provide a sufficient challenge, then your Consequential Loss offer from the Bank will be replaced by the higher amount that the ITP decides is appropriate (up to a limit of the total amount you have claimed).

Any offers related to a Head of Loss that you do not appeal will carry forward to your final Outcome Letter, regardless of the outcome on the other Head(s) of Loss that you do appeal. These include:

- Any Consequential Loss offers that you do not appeal; and
- Any offers of goodwill or discretionary payments, and/or change to your banking facilities as these cannot be appealed (they are purely discretionary offers from RBS).

**11. Do I need to provide reasons for my Consequential Loss Appeal? What if I am just unhappy with the outcome?**

You must set out in your Consequential Loss Appeal the reasons why you consider that the Bank has reached an incorrect conclusion to your Consequential Loss Claim, explaining which of its findings you challenge and why, and referring to the evidence which you say supports your challenge to those findings.

It is not enough to simply state you are unhappy with the Bank's outcome to your Consequential Loss claim. Instead, you must set out the exact parts of their decision that you consider to be incorrect and explain why with reference to evidence.

**12. May I talk to the ITP directly about my Consequential Loss Appeal?**

No, unfortunately the ITP and his team cannot accept telephone enquiries as they do not have the capacity to operate a telephone helpdesk.

If you would like to write to the ITP, please email [appeals@itp.org.uk](mailto:appeals@itp.org.uk)

If you are unable to email, you may mail the ITP at the following address: Independent Third Party Review, PO Box 74346, London, EC3P 3DU. The ITP recommends you send items in the post by Recorded Delivery.

**13. What happens after I receive my Consequential Loss Appeal Outcome Letter?**

RBS will send you an updated Consequential Loss Outcome Letter, which will reflect the outcome of your Consequential Loss Appeal and any other offers that were carried forward from your first Consequential Loss Outcome Letter, such as any goodwill or discretionary payment or change to banking facilities.

You will then have 28 days from the date of the final Consequential Loss Outcome Letter to accept or reject the outcome contained in that letter. The letter will contain detailed instructions on how to do this.

**14. What is the process for appeal against the quantum of a Consequential Loss award?**

In cases where RBS has upheld a Head of Loss claim and awarded Consequential Loss, and you are appealing the quantum of that offer, the ITP will assess the quantum of Consequential Loss on appeal.

In cases where RBS has not upheld a Head of Loss claim and the ITP upholds the claim because it passes the causation, remoteness and mitigation tests, the ITP will sometimes refer the calculation of the quantum of Consequential Loss to RBS in the first instance.

In such cases, the ITP will send an Appeal Outcome Letter to inform you of the upheld Head of Loss and that RBS will initially assess the quantum of Consequential Loss. RBS will then assess the quantum and inform you of its calculation of the Consequential Loss award in an Updated Consequential Loss Outcome Letter. Once you receive RBS's quantum outcome, you will have the right to appeal the Bank's quantum to the ITP.