

Judges say family can claim after mis-sale 'deadline'



The High Court has ruled that small businesses can still claim compensation for mis-sold interest rate products despite the six-year limitation period

Dan Kitwood/Getty Images

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Small businesses that have fallen on the wrong side of a deadline to claim compensation for mis-sold interest rate products have been given hope by a court ruling. The High Court has refused to let a bank strike out a claim brought by a customer over a mis-sold interest rate product on the basis that it was time-barred.

The ruling will give hope to thousands of small businesses that are trying to take their bank to court for mis-selling them interest rate hedging products before the financial crisis. These products soured after the Bank of England slashed its base rate, generating large profits for banks and heavy losses for customers.

English law imposes a time limit to bring compensation claims to court. Under the Limitation Act, claimants normally have six years to bring a claim from the point at which the alleged wrongdoing occurred.

Kays Hotels, a family-owned business, bought an interest rate product from Barclays in 2005 to try to protect interest repayments on a £1.34 million loan. The company brought a mis-selling claim against Barclays in 2012.

The bank asked the High Court to strike out the claim, saying that it had sold the interest rate product in question more than six years before Kays lodged the claim. Kays argued that the six-year limitation period should be extended, because it did not know that it needed to bring a claim until 2009, after it had begun paying significant fees to the bank.

The High Court said that the starting point for the limitation period was not necessarily the moment that the product was sold, but could be the moment that Kays had reason to investigate making a claim. Because Kays had a real prospect of arguing this successfully at trial, the High Court refused to strike out the action.

Richard Foss, a partner at Kingsley Napley, the law firm, said the result was encouraging news for customers who bought products more than six years ago.

Abhishek Sachdev, managing director of Vedanta Hedging, a financial consultancy, said that big businesses could also benefit from the court's ruling.

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 **Abhishek Sachdev**

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