

The Judicial Factor

Information for clients

What has happened to my solicitor's firm?

Due to concerns raised by the Law Society of Scotland about irregularities with the accounting procedures of this firm, the Court of Session has taken steps to protect the interests of the clients and creditors by appointing a Judicial Factor.

The Judicial Factor is an officer of the court and the Factor's team all specialise in areas of accountancy and/or law.

The Factor now controls both the firm's and solicitor's assets, including bank accounts.

The initial appointment of the Factor is for a minimum of 21 days, giving the court the opportunity to consider the matter in more detail. The Factor takes immediate control of the firm while allowing for further investigations to take place.

Throughout this initial process, the solicitor has the opportunity to challenge the appointment of the Factor. If, after 21 days, the court is satisfied that the appointment is necessary, it will appoint the Factor on a permanent basis.

The firm has my money. How do I reclaim it?

If the firm is holding money for you, you should contact the Factor. You will be sent a claim form which asks how much you believe you are owed.

Your help is sometimes needed to deal with the claim. You may be asked for the receipt you were given by the firm or confirmation from your bank when a payment was made and for how much. The Factor's team will let you know if a fee is due to the firm for work carried out on your behalf. The Factor will confirm with you how much you owe and this sum will be deducted from your claim.

If the records are poor or incomplete, it can take several months to determine whether the firm has enough money in the client account to pay your claim in full. Money may have been misused by the solicitor.

If there is insufficient money, you can make a claim to the Client Protection Fund. The fund is designed to compensate clients who have suffered loss as a result of the dishonesty of their solicitor. It is administered by the Law Society of Scotland. The Factor will let you know how to get a claim form. For more details, go to www.lawscot.org.uk/clientprotectionfund.

The money will, in most cases, be paid only to you and not to a third party. It will be paid by cheque or bank transfer but not in cash.

What about my ongoing legal work? What happens to my files?

The Factor's team make every effort to ensure ongoing work continues. In many cases this involves transferring the work to another firm of solicitors. If the original firm closes then the Factor will, in most cases, be able to make arrangements for the remaining legal business or files to be transferred to the new firm.

The new firm of solicitors will contact clients where there is ongoing work or where they have a will or title deeds, to confirm that the client is happy for the new firm to act on their behalf.

You do not need to use this firm. You may decide to use a different solicitor to represent you or hold your files. If this is the case, you and your new solicitor must complete a form (available from the Factor) confirming that the files and papers should be transferred to the new solicitor. This form is called a mandate. Once the mandate is completed and passed to the Factor, he or she will make arrangements for the files to be transferred.

What is the Judicial Factor's role?

1. Safeguard money held on behalf of clients

The first job of the Factor is to secure the premises and all of the accounting records. The Factor will control all the money held by the firm, including the day-to-day finances and will set up new bank accounts to manage the business. Only the Factor has the authority to pay creditors and collect any money still owing to the firm.

The Factor will update the accounting records to establish what money is held for each client. This can sometimes be a lengthy process depending on the state of the accounts.

If there is insufficient money in the firm's accounts to pay creditors, the Factor has authority to sell the firm's assets.

2. Make arrangements for ongoing legal work to continue

The Factor's team manages and secures existing files, deeds, papers and case work. In the short term, the team will usually carry on the business. However, if the appointment becomes a long term arrangement and the firm closes, another firm of solicitors often agrees to take on the ongoing work. The Factor will pass the remaining legal business or files to the other firm.

If you are in the process of buying or selling your house, or re-mortgaging, the Judicial Factor will make every effort to settle your transaction on time. However, there may be circumstances where a delay is unavoidable.

Timescale

The Factor's team will process your claim as quickly as possible. However, it can take time if the accounting records are incomplete.

Who to contact

If you have any questions or concerns, please contact us at:

The Judicial Factor

Atria One, 144 Morrison Street,
Edinburgh EH3 8EX
(or LP1, Edinburgh-1 if sending by Legal Post)
Email: enquiry@judicialfactor.org.uk
Tel: 0131 476 8195

How you can help

Please direct all future correspondence to the Judicial Factor rather than your solicitor to ensure nothing is lost. Your solicitor has no ability to reimburse your funds.

Complaint process

If you have any concerns about the actions of the Judicial Factor, you should first discuss your concerns with the Factor. If you believe that your concerns have not been dealt with appropriately, you should contact the:

Accountant of Court

Hadrian House, Callendar Business Park, Callendar Road, Falkirk FK1 1XR.

Related forms

- Claim form - to retrieve your money
- Mandate - to transfer your documents/work to a your new solicitor