An tOmbudsman Seirbhísí Airgeadais agus Pinsean

Financial Services and Pensions Ombudsman

Ombudsman's Digest of Legally Binding Decisions

Volume 5 - Published February 2021

This document contains summaries and case studies based on a selection of decisions issued from 1 June 2020.

Contents

The Financial Services and Pensions Ombudsman (FSPO)

The FSPO was established in January 2018 by the **Financial Services and Pensions Ombudsman Act 2017**. The role of the FSPO is to resolve complaints from consumers, including small businesses and other organisations, against financial service providers and pension providers.

We provide an independent, fair, impartial, confidential and free service to resolve complaints through either informal mediation, leading to a potential settlement agreed between the parties, or formal investigation and adjudication, leading to a legally binding decision.

When any consumer, whether an individual, a small business or an organisation, is unable to resolve a complaint or dispute with a financial service provider or a pension provider, they can refer their complaint to the FSPO.

We deal with complaints informally at first, by listening to both parties and engaging with them to facilitate a resolution that is acceptable to both parties. Much of this informal engagement takes place by telephone.

Where these early interventions do not resolve the dispute, the FSPO formally investigates the complaint and issues a decision that is legally binding on both parties, subject only to an appeal to the High Court.

The Ombudsman has wide-ranging powers to deal with complaints against financial service providers. He can direct a provider to rectify the conduct that is the subject of the complaint. There is no limit to the value of the rectification he can direct. He can also direct a provider to pay compensation to a complainant of up to €500,000. In addition, he can publish anonymised decisions and he can also publish the names of any financial service provider that has had at least three complaints against it upheld, substantially upheld, or partially upheld in a year.

In terms of dealing with complaints against pension providers the Ombudsman's powers are more limited. While he can direct rectification, the legislation governing the FSPO sets out that such rectification shall not exceed any actual loss of benefit under the pension scheme concerned.

Furthermore, he cannot direct a pension provider to pay compensation. He can only publish case studies in relation to pension decisions (not the full decision), nor can he publish the names of any pension provider irrespective of the number of complaints it may have had upheld, substantially upheld, or partially upheld against it in a year.

Formal investigation of a complaint by the FSPO is a detailed, fair and impartial process carried out in accordance with fair procedures. For this reason, documentary and audio evidence and other material, together with submissions from the parties, are gathered by the FSPO from those involved in the dispute, and exchanged between the parties.

Unless the legally binding decision of the Ombudsman is challenged by way of statutory appeal to the High Court, the financial service provider or pension provider must implement any direction given by the Ombudsman in his legally binding decision. Decisions appealed to the High Court are not published while they are the subject of legal proceedings.

Publication of FSPO decisions

The FSPO has the power to publish legally binding decisions in relation to complaints concerning financial service providers under Section 62 of the **Financial Services and Pensions Ombudsman Act 2017**.

The legislation requires that decisions should be published in a manner that ensures that a complainant is not identified by name, address or otherwise and a provider is not identified by name or address. Publication must also comply with Data Protection legislation and regulations. Decisions appealed to the High Court are not published while they are the subject of legal proceedings.

When the Ombudsman issues a legally binding decision, that decision may be challenged by way of statutory appeal to the High Court within 35 calendar days from that date. For this reason the FSPO does not publish decisions before the elapse of the 35 day period available to the parties to issue a statutory appeal to the High Court. In addition, decisions which have been appealed to the High Court are not published, pending the outcome of any such Court proceedings.

Before any legally binding decision is published by the FSPO it undertakes a rigorous and stringent review to ensure that the non-identification requirements of the Act are adhered to in order to protect the confidentiality of the parties.

The legislation also provides the FSPO with the power to publish case studies of decisions relating to pension providers, but not the full decision.

This Digest contains short summaries or case studies of a selection of 20 decisions. Some details within the summaries referenced in this Digest, such as names and locations, have been altered in order to protect the identity of the complainants. It is important to keep in mind that these are only short summaries.

This Digest of Ombudsman's decisions is the fifth volume in a series of digests.

Each of the digests and all published decisions are available at www.fspo.ie/decisions.

Information on how to access decisions and search for areas or decisions of specific interest in the decisions database is included on page 8 of this Digest.

In addition to the periodic Digests that feature summaries and case studies of decisions issued in 2020, by the end of quarter one each year, the Ombudsman publishes his Overview of Complaints for the previous year which includes:

- a summary of all complaints made to the FSPO
- a review of trends and patterns in the making of complaints to the FSPO
- a breakdown of the method by which all complaints made to the FSPO were dealt with
- a summary of the outcome of all complaints concluded or terminated during that calendar year

Message from the Ombudsman

Publication of Decisions

This is the fifth occasion on which I have published my decisions since the statutory power to do so was provided by the Oireachtas. Our online Database of Decisions now contains over 1,000 legally binding decisions that have issued since the FSPO was established in January 2018.

I believe publication of my decisions greatly helps to broaden the awareness of the role of this Office and promotes a greater understanding of how we deal with complaints against financial service providers and pension providers. I will continue to publish my decisions on a regular basis.

Decisions published in conjunction with this Digest of Decisions

The legislation does not provide for the publication of my decisions in relation to pension complaints, and in addition, there are a number of decisions, where the content of the decision is so distinctive that, even when anonymised, it would risk identifying the individuals involved. For this reason, these have not been published.

Given the complexity of the issues in dispute in complaints dealt with by this Office, I would encourage people to read the full text of the decisions issued. Each summary, in the online version of this document, includes a link at the top of the page to the full text of the decision, which was issued to the parties to that complaint.

My decisions are legally binding on both parties, subject only to a challenge to the High Court by way of statutory appeal. This means that a provider must implement any direction made in a decision unless the decision is appealed.

A decision concerning a complaint regarding an insurance policy, made available by a housing developer, which provides cover against structural defects in the property, has been appealed to the High Court by the insurance company against which the complaint was made. As with all decisions appealed to the High Court, that complaint will be not be published pending the outcome of that appeal process.

It will be seen from the summaries and case studies in this Digest and from the full text of my legally binding decisions that this Office affords an important avenue of redress, where consumers believe their financial service provider or pension provider has not treated them in a fair, reasonable or proportionate manner.

The summaries and case studies in this Digest alone, give a sense of the variety and complexity of complaints that our Office investigates and adjudicates on. They include a broad range of situations and I have outlined a sample below.

Banking

One complaint involved a couple who discovered, after their mortgage had been sold by their original bank to another mortgage provider, that their Irish Credit Bureau (ICB) report showed a "P" denoting that their account was 'pending litigation'. I took the view that it was completely unfair, unreasonable and incorrect for the mortgage provider to use the designation "P" in the circumstances of the particular complaint. I upheld the complaint and directed €15,000 to be paid in compensation. I also directed the bank to correct the complainants' record with the ICB and the Central Credit Register and furnish the complainants with a letter setting out that it had incorrectly reported their credit record.

Another complaint involved a couple who have several mortgages with a bank, including a Buy to Let (BTL) mortgage which was cross charged with their family home. The couple fell into significant arrears and agreed to an Assisted Voluntary Sale (AVS) of the BTL property. However, an agent for the bank contacted the couple to inform them that they were starting the process of selling the BTL property and also the couple's family home.

I found the scale of poor service and misinformation given to the couple and distress and inconvenience caused to them to have been unacceptable, and directed the bank to pay €15,000 in compensation.

In circumstances where a father was allowed by a bank to withdraw money from his child's bank account without authorisation, I directed the bank to reimburse the account with the €66,000 which was withdrawn contrary to the mandate and to recalculate and apply the interest which ought to have been paid to the credit of the account, had the withdrawals in question not occurred.

Complaints regarding tracker mortgages continue to comprise a considerable amount of the work of this Office. As will be evident from the decisions published, and some of the summaries in this Digest, there are certain complaints made to the FSPO which relate only to the amount of compensation offered to customers who have been deemed impacted, because they were denied a tracker rate of interest. It is disappointing that in such limited complaints, one particular bank continues to argue that the customers in question have no entitlement to a tracker rate of interest.

This bank persists in this line of argument, even in circumstances where it has already conceded the customers' entitlement to a tracker rate, as part of the Tracker Mortgage Examination directed by the Central Bank of Ireland. This is not helpful in terms of seeking to resolve these complaints. In addition to the additional inconvenience caused to the bank's customers, this approach needlessly increases the resources required by the bank itself, and by this Office, for the investigation of the complaint.

That same bank regularly argues that its customers have not demonstrated any inconvenience caused by its overcharging. In my opinion, such statements demonstrate a complete lack of empathy or understanding of the consequences of the bank's actions.

I have upheld a number of tracker mortgage complaints where the complaint was that the compensation offered was not adequate. These include directing a bank to pay €20,000 (to include €3,854 already paid), directing a bank to pay a sum of €22,000 compensation (inclusive of the €15,936 compensation already paid) and directing a bank to pay €15,000 in compensation, (inclusive of the €9,199 already offered).

As I indicated in my third Digest, which focused on tracker mortgages, it can be seen from the tracker related decisions published that a significant number of tracker mortgage complaints continue to be not upheld. Some complainants continue to have unrealistic expectations, believing that their desire to have a tracker interest rate provides a basis for requiring their bank to grant them one. There seems to be a lack of understanding, by some complainants, that for a person to have an entitlement to a particular tracker interest rate, there must be some contractual or other obligation on their bank entitling them to such a rate. Simply wanting to have a tracker interest rate, or knowing someone who was put on a tracker rate at a particular point in time, is not sufficient to entitle a person to such a rate.

Other banking complaints that I did not uphold included where a person was defrauded by having their email hacked and as a result included the wrong IBAN on their payment instruction. As it currently stands, there is no requirement on the payer or payee bank to cross reference the name and the IBAN and therefore I accepted that the bank was entitled to rely on the IBAN as the unique identifier, as nominated by the payer, in directing the payment to that account.

In another complaint, the complainant lost his cheque book and directed his bank to cancel the remaining cheques in the cheque book. He later found the cheque book and issued a cheque from it. The cheque was rejected by his bank. He argued that the bank was wrong not to honour this cheque. I accepted that the bank was acting on his instructions and I did not uphold the complaint.

Insurance

A number of the insurance complaints I upheld related to a variety of areas including fire, accident, motor and pet insurance.

In a complaint relating to dental works necessitated by an accident at school, I found that an insurer was liable for a claim of €1,311.02 and I directed additional compensation of €1,500.

The use of telematics devices continues to cause difficulties for some drivers. An insurance intermediary informed a driver that a telematics device had recorded that his vehicle had been driven at a speed in excess of 160kph. This was in breach of the terms of the insurance policy and, as a result, the policy was cancelled. Following the cancellation, the customer requested proof of his no claims bonus, in order to obtain a policy with another insurer. The intermediary refused, stating that the customer still owed around €180 in premium payments. As a result of the customer not being able to provide evidence of his no-claims bonus, his new insurer also cancelled his new policy. The insurance company, on review of the telematics, took the view that the data may not have been accurate. I found the incorrect cancellation of the policy and withholding of the no claim bonus evidence was wrongful and unfair. I directed the original insurance company to pay compensation of €15,000 and issue a letter to the customer, confirming that his policy had been cancelled as a result of its error and, as a result of additional failures, that it was responsible for the cancellation of his subsequent insurance policy.

One of the insurance complaints I did not uphold related to a claim for a car which was stolen when the driver left the car unattended with the keys in it. The insurer specifically excluded cover where the keys were left in the ignition so I did not uphold the complaint.

Investments

In terms of complaints relating to investment, I found that one investment company had completely and utterly disregarded its obligations under European financial and consumer protection regulations. It initially failed to assess the customer's suitability. It also failed to take any action when the customer informed the company that he wanted his account to be closed because he was a compulsive gambler. In fact, the evidence indicated that the investment company actively sought to dissuade him from his hesitations about trading again and actively provided him with advice about the merits and the risks of investments. I directed the investment company to pay him £17,000.

With regard to another investment, separate complaints were made against a broker and an investment company. I found that there was a marked lack of transparency in relation to the commissions and fees to be received by the broker arising from its advice to invest in the identified fund. I commented on the lack of understanding, in the broker's arguments, of the requirements for regulated financial service providers to make full disclosure of all relevant material information and to maintain the necessary records to demonstrate that it had done so. I directed the broker to pay €3,000. I did not find any wrongdoing on the part of the investment company so that complaint was not upheld.

One pension complaint related to a public sector employee who sought the award of added years to his pension. Both the application and the appeal had been declined, on the basis that the applicant did not meet the criteria. I took the view that the manner by which the calculation was made of the lowest number of years of relevant experience was fundamentally unfair, as it was made on the basis of incomplete and inaccurate information. I partially upheld the complaint and directed the pension provider to reconsider the application as if the request was submitted for the first time.

COVID - 19

As reported in my last Digest of Decisions, the Covid-19 pandemic has impacted on the nature of complaints received in 2020. Having put in place a number of measures to deal with these complaints, including the prioritisation of complaints where appropriate, I will be publishing decisions arising from Covid-19 related complaints in the first half of 2021.

We have implemented a range of measures to ensure continuity of service throughout 2020 and I am very pleased to report that notwithstanding the very challenging operating environment, we have succeeded in meeting our 2020 targets for the closure of complaints.

Acknowledgements

I want to thank all complainants and providers for their cooperation with our various processes.

I want to thank the Chairperson, Maeve Dineen, and the members of the Financial Services and Pensions Ombudsman Council and all of our stakeholders for their ongoing support and cooperation.

In particular, I want to thank and pay tribute to the Deputy Ombudsman, MaryRose McGovern, the members of the Senior Management Team and all our managers and staff for their ongoing commitment and delivery during 2020, in the most challenging of circumstances.

Ger Deering

Financial Services and Pensions Ombudsman

February 2021

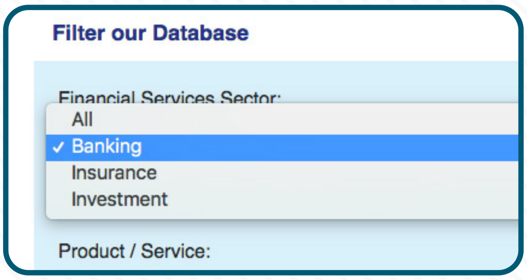
How to search our decisions on **www.fspo.ie**

Accessing our database of decisions

Our database of legally binding decisions is available online at www.fspo.ie/decisions. To refine your search, you can apply one or a number of filters.

1 Applying **filters** to narrow your search

To filter our database of decisions, you can firstly select the relevant sector:

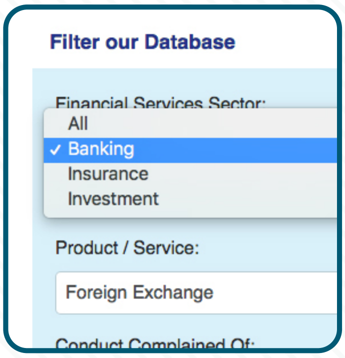


2

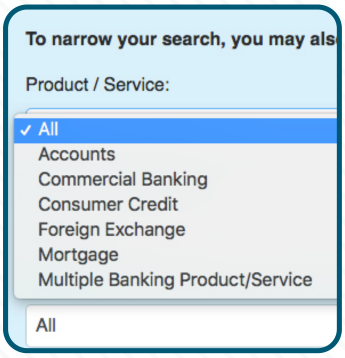
Having filtered by sector, the search tool will then help you to filter our **decisions** further by categories relevant to that sector such as:

- product / service
- conduct complained of

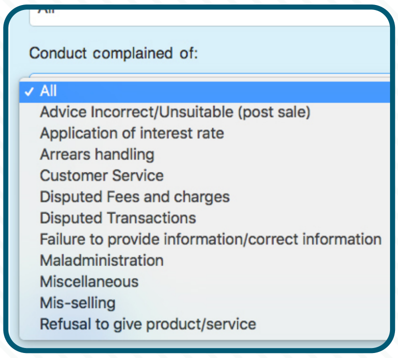
✓ Sector



✓ Product / Service



✓ Conduct complained of



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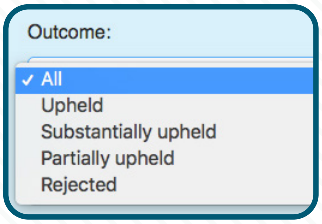
You can also filter our database of decisions by year, and by the outcome of the complaint, i.e. whether the Ombudsman Upheld, Substantially Upheld, Partially Upheld or Rejected the complaint.



Once you have found the decision you are looking for, click **View Document** to download the full text in PDF.

Banking

READ THE FULL DECISION HERE

Decision Reference: 2020-0326

Dispute regarding the sole use of IBAN as a unique identifier

DB Widgets Ltd issued an invoice to an overseas distributor, for payment of €4,380. The distributor paid the invoice, using the International Bank Account Number (IBAN) account details which appeared on the invoice, in the understanding that this was the DB Widgets IBAN. However, DB Widgets had been the victim of a fraud where its email account had been hacked and the bank details appearing on the invoice had been amended.

When it did not receive the payment into its account, the company initially queried the payment with the distributor, which confirmed that payment had been made and emailed a copy of the invoice. DB Widgets Ltd noticed that the IBAN details on the invoice were not in fact its own details. It complained to its bank for having allowed the transaction to be executed and the payment credited to the wrong account.

It specifically noted that the name and IBAN number would not have matched and queried why it had to fill in the "Name" box when making online transfers if it was essentially meaningless. It submitted that another of its emails, which was issued to a service provider in the UK, was also hacked but that a third party bank in the UK refused to let the transfer go through, on the basis that "the IBAN and account name did not match". It submitted that the bank had a responsibility to verify incoming payments and did not have sufficient procedures or controls in place.

The bank submitted that since the introduction of the Single Euro Payments Area (SEPA) in 2014, all inward payments to financial institutions across Europe are IBAN driven and are not individually cross referenced against the name of the account. It stated that the payee's name is asked for in order to facilitate compliance with the regulations but that the IBAN remains the account identifier for credit transfers.

It also noted that it was an inward payment and that the overseas distributor completed and authorised the online transaction with their own bank. Its payment systems credited the funds to the IBAN provided.

In a case of incorrect payment execution, due to the use of an incorrect IBAN, the payer's bank must make reasonable efforts to recover the funds involved. In this case, when the bank was made aware of the fraudulent transaction, it attempted to retrieve the funds from the third party, however, there were no funds available.

The Ombudsman noted that since February 2014, IBANs have been the sole payment account identifier for all SEPA bank accounts for national and cross-border credit transfers and direct debits in Euro, within the EU. As a result, a payment order will be deemed to have been executed correctly where payment is made to the payee, as specified by the IBAN. A recent EU court ruling confirmed this.

As it currently stands, there is no requirement upon the payer or payee bank to cross reference the name and the IBAN. In the UK a "Confirmation of Payee" system has been introduced, however there is no such system currently in place in Ireland.

Taking the above into account, the Ombudsman accepted that the bank was entitled to rely on the IBAN as nominated by the payer in directing the payment to that account. He therefore did not uphold the complaint.

Banking

READ THE FULL DECISION HERE

Decision Reference: 2020-0357

Inaccurate reporting to the Irish Credit Bureau by a mortgage provider after it acquired the mortgage

Kasia drew down a mortgage from a bank in 2005 and the mortgage was subsequently acquired by a different mortgage provider in 2015. There were arrears on the mortgage since 2012, but Kasia had been in contact with the mortgage provider in relation to restructuring the payments, eventually agreeing a permanent arrangement in February 2017.

Kasia discovered that her Irish Credit Bureau (ICB) report showed a "P" label from January 2017, denoting that her account was 'pending litigation'. Kasia did not believe this to be a fair or accurate representation and believed that it did not reflect her ability and intention to repay her mortgage. She stated that she was not notified by the mortgage provider that the account was pending litigation and that at no time did they issue legal proceedings or preliminary legal letters to her.

She argued that the labelling had adversely affected her ability to obtain finance and her job prospects, as she worked for a financial service provider. She sought for her ICB record and the Central Credit Register records to be rectified.

The mortgage provider disagreed with Kasia. It argued that the "P" designation is used when the credit subject is in arrears, is not in an Alternative Repayment Arrangement (ARA) and the account is being managed by a litigation department.

The mortgage provider stated that when it acquired the account from the bank, it had been informed the account had been managed by the bank's litigation department. On this basis, the mortgage provider transferred it for management to its own litigation department when it took the mortgage on.

The mortgage provider submitted that the account was reported with an ICB indicator of "P" as no ARA was proposed or in place from April 2015 to June 2016.

An ARA with an expiry date of 31 December 2016 was eventually agreed, but after its expiry, a new one was not implemented. A direct debit for €3,082 on 10 January 2017 was therefore returned unpaid due to insufficient funds. A "P" designation was again reported to the ICB, for January 2017. The mortgage provider noted that Kasia had made a payment of €1,200 on 16 January 2017 and formally accepted the offer of a reduced repayment arrangement on 24 January 2017.

The Ombudsman stated that it was clear that the previous bank was in fact reporting to the ICB that Kasia had missed at least nine payments (nine being the maximum recorded) but the mortgage was not recorded by the previous bank as 'pending litigation'. Further, the Ombudsman did not accept that mortgage provider's general use of the "P" designation was appropriate when an account in arrears is being managed by its litigation department and is outside a formal ARA. He noted that the mortgage provider did not inform Kasia that it was considering litigation and there did not appear to have been any formal assessment concluding that the account was an appropriate one for the issuance of legal proceedings. In fact, the assessments indicated that the mortgage provider was at all times of the view that repossession proceedings were not appropriate.

The Ombudsman also took the view that it was completely unfair, unreasonable and incorrect for the mortgage provider to use the designation "P" for January 2017 when there was an agreement (albeit an informal one) for Kasia to make a payment of €1,200 a month rather than the normal contractual repayment.

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Banking

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The Ombudsman therefore concluded that it was extremely misleading, inappropriate and most unreasonable for the mortgage provider to utilise the designation 'litigation pending' at all times between 2015 and 2016, and again in January 2017. He noted that this designation had very serious implications for Kasia.

Due to the frequency of the mortgage provider's use of the designation and in particular its completely unjustifiable use as recently as January 2017, combined with its refusal to accept that the designation was inappropriate or incorrect throughout the course of the investigation of the complaint, the Ombudsman upheld the complaint and directed €15,000 to be paid in compensation.

The Ombudsman also directed the mortgage provider to correct the complainant's record with the ICB and, if necessary, with the Central Credit Register and to furnish Kasia with a letter setting out that it had incorrectly reported her credit record. The matter was also brought to the attention of the Central Bank of Ireland.

Banking

READ THE FULL DECISION HERE

Decision Reference: 2020-0325

Complainant dissatisfied with service and information provided in relation to Assisted Voluntary Sale

John and Leah held several mortgages with the bank, including a Buy to Let (BTL) mortgage which was cross-charged with their family home. The couple fell into significant arrears and, in 2014, they approached the bank for assistance. The bank's view was that an Assisted Voluntary Sale (AVS) of the BTL property would be the best option for resolving their arrears. On the basis of this, the couple signed the AVS form and returned it to the bank the next day.

The next month, an agent for the bank contacted the couple to inform them that they were starting the process of selling the BTL property and also their family home. 'Traumatised' at the thought of losing their home, the couple sought to clarify the situation with the bank multiple times. Two weeks later, the bank clarified that their family home had been included due to 'human error.'

This was merely one example of several failures of customer service John and Leah stated they received from the bank, including:

- Incorrectly informing them that the shortfall on the mortgage account after the sale of the BTL property would be unsecured, when in fact it was secured on their home
- Incorrectly advising them that the AVS would lead to an improvement of their Credit Rating within three years, when in fact the continued arrears from the shortfall of the sale of the BTL property meant that their Credit Rating did not improve
- Failing to follow up on multiple requests from the couple for a call back to give more information
- Sending a 'letter of demand' to the couple to recover debts while they were waiting on a call back for more information regarding the AVS before they signed it
- Waiting a year to clarify if the cross-charge on the family home would be released following the sale of the BTL property
- Only putting a single point of contact in charge of their account in 2016, two years after their initial approach, who then took no further action to assess their debt
- Failing to take any action on a Standard Financial Statement form submitted by the couple, forcing the couple to start the whole process again

The couple stated that, due to the bank's advice and behaviour, they were left in a worse position financially than if they had not approached it. In their complaint, the couple stated that the bank wrongfully advised them that the AVS process was their 'best option,' that it gave incorrect information, that it mismanaged their case and that it gave poor customer service.

The bank acknowledged that it gave incorrect information on several occasions and that call back requests from the couple were not returned. It argued, however, that the AVS was the only option available to the couple at the time, given their financial situation. In light of its shortcomings, the bank offered to pay €2,000 in compensation.

As the couple had offered no alternative option to the AVS process, the Ombudsman did not conclude that the bank had wrongfully advised them when it said it was their 'best option.'

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Banking

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Neither did the Ombudsman conclude that the bank could be held responsible for the couple's worsening financial position. In the evidence provided, the bank made it clear that, even when the BTL property was sold, there would still be a shortfall of debts to be paid, which the couple had agreed, in writing, they would be responsible for.

Furthermore, there was no evidence to suggest that the couple would be in a better financial position if they had not followed the route advised by the bank.

The Ombudsman did, however, find the scale of poor service and misinformation given to the couple to be unacceptable. The Ombudsman substantially upheld the complaint and directed the bank to pay €15,000 in compensation to John and Leah.

Banking

READ THE FULL DECISION HERE

Decision Reference: 2020-0271

Customer disputes requesting a stop on his cheque book

Ciaran issued a cheque to a third party in March 2019. A month later, the third party advised Ciaran that the cheque had been returned as Payment Stopped. Ciaran was 'dumbfounded and embarrassed' by what happened, stating that he had not given any instruction to the bank to withhold payment on any cheques.

Ciaran contacted his bank and was informed that it was he himself who had cancelled the cheque, which, Ciaran said, was 'news to me.' Ciaran also contended that he did not receive a letter from the bank advising him that the cheque had been stopped. In May 2019, Ciaran visited the bank's branch and it was confirmed that the stop had been removed. When the bank's agent suggested to Ciaran that he must have put a stop on his cheque book, he rejected this. The bank's agent then, according to Ciaran, '... seemed to accept that and could not offer any proof that I did.'

Ciaran's complaint to the Ombudsman was that the bank had wrongfully and/or without authority stopped his cheques and failed to notify him that his cheques had been stopped.

The bank contested Ciaran's complaint. In May 2018, according to the bank, Ciaran came to the bank's branch and informed it that he had misplaced his cheque book. The bank's staff member ordered a new one to be issued to Ciaran and, as a security measure, suggested a stop request be placed on the misplaced cheque book.

In order to get permission for this measure, the bank requested Ciaran complete a Customer Instruction Form, which Ciaran completed and signed that same day. The stop was placed on the remaining cheques in the misplaced cheque book. A new cheque book was posted to Ciaran the day after the form was signed.

The bank informed the Ombudsman that the cheque that Ciaran wrote to the third party was stopped in accordance with the Customer Instruction Form that had been signed by Ciaran. The bank asserted that it acted in good faith in placing the stop request on the remaining cheques in the misplaced cheque book, which ensured that fraud could not be carried out in the event the cheque book was found by a third party. It did, however, offer Ciaran a €50 voucher as a gesture of goodwill.

In his decision, the Ombudsman stated that the Customer Instruction Form, which was provided as evidence by the bank, contained a clear and unambiguous instruction to stop Ciaran's cheques, from and including the relevant cheque number, and to re-order a cheque book. While Ciaran did not recall signing the form, it nonetheless had his signature and the authenticity of the signature was not disputed.

The Ombudsman considered it reasonable to expect Ciaran to be aware that this set of cheques had been stopped by him and did not believe that the bank was required to notify Ciaran when it stopped the cheque. Therefore, he did not uphold Ciaran's complaint.

In response to the Ombudsman's preliminary decision, Ciaran submitted that the offer of the €50 voucher from the bank constituted an 'admission of blame' on its part and ought to be considered in his decision. The Ombudsman did not consider the offer of goodwill was an admission of blame and did not uphold the complaint.

Banking

READ THE FULL DECISION HERE

Decision Reference: 2020-0220

Dispute relating to a bank's failure to apply appropriate safeguards on a junior account

Daisy's parents opened a junior bank account on her behalf when she was three months old. The account was used by her parents as the recipient account for monthly child benefit payments. Her father was authorised to make withdrawals from the account until she reached seven years of age, at which point Daisy was to become the signatory.

However, after Daisy reached seven years of age, her father continued to make withdrawals from the account until virtually all of the money was withdrawn. Over the years 2008-2014, child benefit payments for a number of children, together with some additional benefits, were credited and ongoing debits recorded. The account appeared to have been operated by Daisy's father as if it were his own. After Daisy's seventh birthday, a large volume of debits totalling approximately €66,000, had been withdrawn from the account by her father.

Daisy was unaware of the existence of the account and stated that no consent was ever given to her father to withdraw funds after she turned seven and that she did not benefit from the withdrawn funds. Daisy requested that the bank refund the money taken from her account.

In response, the bank stated that in order for the signing authority to change over to Daisy, a witnessed specimen of her signature was required, as set out on the application form. When Daisy reached the age of seven, the bank did not proactively seek a specimen signature, stating the original signing authority on the account remained in place.

The bank stated that Daisy's father had advised it that the money was managed by him and was being used for the benefit of the family. In his decision, the Ombudsman stated that it was entirely unclear as to how the bank formed this opinion.

In any case, he noted that it was not a matter for the bank to concern itself with how the monies in question had been utilised, only to investigate the withdrawals.

The Ombudsman noted that Daisy's parents chose the option that withdrawals from the account could only be made with her sole signature following her seventh birthday. The application form made it clear that for this option to become effective, a specimen of the signature witnessed by one or both of her parents, was required. Importantly however, the form did not contain any provision for the continuation of the original signing authority in the event that this signature was not provided. The Ombudsman also noted that this fact seemed to have been recognised by the bank in its initial responses to Daisy's complaint, despite it later changing its stance.

The Ombudsman took the view that there was no valid signing authority on the account once Daisy turned seven; that her father's withdrawals did not meet the required mandate on the account, and were therefore wrongfully permitted.

Accordingly, the Ombudsman upheld the complaint and directed the bank to reimburse the account with all of the withdrawals which were permitted contrary to the mandate. In addition, he directed the bank to recalculate the interest which ought to have been paid to the credit of the account, had the withdrawals in question not occurred.

Banking

READ THE FULL DECISION HERE

Decision Reference: 2020-0331

Complainant unhappy with compensation offered by bank in respect of its failures on her tracker mortgage loan account

In 2004, Sinead took out a mortgage with the bank, which was also her employer at the time. Her mortgage was initially drawn down on a tracker interest rate of European Central Bank (ECB) base rate plus a margin of 1.1%. The margin above ECB was reduced to 0.85% in December 2005.

Sinead decided to move the mortgage to the staff non-tracker variable rate in August 2006 and she subsequently availed of a two-year fixed rate of 3.95% in January 2007. On the expiry of the fixed rate period in January 2009, Sinead was not offered the option to revert to the tracker rate and the mortgage moved instead to a variable rate of 3.75%.

In 2012, Sinead decided to avail of voluntary redundancy and so her employment with the bank ended. In 2015, she was unfortunately diagnosed with a serious illness.

In February 2015, Sinead requested a six-month interest-only payment period for the mortgage, which the bank agreed to. When the six-month interest-only period expired in August 2015, Sinead requested a further six months of interest-only. At that time, she was seeking employment and she had also just finished a course of medical treatment and was recovering from surgery. The bank agreed to a further six-month interest-only period, but advised Sinead that in the absence of a viable long-term solution to her situation, she may have to consider selling her home.

In June 2016, Sinead informed the bank that due to her illness she was unable to return to work for the foreseeable future. She requested a further six months of interest-only payments. The bank agreed to this but on the condition that Sinead agree to sell her home within that 6 month period. Sinead did not agree to this, but she did place her house on the market for sale.

Throughout this period, Sinead's mortgage never fell into arrears.

Sinead's mortgage was considered by the bank in the course of the Central Bank directed Tracker Mortgage Examination in 2017. As part of the Examination, the bank identified that it had failed to provide sufficient clarity as to what would happen at the end of the fixed rate when Sinead had moved from the tracker rate to the non-tracker variable rate and then to the fixed rate. The bank found that the language used in its communications to Sinead may have been confusing or misleading. As a result of its failure, the bank concluded that it had charged an incorrect interest rate on Sinead's mortgage between January 2009 and November 2017. The bank offered Sinead redress and compensation of €15,900, including a refund of the overpaid interest of €13,546, compensation of €1,354, and €1,000 to cover the cost of independent professional advice.

In January 2017, Sinead appealed the bank's offer to the Appeals Panel, which decided to uphold the appeal and awarded her additional compensation of €2,500. Sinead's complaint with the Ombudsman was then progressed.

In her complaint to the Ombudsman, Sinead detailed that she believed that the bank should have calculated her compensation payment from the date of inception of the mortgage in 2004. She felt that the offer did not adequately compensate her for "the sleepless nights, constant worry, depression and pure terror" she had experienced.

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In response, the bank stated that Sinead had not demonstrated that any inconvenience was brought about because of the overpayment on the mortgage. It stated that her financial difficulties arose due to her voluntary redundancy and could not be linked to the tracker rate issue. The bank was of the view that the compensation offered to Sinead was adequate.

In his decision the Ombudsman did not accept that the redress period should begin earlier than 2009, in circumstances where Sinead was on a tracker rate in 2004 and had voluntarily moved her mortgage to a variable rate.

However, the Ombudsman found that there was no doubt that the money overcharged by the bank had caused Sinead additional hardship and inconvenience, at a time when she was dealing with a very serious illness which left her unable to take up employment. He was "at a complete loss" as to how the bank, or "any reasonable person" could arrive at the view that Sinead had not demonstrated any inconvenience. He found that this statement by the bank demonstrated a complete lack of empathy or understanding of the consequences of its actions. He was of the view that the compensation already paid was not at all reasonable or sufficient to compensate for the inconvenience Sinead had suffered.

The Ombudsman upheld the complaint and directed the bank to pay €20,000 compensation to Sinead (inclusive of the €3,854 already paid).

Banking

READ THE FULL DECISION HERE

Decision Reference: 2020-0369

Complainants dissatisfied with the tracker interest rate and margin offered

In 2008, Dan and Gwen took out a mortgage loan of €218,000 over a 25-year term with the bank. The bank's initial loan offer provided for a loan amount of €210,000 and a tracker interest rate of 4.75% (ECB + 0.75%). However, the loan amount required was subsequently amended to €218,000. Therefore Dan and Gwen were ultimately offered, and accepted, a loan offer which provided for a loan amount of €218,000 and an initial two-year fixed rate of 4.99%.

Dan and Gwen asserted that the loan amount was only increased from €210,000 to €218,000 because the bank required them to clear other borrowings before it would issue the loan cheque to them. However, the bank stated that the request to increase the loan amount was instigated not by the bank, but by Dan and Gwen themselves.

Dan and Gwen opted to exit the two-year fixed rate period early in February 2009 and switched the mortgage to a variable interest rate of 4.55%.

Dan and Gwen made a complaint to the then Financial Services Ombudsman's office in 2011. They detailed that the bank had failed to fully advise them of the consequences of breaking the fixed interest rate period that applied to their mortgage loan account in February 2009 and refused to return them to a tracker interest rate. The complaint to the Ombudsman was placed on hold between May 2012 and February 2015 as a result of High Court and Supreme Court litigation that was ongoing at that time. The litigation was not in relation to Dan and Gwen's complaint but dealt with similar issues to those arising in relation to their complaint. The Supreme Court appeals were ultimately withdrawn.

Dan and Gwen's mortgage loan account was subsequently considered by the bank under its redress programme in 2015.

The bank found that it had failed to inform Dan and Gwen that by breaking early from the fixed interest rate period in 2009, they would lose their entitlement to a tracker rate in the future. It offered them the tracker rate that they would have been offered at the maturity of the fixed rate period (ECB + 3.25%). It also offered them redress and compensation of €7,835.

Dan and Gwen were dissatisfied with the tracker rate and margin of ECB + 3.25% that the bank offered to them. They believed they were entitled to the tracker interest rate of ECB + 0.75% on the basis that their original loan offer provided for that rate. They said that the original loan offer was only withdrawn because the bank had wanted them to increase the loan amount to clear other borrowings.

The bank stated in response that the original loan offer was not accepted or signed by the couple, and therefore its terms were not relevant. It submitted that the loan offer that was signed and accepted by Dan and Gwen, did not contain a specific promise to a particular tracker rate. It further stated that the calculation of the appropriate tracker rate margin of 3.25% was based on a commercial decision that the bank was entitled to make.

In his decision, the Ombudsman found that the evidence showed that Dan and Gwen had submitted a request to the bank, via their broker, to increase the loan amount in 2008. He noted that while the original loan offer provided for a tracker interest rate of ECB + 0.75%, it was not in dispute that the couple did not sign or accept this offer. Therefore the Ombudsman was of the view that there was no contractual or other obligation on the bank to offer the couple the tracker rate of ECB + 0.75% on the expiry of the two-year fixed interest rate period.

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Having regard to all of the evidence before him, the Ombudsman did not accept that the bank had failed to apply the correct tracker interest rate margin to Dan and Gwen's mortgage loan account. He found that there was no evidence to demonstrate an entitlement to a tracker interest rate of ECB + 0.75%. He accepted that the bank applied the correct tracker interest rate margin (ECB + 3.25%) to the mortgage loan account from July 2015 to redress the mortgage loan account.

However, the Ombudsman stated that he was most disappointed with the bank's response when Dan and Gwen originally raised the tracker issue with the bank in May 2011. He pointed out that had the bank investigated the matter correctly and restored the tracker interest rate then, the retrospective application of the tracker rate in 2015 would not have been necessary. Having regard to all of the evidence before him in terms of the particular circumstances of Dan and Gwen, the level of overcharging and the period over which the overcharging occurred, and the bank's failure to correct the matter when it was brought to its attention by Dan and Gwen, the Ombudsman did not accept that the amount of compensation paid by the bank was reasonable in the circumstances.

The complaint was partially upheld and the bank was directed to pay €5,000 compensation (inclusive of the €3,000 already offered).

Banking

READ THE FULL DECISION HERE

Decision Reference: 2020-0334

Complainants did not believe compensation for overcharging on tracker mortgage was adequate, given the impact on their ability to repay other debts

Sarah and John held a mortgage with the bank. In 2017, as part of the Central Bank directed Tracker Mortgage Examination, the bank found that it had charged them an incorrect interest rate on their mortgage between February 2009 and November 2017. It found that after the couple moved from a tracker rate to a variable rate and then to a fixed rate, the bank failed to provide them with sufficient clarity as to what would happen at the end of that fixed rate. The bank restored Sarah and John's mortgage to a tracker interest rate of ECB + 0.85% and offered them redress and compensation of €47,184.

In 2018, Sarah and John appealed the bank's offer to the Independent Appeals Panel. The appeal was upheld and Sarah and John were awarded additional compensation of €5,000.

In their complaint to the Ombudsman, Sarah and John stated that the compensation offered did not adequately compensate them for the "direct financial impact" the bank's overcharging had on them. They outlined that they were dealing with a short-term debt problem during the period of the overcharging, and their ability to pay off this debt was significantly impacted as a result. They stated that consequently, they were forced to renegotiate their loans with the bank a number of times. John detailed that he was an employee of the bank and had to engage with his own colleagues in relation to the restructuring of their debts, which caused him great embarrassment.

The couple sought additional compensation of €28,657, which was based on the additional interest that they estimated would arise on the impacted mortgage and their other loans, due to the restructuring of those facilities. They also sought compensation of €8,274 for the "personal stress and embarrassment" they suffered.

In response, the bank stated that the couple had not demonstrated any inconvenience caused by the overcharge on their mortgage. The bank argued that the couple's financial issues were "accumulated of their own volition" and had "nothing to do with their mortgage loan".

In his decision, the Ombudsman noted that by June 2009, the couple had accumulated debts of over €62,000 that were unrelated to the mortgage. The couple took out a loan of €63,000 from the bank to repay these debts. At that time, the overcharging on their mortgage account averaged approximately €50 per month. The Ombudsman found that the evidence showed that there were other factors outside of the overcharging on Sarah and John's mortgage which influenced their decision to take out this loan at that time.

The Ombudsman further stated that based on the evidence before him, he did not accept that the overcharge on the mortgage loan "significantly impacted" Sarah and John's ability to repay the personal debt between 2010 and 2011, as they suggested. He noted that the monthly loan repayments on the loan at that time were €988, which was significantly larger than the monthly overpayments that the couple were making on their mortgage loan.

However, the Ombudsman was of the view that for a single income family with a number of children, an overpayment of interest which averaged €380 per month for a period of 105 months, was significant.

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He found that throughout the nine year period of the overcharge, the couple were denied the opportunity of making informed decisions about their finances, as they did not know the true position with respect to the repayments that were actually due and owing on the mortgage loan account. During this time, they were challenged financially as they were paying off both their mortgage loans and the personal loan. As a result, the Ombudsman found the level of compensation offered was not sufficient or reasonable.

The Ombudsman also stated that he was at a "total loss" as to how the bank could have come to the conclusion that its conduct had not caused "any inconvenience" to the couple. He observed that this showed a serious lack of understanding on the part of the bank as to the impact of its conduct on John and Sarah, which he found most disappointing.

The Ombudsman partially upheld the complaint and directed the bank to pay €15,000 in compensation to John and Sarah (inclusive of the €9,198.55 already offered).

Banking

READ THE FULL DECISION HERE

Decision Reference: 2020-0282

Complainant unhappy with the level of compensation offered in relation to her tracker mortgage and the manner of calculation

Eva took out a 20-year mortgage of €125,000 with the bank in her sole name in 2013. The purpose of the loan was to redeem an existing joint home loan held by Eva and another party, which had a balance of €13,664 and for Eva to purchase the other party's share in the property. That mortgage loan account was on a tracker interest rate of ECB + 0.95% at the time of redemption.

In 2016, Eva's new sole mortgage was considered by the bank as part of the Central Bank directed Tracker Mortgage Examination. The bank identified that an error had occurred on the €13,664 portion of the mortgage that was used to redeem the joint mortgage, in that it had failed to offer Eva a tracker interest rate on that portion of her mortgage loan. As a result, the bank switched Eva's new loan to a tracker interest rate of ECB + 0.95% in August 2016 and also offered her redress and compensation of €1,918. Her mortgage balance was also adjusted by €499.

In November 2017, Eva appealed the redress and compensation offer to the Independent Appeals Panel. In February 2018, the appeal was rejected on the basis that "there was insufficient evidence to support the claims" for financial and non-financial losses.

In her complaint to the Ombudsman, Eva stated that the redress and compensation offer was "wholly inadequate". She submitted that a tracker interest rate should have been applied to the entirety of her loan from the date of drawdown in January 2013, rather than just the sum used to pay off the joint mortgage. She also sought compensation of €3,000 for the loss of the use of money overpaid, and a further €1,000 for the stress and worry caused. She also queried the manner in which the bank calculated the "weighted interest rate" used to calculate her redress.

The bank detailed that Eva should have been entitled to retain the tracker rate only on the €13,664 portion of the loan, but the bank chose not to separate this portion from the total balance going forward. Instead the bank outlined that it applied the tracker rate of ECB + 0.95% to the full remaining balance of the mortgage loan from 03 August 2016 until maturity. It stated that by choosing this option Eva had been placed in a better position going forward than she would have been in, if its failure had not occurred. The bank also stated that it had removed any inconvenience caused by separating her loan between two accounts on two different interest rates. For the calculation of Eva's redress, the bank explained that it applied a "weighted interest rate" to reflect the fact that only a portion of the borrowing was impacted by its failure. The bank acknowledged that this could have been explained more clearly in its redress and compensation letter to Eva.

In his decision the Ombudsman found that Eva did not have a contractual entitlement to the application of the tracker interest rate of ECB + 0.95%, which was previously held on the joint mortgage account, on the new mortgage loan that she was applying for. He accepted that there was no obligation on the bank to offer Eva a tracker interest rate of ECB + 0.95% on the entire mortgage loan, as the additional funds of circa €111,000 were new lending and the bank was entitled to make an offer using its then available interest rates.

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However, the Ombudsman found it most disappointing that the bank did not set out the options for redressing Eva's mortgage account to her, or explain the reason that it took the approach that it did in applying redress to her mortgage loan account. He observed that if the bank had done so, perhaps it would have been more apparent to Eva that there was a significant benefit to her in the approach taken by the bank.

The Ombudsman found that the evidence did not support Eva's submission that there had been an interest overcharge of €11,259 on the mortgage loan account. He was of the view that the redress and compensation given by the bank to date was more than reasonable and he did not uphold the complaint.

Insurance

READ THE FULL DECISION HERE

Decision Reference: 2020-0286

Dispute over market value of vehicle

Tony, a farmer, had a commercial vehicle insurance policy with an insurance company. In June 2018, he was involved in a road traffic incident when a third party failed to stop. Due to significant damage, Tony's car was deemed to be beyond economic repair. Tony advised his insurance company that he held the third party to be at fault and that he intended to pursue that person's insurance company.

In order to agree a pre-accident valuation of the vehicle, Tony was put in touch with an independent motor engineer by his insurance company. Initially placing a pre-accident value of €27,500 on the vehicle, a final valuation of €32,500 was placed on the vehicle, after Tony provided further information in relation to additional features and mileage.

As a commercial operator, Tony was VAT registered and therefore only entitled to an evaluation excluding-VAT, having claimed VAT back on this vehicle previously. Tony stated that at all times, the insurance company was in full knowledge of this. Thus, he took it that the €32,500 figure was excluding VAT.

Having initially pursued the third party's insurance company, Tony eventually decided to claim on his own comprehensive insurance and request that his insurance company pursue costs from the third party. Tony was surprised to receive a final claim settlement offer of €27,500 excluding VAT from his insurance company, rather than the figure he had been advised by the appointed engineer. He sought payment of the €32,500.

The insurance company stated that the valuations placed on Tony's vehicle by the engineer were €32,500 inclusive of VAT and €26,422 excluding VAT. In an attempt to conclude the matter, it made a final settlement offer in the sum of €27,500 excluding VAT. The company stated that it was satisfied that the pre-accident value offered was fair, reasonable and a realistic assessment of the market valuation of the vehicle at the time of the loss.

The Ombudsman listened to the recordings of three telephone calls between Tony and the engineer and was satisfied that €32,500 was the pre-accident valuation placed on the vehicle. There was no evidence available of any discussion between Tony and the engineer regarding VAT. Additionally, no reference to VAT was made on the policy schedule or indeed within the policy conditions. The engineer did submit a report to the insurance company which referenced VAT, but since Tony was not pursuing a claim at that time, he did not have access to this report.

The Ombudsman took the view that it was understandable that Tony understood the pre-accident market value of his vehicle to be €32,500.

The Ombudsman stated that it was not open to the insurance company to change its position regarding the market value once Tony elected to pursue a claim against his own comprehensive policy rather than the third party, nor could the Ombudsman see any provision within the policy terms and conditions that the amount of cover in place would be reduced if the policyholder is registered for VAT.

Although it seemed that the insurance company believed that it had not changed its valuation and had simply reduced that valuation by the VAT element, in the absence of any policy provisions entitling the insurance company to do this, the Ombudsman viewed such a reduction was not appropriate.

The complaint was substantially upheld and the insurance company was directed to pay the claim of €32,250 together with an additional compensatory payment of €750.

Insurance

READ THE FULL DECISION HERE

Decision Reference: 2020-0301

Complainant's claim for ongoing dental care following a school yard incident rejected

In 1994, when Miriam was a primary school pupil, she tripped over the outstretched leg of another student in the school yard, resulting in broken front teeth. After a visit to a dental surgeon, a report provided to the school's personal accident insurance policy provider outlined that Miriam's newly fitted crowns would have to be replaced every 8 to 10 years for the rest of her life. Miriam stated that the insurance company had therefore been aware of the ongoing nature of her claim since then.

At the time the injury was sustained, the insurer stated that the maximum benefit payable was a figure of €3,850. The insurer subsequently paid several claims relating to the dental treatment between 1994 and 2006, including €1,600 in 2006 for two front teeth crowns. Miriam stated that the insurer twice issued cheques 'in full and final settlement' but that when queried about this, it reissued the payments 'in respect of a part payment'.

In February 2019, Miriam's dentist recommended the existing crowns be replaced with new ones and advised it was possible that further treatment would be required in the future. The claim for these crowns was declined by the insurer on the basis that the 2006 crowns were considered to be a 'permanent' resolution. This was incorrect in Miriam's opinion. She requested that the claim in relation to the February 2019 crowns, and any future claims relating to the injury, be paid.

The insurer submitted that the payment made for crowns in 2006 was the full and final settlement and the reissue of the cheque in 2006, noting part-payment, was an error on its part. It stated that replacement crowns required after 2006 would be classed as due to general wear and tear and were not covered under the policy.

In his decision, the Ombudsman stated that the policy covered accidental bodily injury caused solely by accidental external and violent means, and the insurer relied on this to explain why the replacement crowns were not covered, as they were necessitated by reason of natural wear and tear of the 2006 crowns. Miriam's position was that no crowns would have been necessary in the first place were it not for the schoolyard fall.

The Ombudsman noted that the policy did not suggest that the dental expenses to be incurred were limited in time. Neither was any suggestion made within the policy details that dental expenses would be paid only until the insurer takes the view that 'permanent treatment' has occurred. The Ombudsman noted that in March 2019, when Miriam made the claim, the insurer stated that the maximum benefit limit remaining on the policy stood at €1,311.

As the evidence showed that it was known the injury would continue to require intermittent treatment into the future, it was unclear why the remaining benefit under the policy was not offered in 2019. The Ombudsman was of the view that considerable focus was needlessly placed on a difference of opinion on whether payments in 2006 were to finalise the claim, or by way of a partial payment. The Ombudsman stated that it was disappointing in those circumstances that a full year after his investigation of the complaint commenced, the insurer offered the remainder of the benefits under the policy in full and final settlement.

The Ombudsman accepted that the insurer remained liable for the outstanding benefits payable, up to the figure of €1,311, and upheld the complaint. He noted that once paid in full, the insurer no longer held any responsibility to make any future payments on this matter. An additional compensatory payment of €1,500 was also directed, considering the very poor response of the insurer to what ought to have been a very straightforward payment of the remaining benefit in early 2019.

READ THE FULL DECISION HERE

Decision Reference: **2020-0224**

Cancellation of motor insurance policy based on faulty data from a telematics device

Micheál took out a motor insurance policy in February 2016, underwritten by the insurance company, against which the complaint was made. The policy was managed and administered by an insurance intermediary. As part of the policy, Micheál agreed to the fitting of a telematics device to his car, which recorded data on the distance and speed travelled by the vehicle.

In April 2017, the intermediary informed Micheál that the telematics device had recorded that his vehicle had been driven at a speed in excess of 160kph. This was in breach of the terms of the insurance policy and, as a result, his policy would be cancelled.

Micheál spoke to the intermediary in April to state that the vehicle could not have possibly been driven at that speed, given the car's age and its 1.3 litre engine. The intermediary agreed to investigate further but later advised Micheál that the telematics supplier had confirmed the speeding event had occurred and cancelled his policy in May.

Following the cancellation, Micheál requested that the intermediary provide proof of his no claims bonus from February 2016 to February 2017, in order to obtain a policy with another insurer. The intermediary refused, stating that Micheál still owed them approximately €180 in premium payments. As a result of him being unable to provide evidence of his no-claims bonus, Micheál's new insurer cancelled his new policy in July 2017. This left Micheál and his family without a vehicle and having to rely on public transport.

In his complaint to the Ombudsman, Micheál stated that the insurance company, through the intermediary, wrongfully cancelled his motor insurance policy in May 2017, and then refused to provide him with proof of his no claims bonus, ultimately leading to the cancellation of his new insurance policy in July 2017.

He wanted the insurance company to give him his policy back, remove any record related to the speeding accusation and reimburse him for the additional expenses he had incurred.

In its response, the insurance company acknowledged, having looked at the GPS co-ordinates and the road on Google Maps, that it would seem unlikely that Micheál's vehicle would have been travelling at 160kph at the time and place reported by the telematics device, and took the view that the data may not have been accurate. The insurance company also acknowledged that the intermediary was wrong to refuse Micheál proof of his no claims bonus. The insurance company did not consider that the intermediary had any legal basis for withholding this information and has sought to ensure that it has ceased this practice.

The insurance company stated that it was 'unfortunate' that the intermediary did not refer the complaint to the insurance company when it was first made. The intermediary had no authority to handle the complaint and the insurance company was not aware of it until it was brought to the Ombudsman. The insurance company advised that it would rescind Micheál's cancellation, reimburse him his expenses as a result of the situation and provide a customer service payment of €1,000 for the inconvenience and distress caused.

In his decision, the Ombudsman stated that the insurance company ought to have ensured, that clear procedures for progressing complaints were provided to its intermediaries when outsourcing services.

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The Ombudsman accepted that the cancellation of Micheál's policy, and the withholding of the no claims bonus evidence, was wrongful and unfair and upheld Micheál's complaint. He did not believe that the insurance company's offer was sufficient, given the severe ramifications for Micheál as a result of its actions. He directed the insurance company to make a compensatory payment of €15,000 and issue a letter to Micheál, confirming that his policy was cancelled as a result of its error and, as a result of additional failures, that it was responsible for the cancellation of Micheál's subsequent motor insurance policy. It was then up to Micheál to follow up with the other insurer to explore whether he could have that cancellation rescinded.

READ THE FULL DECISION HERE

Decision Reference: 2020-0354

Complainant's claim for house subsidence rejected by insurer

Jen's husband arranged for a company to drill a well next to their property. In her complaint, Jen stated that the drilling was carried out on 31 October 2018, and on 3 November 2018 it became apparent that the property was subject to subsidence, when cracks appeared. She contacted her insurer, which appointed a loss adjuster to attend the property on 6 November 2018 and meet her husband. The loss adjuster stated that it was most likely subsidence but suggested that Jen contact a structural engineer.

Jen contacted an engineer, who prepared a report for the insurer. The insurer also appointed its own engineer to undertake a site visit and subsequently appointed a forensic investigation engineer who prepared a report based on both of these accounts. All three engineers could not determine the exact cause of the subsidence, but stated that the drilling was the most likely cause. The insurer declined her claim on the basis that the damage to the property was a result of accidental damage, for which she was not covered under the policy.

Jen submitted that all three engineers confirmed that the damage was as a result of subsidence and that this was a condition that was covered under her policy and none of the exclusions noted in that section related to her claim. She did not accept the insurer's contention that accidental damage was the cause for the subsidence. The damage incurred to the house and the insurer's response in dealing with this she said, had led to 'immense levels of stress'.

The insurer stated that it was aware that the engineers' reports cite 'subsidence' as a cause for the damage to the property, however it contended that the key question was what had caused the subsidence. It stated that all three reports agreed that the damage caused to the property was as a direct result of the drilling.

It further contended that the damage incurred to the property was not as a result of subsidence and was in fact as a result of 'accidental' damage caused by the drilling. The policy did not cover accidental damage.

Having considered all of the engineering reports available to the insurer, the Ombudsman took the view that it was reasonable for the insurer to draw the conclusion that the drilling activity contributed to the damage to the property. The insurer's own expert reports did accept however, that the cracks to the property occurred due to subsidence, not from vibrations from the drilling itself, but potentially through the disturbance of an underground drainage system, or compressed air equipment disturbing the structure and placement of the soil.

The Ombudsman stated that the policy exclusions laid out within the policy document did not state that in the event of subsidence, Jen was not covered if the event had been contributed to by the act of a third party. The Ombudsman accepted that the policy did not include cover for accidental damage but took the view that this was of limited relevance when the policy included cover for subsidence.

The Ombudsman upheld the complaint and directed the insurer to admit Jen's claim, and to proceed in the usual manner with the assessment of benefit to be paid. He pointed out that it is a matter for the insurer to pursue the drilling company and/or its insurers for any contribution it believes to be appropriate, in the event that it considers this to be warranted.

Insurance

READ THE FULL DECISION HERE

Decision Reference: 2020-0254

Complainant's insurance claim for theft rejected due to keys being left in the car

Jason had held a policy with the insurer since 2012 and added a new car to the policy on 5 January 2019, and renewed the policy eight days later. On the morning of 30 January 2019, the new car was stolen from his property. Jason explained that his wife had left the house to find the car covered in frost in the driveway. Having cleared the windscreen, she went back indoors to return the kettle she had used and collect her bag, leaving the keys in the car. When she returned after a short period, the car had been stolen.

Jason's home is in a gated development where access can be gained only by means of a fob or a security code and he contended that the nature of the security meant that the car was effectively secured.

When Jason phoned his insurer to report the theft, he was initially left awaiting a call back, and then, after he called again, he was told that his policy would not cover the theft due to the keys being left in the car, that he could not appeal that decision, and a theft claim could not be opened.

Jason submitted that this information was incorrect and that his insurer had not taken into account all of the circumstances that surrounded the theft. In addition, he contended that his motor vehicle insurance policy did not specifically highlight an exclusion clause relating to keys being left in the car. In particular, he noted that the clause was 'hidden' within a lengthy policy document, and that this was an attempt to mislead him. Jason sought €34,000 for replacement of the car.

The insurer maintained its position in declining Jason's claim, stating that the wording in the policy booklet was clear in relation to theft not being covered, "where your car was not locked and/or the vehicle keys were in the ignition or stored in the vehicle." A further condition in the same document in relation to care of the car also stated that, "vehicle keys should be removed from the ignition and the vehicle kept locked when not being driven."

The insurer noted that the policy wording was required to be detailed in order to cover all of the different terms and conditions that apply and that it was Jason's responsibility to read it all and that he had a further opportunity to do this when he had renewed the policy earlier that month. It also noted that the requirement not to leave the keys in the car was not an unusual or overly onerous requirement. The insurer also stated that Jason's wife returned to the house long enough to enable the thief to enter the vehicle and drive away without being seen and that this was in no way a reasonable safeguarding of the vehicle.

The insurer did accept that Jason was given incorrect advice regarding whether an appeal could be made and, in recognition of this, it offered a €500 customer service award. The Ombudsman felt this offer was reasonable in the circumstances and noted it was still available to Jason.

The Ombudsman accepted that both of the clauses noted by the insurer specifically excluded cover where the keys were left in the ignition and that Jason was under an obligation to read and consider all of the information specific to his insurance policy. He also noted that the one-page general product summary for the insurance policy specifically also stated such a clause, but that in any case, lengthy policy documents are often necessary.

The Ombudsman sympathised with the circumstances of what appeared to be a professionally executed and well-planned criminal operation but found no evidence to suggest that the insurer did not give full consideration to the incident or that the circumstances negated the exclusion clauses. The complaint was not upheld.

READ THE FULL DECISION HERE

Decision Reference: 2020-0252

Complainant's claim for her dog's dental treatment rejected by insurer

Susan held a pet insurance policy with the insurer for her dog. In September 2017, Susan made a claim of €260 for dental treatment for gingivitis, which her dog had undergone the month following an annual check-up. The insurer refused to pay, citing a term in the policy, which stated:

"We will not pay the cost of dental treatment unless your pet's annual dental checks are up to date. A vet must have checked your pet's teeth within 12 months prior to the onset of a claim. If any treatment was recommended as a result of this annual check-up this must be carried out at your expense."

Prior to the annual check-up in August 2017, Susan had not visited the vet with her dog since 2015, as her husband was seriously ill.

Susan made another claim in August 2018 for €152 following further treatment for her dog for 'dental disease,' recommended by her vet at a check-up in April and again in May of that year. The insurer once again refused to pay for the treatment, once again citing the same term of the policy.

In her complaint to the Ombudsman, Susan stated that the "vets and pet insurers are very much working together at the detriment of the pet owners," calling the veterinary administration staff's failure to take time to advise their customers on "the intricacies of the insurance companies" as "a wilful derogation of their duty of care." Susan wanted the insurer to pay the two claims in full.

In response, the insurer stood by its application of its policy and noted that both treatments were, according to the insurer, recommended at an annual check-up, and therefore excluded from cover. It also referred to the 'general conditions' of the policy, which stated that Susan must 'arrange and pay for the pet to have a yearly health check and dental examination and any treatment normally recommended by a vet.'

In his decision, the Ombudsman noted that his office does not have jurisdiction over the conduct of veterinary services and cannot make any findings regarding the provision of information to pet owners by veterinary administration staff. Because of this, the decision focused solely on the actions of the insurer, against which the complaint was made.

Regarding Susan's first claim, the Ombudsman noted that Susan's dog had not had an annual check-up in the 12 months prior to the check-up which resulted in the claim. While the Ombudsman sympathised with the reasons why there had been no check-up during this time, he accepted that the insurer was not obliged to grant Susan's first claim.

Regarding Susan's second claim, the Ombudsman was satisfied that the onset of the claim in April 2018 came within 12 months of the annual check-up in August 2017. He was also satisfied that the vet's assessments for further treatment were given at non-annual check-ups in April and May 2018. This meant that the treatment did not fall under the term of the policy which the insurer was relying on. This meant the insurer was obliged to pay for this treatment.

The Ombudsman partially upheld the complaint and directed the insurer to reimburse Susan the €152 for the second claim and an additional compensation sum of €300 for the inconvenience caused, totalling €452.

Investment

READ THE FULL DECISION HERE

Decision Reference: 2020-0299

Investment company fails in its duty of care to compulsive gambler

UK resident Jim held a trading account with an Irish investment company. A trading account is one used to facilitate the buying and selling of shares or other commodities and is typically used very actively. Having opened the account in March 2017, Jim experienced significant financial losses and began seeking help for a gambling addiction.

Jim advised the investment company that same month that he was a compulsive gambler, was mentally unwell and was very vulnerable, requesting that a lifetime ban be placed on his account. Despite this, Jim claims that in December 2018 the investment company encouraged him to start trading on his account again. He again suffered losses and withdrew his funds. When he contacted the company for help and advice in relation to the losses, it suggested he deposit £10,000 and offered him further investment options. He lost more money over the following few days before withdrawing the remaining funds. Jim suffered losses of £5,817 in March 2017 and £1,449 in December 2018.

Jim complained that the investment company wrongfully and unlawfully provided a financial service that was wholly unsuitable to him and his circumstances and that it failed to close his account at his request or reimburse him his losses. He also complained that the investment company had failed to acknowledge and deal with his complaint. He sought refunds for his financial losses.

The investment company stated that Jim's account was an 'execution only' account which was restricted to executing trades for clients who make their own decisions without receiving any advice about the merits or risks of investments. It asserted that it was not required to assess his risk appetite or investment strategy prior to opening such an account. The investment company also stated that Jim provided no indication or signs of vulnerability during a call with one of its agents in December 2018. It asserted that the complaint was not dealt with because Jim did not send it to their 'complaints' email address.

The Ombudsman did not accept that the account was 'execution only'. He found that email exchanges received from the investment company clearly contained advices about risks and merits of investments. Notwithstanding this, the Ombudsman noted that even if the account was 'execution only' the investment company still had an obligation to assess Jim's suitability and the appropriateness of the account.

The Ombudsman stated that the investment company had completely and utterly disregarded its obligations under European financial and consumer protection regulations in this respect. Not only did it initially fail to assess Jim for suitability, it also failed to take any action when he informed them that he wanted his account to be closed. Moreover, it allowed him to reactivate his account despite having been clearly notified in writing of his personal circumstances and acute vulnerability. Further, the evidence indicated that the investment company actively sought to dissuade Jim from his hesitations about trading again and actively provided him with advice about the merits and the risks of investments. The Ombudsman noted that while Jim must take some responsibility for his own poor decisions, the investment company's conduct in this regard was grave and very concerning and it failed abysmally to meets its obligations as a regulated entity.

In relation to the complaint handling, the Ombudsman was entirely satisfied that Jim made his dissatisfaction abundantly clear and did not accept that the investment company was entitled to ignore the clearly articulated complaint to his account manager and to customer services simply because it was received via a different email channel.

The Ombudsman upheld both aspects of the complaint and directed the investment company to pay Jim the sum of £17,000. Because of concerns raised by the issues in the complaint, he also referred the matter to the Central Bank of Ireland.

The FSPO regularly deals with linked complaints where more than one provider is involved in the issue in dispute. Both these complaints were made to the FSPO by Martha who took a complaint against the broker who sold her the investment and also against the investment company.

Investment

READ THE FULL DECISION HERE

Decision Reference: **2020-0293**

Failure of broker to explain fees and charges relating to a pension plan

Martha's first complaint was against the broker which sold her the policy. Martha held a matured pension plan in a non-interest-bearing account with a broker until her 75th birthday, after which she intended to convert it to an approved retirement bond. However, two years prior to this date in October 2016, she attended an event where her broker was providing free advice. Martha made the decision to transfer the pension funds into a new policy on the understanding from the broker, against which this complaint was made, that there would be no extra charges involved.

When she received the policy documentation in January 2017, she requested clarification on the difference between the amount she had invested in the plan and a lower amount invested in the fund. Martha submits that the broker did not discuss fees would be paid to the product administrator of 5% with a 1.5% annual charge, or explain to her, prior to purchase, that the annual charges for managing the fund would be deducted from the units invested in the fund, reducing the earnings. She submits that if she had been aware, she would not have proceeded.

Martha also contended that the broker delayed its response to her queries for 17 months and allowed the 30-day cooling off period on the new policy to lapse, before providing her with the information she required to make an informed decision. She argued that the documents provided were vague and did not have any information about the fees/charges. She argued that she would have stopped the process of investing if she had all the information available to her that she should have had.

The broker was satisfied that it made clear in the policy conditions booklet and verbally to Martha, that there were upfront charges and who was benefiting from those charges. It argued that, during the cooling off period, Martha informed it that she was happy with everything and it did not accept that there was a 17-month delay in its response. In respect of the assertion that there was no indication that the 1.5% commission was going to be removed from the investment, the broker argued that Martha was informed in writing that it would receive a 98.5% allocation and that the policy documents show the amount received and the amount invested. The broker made an offer to pay €440 (equivalent to the 1.5% charge) as a goodwill gesture.

The Ombudsman noted that there was no dispute in respect of the suitability of the investment advice, rather, the focus was on non-disclosure of fees and commission. Every document submitted showed that the investment allocation was set at 98.5% so there was no evidence that Martha had any entitlement to expect that 100% of the funds would be invested. However, there was also no evidence that the fees and commissions were explained. The Ombudsman found that there was a marked lack of transparency in relation to the commissions and fees to be received by the broker arising from its advice to invest in the identified fund.

The Ombudsman noted a lack of understanding in the broker's arguments, of the requirements on regulated financial service providers to make full disclosure of all relevant material information and to maintain the necessary records to demonstrate that it had done so.

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Investment

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Explaining that Martha was only entitled to a 98.5% allocation did not actually disclose the charge of 1.5% payable to the product administrator or the fees and commission the broker was to earn.

The Ombudsman substantially upheld the complaint. In addition, the Ombudsman also had further concerns in relation to the broker's failures to classify Martha's concerns as a complaint earlier in the process and to explain its conduct to Martha in its responses. He did not feel that the €440 compensation offered by the broker was adequate and directed the broker to pay €3,000. Because of the risk that other customers could be affected by the same issue, the matter was also brought to the attention of the Central Bank of Ireland.

Investment

This summary should be read in conjunction with decision reference 2020-0293 on page 32.

READ THE FULL DECISION HERE

Decision Reference: **2020-0322**

Complaint against investment company regarding information provided and fees charged to a pension plan

In conjunction with the complaint Martha made against the broker, she also submitted a complaint to the Ombudsman on the behaviour of the investment company that provided the pension plan.

When Martha received her pension policy documents in January 2017, she requested clarification from the investment company as to the exact amount that it had invested into the plan on her behalf, compared to the amount that she had invested. Martha insisted that the investment company delayed its response to her queries on this matter for 17 months and allowed a 30-day cooling-off period to lapse without providing her with the information needed to make an informed decision on her new policy.

Martha also submitted that the investment company took instructions from the broker to deduct money from the fund in question, to pay its commission without her prior knowledge or permission and attempted to hide the broker's commission of €440 from her.

The investment company stated that it did not accept that it allowed the 30-day cooling off period to lapse. It stated that it initially received a call from Martha in January 2017 querying the policy documents, which it followed up within a matter of days, explaining the details of the policy and the amount that was to be invested. It argued that the investment amount was clear from the policy document that it issued to Martha.

The €440 figure was not hidden from Martha, according to the investment company, who pointed to a statement in the policy which provided that "the contribution payable for your policy includes all charges, expenses and intermediary/sale enumeration" which it claims informs the policyholder of the charges to be applied to the policy, which in this case was €440.

Recordings of the telephone calls between Martha and the investment company from January 2017 were submitted in evidence to the Ombudsman. In these phone calls, Martha first raised a concern that her policy documents had not been received and then, in the subsequent call, indicated that she had received the documents but was concerned that there was a discrepancy in the funds that had been invested. In the second call the investment company's representative informed Martha that the discrepancy was a matter she should address with the broker, that a deduction of €440 had been made as per the broker's instructions and that the broker is paid by the investment company. The investment company then followed up with Martha on the matter the day after.

When Martha raised a formal complaint with the investment company in July 2018, in relation to the 1.5% policy charges, the investment company responded that all issues were raised with the broker on a number of occasions. The letter indicated that the broker is an independent broker with an agency relationship and the investment company relies on instructions sent by the broker to it.

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Investment

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The investment company stated that it was not privy to the sale of the product or the fees agreed between Martha and the broker.

The Ombudsman found the investment company to be very helpful in its discussions with Martha. Based on recordings of the phone calls provided as evidence, the Ombudsman found no evidence to suggest that the investment company had not adequately responded to Martha's queries.

The Ombudsman did not accept that the investment company had deducted money from the fund to pay the broker's commission without her permission. The Ombudsman stated that he was unaware of any obligation on the part of an investment company to make this information available to an end customer where there is an intermediary in place, which in this case was the broker. It was the investment company's responsibility to act in accordance with the instructions of the broker, as the broker is legally assumed to be relaying instructions or authority received from the customer. He pointed out that it was not the role of the investment company to police the relationship between the broker and the customer. He did not uphold the complaint.

Dispute regarding pension entitlements

Brendan successfully applied for a Civil Service role. The role required candidates to be at least 21 years of age, to have passed the relevant Department senior trade examination and have 'satisfactory relevant post qualification experience'. In November 2014, he applied for the award of added years to his pension, utilising a scheme put in place to recognise that certain civil servants could not reach full pension, given after 30 years of service, by the compulsory retirement age of 60, due to conditions attached to applications.

Brendan's application and subsequent appeal were both declined, as Brendan did not meet the criteria. The key factor in this decision, as highlighted in the appeals process, was that the Department had stated that seven years' experience was judged to be the minimum requirement for his role, using information given to it by the provider, a State agency under its remit. This allowed time for a full pension to be earned without need for the scheme.

Brendan noted that the 'seven years' requirement was not quantified in the original job advertisement and that the Department had used the lowest number of relevant years' experience among the candidates that it had recruited as their criteria. Brendan asserted that the information supplied by the provider to the Department to reach this decision was limited and incorrect.

He noted that amongst those he spoke to in the same role, minimum experience was more than 11 years, and all were over the age of 34. He also noted that allowing for a candidate to commence an apprenticeship at 19 years of age, conclude the required four-year qualification, and attain seven years' experience, would not leave enough time to reach full pension before the then compulsory retirement at age 60 in any case. Brendan sought an award of the additional pension years.

The provider stated that every effort was made to ensure that the information used in the determination was correct, but it accepted that employment information available to it was limited. The provider stated that the reference to the seven years' experience related to the lowest number of years' experience contained in the original list of recruited candidates.

The Ombudsman is not permitted to make a direction that would require an amendment of the rules or conditions of the scheme, only on whether the rules were appropriately applied in this case. The Ombudsman accepted that Brendan's maximum retirement age was 60 and he will not have the requisite 30 years of service by that point due to his age (34) on appointment.

The Ombudsman shared Brendan's concern about incomplete information sent by the provider to the Department regarding relevant experience of candidates, on which the decision appeared to have been based. Notably, it did not appear to include all experience, only the most recent. It was also at odds with information provided at a later date which outlined a lower level of experience. The Ombudsman noted that it wasn't clear if the Department agreed with Brendan's notion that an apprenticeship cannot be commenced until 19 years of age, rather than the legal age of 16. If so, then an appointee would not seem able to reach full pension by 60 years of age.

The Ombudsman took the view that the manner by which the calculation of the lowest number of years of relevant experience was made was fundamentally unfair, as it was made on the basis of incomplete and inaccurate information. The Ombudsman did not uphold a request by Brendan for the relevant personnel files to be provided to him.

The Ombudsman therefore partially upheld the complaint and directed the provider to reconsider Brendan's application as if the request was submitted for the first time.

Pension Scheme

Dispute regarding transfer of pension funds

In late December 2018, Christian gave an instruction to his Defined Benefit (DB) scheme pension provider to transfer his benefits to the value of €946,538.40 to his self-administered pension scheme held with a separate pension provider.

When he enquired on 8 May 2019 in relation to the transfer of the funds, he was informed that the funds had in fact been transferred to his employer sponsored Defined Contribution (DC) scheme. His pension provider apologised, noted that the fund had grown in value since the original request and committed to transferring the current value of the fund to the correct scheme right away.

Christian stated that the sum which was transferred to his self-administered scheme on 13 May 2019, although greater than the original 2018 value, was still less than what he had been advised on 8 May, although no record of this conversation was available. Christian sought the 'additional value' of approximately €13,000 to be lodged to his scheme.

The pension provider accepted that due to its oversight, the transfer was made to the employer's DC scheme instead of a self-administered fund. It immediately arranged for the correct transfer within three working days of Christian making it aware of the issue and noted that a gain amount was also transferred.

The pension provider stated that at no stage did it state the exact amount that would be transferred, as this would need to be advised by the investment manager, it only advised Christian of the most recent estimated value. The subsequent value transferred was correct on the day of the transfer, and it noted that in DC schemes, the amounts are not guaranteed as they can fluctuate due to market conditions.

The pension provider submitted that, legally, it was required to put Christian back into the position that he would have been in had the oversight not occurred.

It stated that both the original amount and the increase in value incurred between December 2018 and May 2019 was transferred, putting him back into the position he was in prior to the oversight but also with a gain made during this time. It apologised for any inconvenience caused.

The Ombudsman noted that there was no dispute that the pension provider wrongly transferred the funds in question. However, he accepted that the pension provider acted as promptly as it possibly could have when the information came to light. The Ombudsman also noted that there appeared to be an understanding on Christian's part that the conditions relating to the transfer of his DB pension meant such a transfer could not commence until April 2019 in any case.

There was no evidence that any loss was incurred during this time, rather his fund increased in value by more than €13,000 during the period that it was wrongly invested in the DC fund. There was no evidence that the self-administered fund would have increased in comparable value within the same time period. The Ombudsman noted that the ultimate transfer value was completely outside of the provider's control and it could not be held responsible if the value of the funds fell between the last estimated value given to Christian and the transfer date.

The Ombudsman accepted the pension provider's argument that it was obliged only to put Christian back into the position he would have been in had it transferred his funds correctly. The Ombudsman found it was not unreasonable of the pension provider to take into account that Christian had benefited financially from the misapplication of his funds and since the error had been swiftly remedied and an apology made, the complaint was not upheld.

3 STEPS to making a complaint to the FSPO

1

Contact your provider

You should make your complaint with whoever provided the service or product to you, this could be your bank, insurance company, credit union, money lender etc.

You should speak or write to either the person you usually deal with, or ask for the complaints manager to make a complaint.

What information should you give them?

- **Make it very clear that you are making a complaint.**
- **Explain your complaint.**
- **Suggest how they should put it right.**

Provide detailed information, including:

- **Relevant dates, places and times**
- **Details of any phone conversations and meetings** (e.g. who was involved, when they took place and what was said)
- **Copies of relevant documents,** such as contracts, statements, emails, letters, invoices and receipts.

BEFORE MAKING A COMPLAINT TO THE FSPO, YOU MUST GIVE YOUR PROVIDER A CHANCE TO SORT OUT THE PROBLEM.

2

Be patient and persistent

The provider should deal with your complaint through its complaint handling process. The provider may take up to 40 working days to deal with your complaint.

When you complain to the provider be persistent. If nothing happens, call the provider to check on the progress of your complaint.

The provider should fully investigate your complaint.

Resolved

In the majority of cases the provider will resolve your complaint.

Not yet resolved

If they don't resolve it, they will issue a final response letter to you.

A final response should set out what the provider has done to investigate your complaint through its complaint handling process. It should advise you to contact the FSPO as your next step, if you remain unhappy.

the FSPO

If you remain unhappy after receiving your final response letter, you may contact the FSPO. To progress your complaint, we will need:

A **A completed complaint form**

&

B **A copy of your final response letter.**

If you are having difficulty getting the final response and 40 working days has passed or if your provider is not engaging with you please let us know and we will follow up on the complaint for you.

An tOmbudsman Seirbhísí
Airgeadais agus Pinsean

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