An tOmbudsman Seirbhísí Airgeadais agus Pinsean
Financial Services and Pensions Ombudsman

Decision Ref:	2018-0161
Sector:	Insurance
Product / Service:	Unit Linked Whole-of-Life
Conduct(s) complained of:	Failure to process instructions Delayed or inadequate communication Dissatisfaction with customer service Maladministration
Outcome:	Upheld

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

Background

The Complainant held two pension plans with the Provider until February 2017. Plan A (*****30H) contained a pension managed fund and a self-directed investment. Plan B (*****66H) contained a self-directed investment. The plans were execution only and did not involve the provision of advice from the Provider to the Complainant, who instead was advised by a third party financial adviser/broker, AF. The Complainant alleges that the plans were not administered per his instructions and that he experienced significant delays in receiving information from the Provider upon request which resulted in an opportunity cost to him in reinvesting funds.

The Complainant alleges that the Provider was asked to transfer the values in his pension fund into a secure cash fund in May and June 2015 but the instruction was overlooked and not transferred until a later date by which time the value of the funds had dropped significantly. He states that after repeated communications, the Provider acknowledged the error and reconstituted the value to what it said should have been the value on the correct date. The Complainant states that he later became aware that the funds had been transferred to a liquidity fund rather than a cash fund as a cash fund was not available. He claims that he did not understand that a liquidity fund was not strictly a cash fund and could fluctuate in value. After the rectification by which the transfer of the funds was backdated, there was communication while the Complainant tried to reconcile the values that the Provider stated resided in the funds. He claims that it was only in July 2016 that he became fully aware of exactly how the Provider arrived at the fund valuations and it transpired at

that point that the fund had been transferred into a liquidity fund rather than a cash fund as instructed. By that time, the liquidity fund had lost part of its value. When challenged, the Provider explained that it had informed his broker of the fact. This is accepted by the Complainant but he suggests that clarity was needed from the Provider as to the values before a further transfer could be made.

The Provider acknowledges that there was a delay in processing the instruction from June 2015 but states that when the switch took place in August 2015, the switch was backdated to the correct dates at some cost to the Provider. The Provider states that when AF requested that the funds be transferred to a cash fund in August 2015, AF was informed that there was no cash fund available and so the amount should be transferred to a similar account, that is, a variable deposit liquidity account. It states that it arranged for the funds to be switched to the liquidity fund as per AF's request.

The Complainant is seeking compensation to reflect the correct fund value if the Provider had transferred the funds into cash as instructed. He is also seeking a fair interest rate as if the cash was earning interest over the period. Finally, he is seeking some recognition for the opportunity cost in that it took almost a year to receive clarity from the Provider in relation to what had happened to the funds and their correct valuation before the funds could be reinvested into a more suitable fund.

The Complainant's Case

In an email of complaint dated 1 August 2017, the Complainant states that he is very frustrated by the general lack of responsiveness from the Provider and the inordinate delay in replying to any queries raised by him. His main complaint is that the funds were placed into a liquidity fund rather than a secure cash fund as requested. The purpose of the cash fund was to safeguard the fund during a very volatile period, while the liquidity fund did not perform over the period and in fact lost value. He states that he could not reinvest in a different fund as he could not understand how the values quoted from the Provider were derived and could not reconcile these with the values that he and his broker believed to be correct.

The Complainant takes issue with the segment from the Provider's final response letter dated 26 August 2016 wherein the Provider confirms that it switched the funds to a liquidity account as per the instructions of his broker, AF. He suggests that the Provider was economical with the truth in this regard and states that the instruction in question clearly expressed the broker's preference for the deposit of funds into a variable deposit fund rather than a liquidity fund. He argues that the Provider ignored this instruction and was not truthful in later correspondence. The Complainant states that from the perspective of someone outside the pension industry, he does not really understand what a variable deposit fund is if it is not a cash fund.

By email dated 23 March 2018, the Complainant highlights that the Provider sent an email to his broker dated 19 August 2015 attaching a schedule of available funds. The schedule indicates that there was a variable deposit fund available. By email of response dated 21 August 2015, AF noted that the Provider had already been asked "*to transfer the fund to*

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cash, of the fund available on this platform that would either be the variable deposit or the liquidity so it should have gone to one of them." He further stated that "*In the meantime either of the above funds would be acceptable and if I have to choose I would opt for the variable deposit*." The Complainant argues that this constitutes a direction by AF to the Provider to move the funds to the variable deposit fund. He notes that the Provider has subsequently suggested that it did not have variable deposit fund available but that the schedule to their email of 19 August 2015 clearly states that it did.

By email dated 30 April 2018, the Complainant states that as the Provider specified that the variable deposit rate was available as of August 2015 and as it was instructed to switch the funds to that fund, his instructions should have been followed. He does not think it is acceptable for the Provider to claim that it made an error in specifying that the variable deposit fund was available and now to claim that it was not.

The Provider's Case

In response to queries raised by this office dated 9 March 2018, the Provider accepts that on 9 June 2015 it received instructions from the Complainant requesting to switch his investments in Plan A to the Provider's cash fund. The Provider states that at this point, there was no cash fund or secure cash fund option available to the Complainant and the lowest risk fund available to him was the liquidity fund. It notes that while the liquidity fund was the lowest risk option available to the Complainant, the fund is subject to fluctuations in value and so it is possible for monies invested in that fund to fall as well as increase in value. The Provider notes that the self-directed investment was liquidated as requested and monies transferred to the Provider. On receipt on 9 July 2015, the monies were held in a temporary holding account pending a switch to the liquidity fund as the lowest risk fund available or to another nominated fund. It took one month for the self-directed property investment to be liquidated.

The Provider states that on 13 August 2015, it was in correspondence with the Complainant about another query in relation to plan values. At this time, it confirmed to him that the self-directed investment had been liquidated as requested and the funds held in a temporary holding account due to be switched to the liquidity account. In the email of 13 August 2015, the Provider notes that it provided the Complainant with a full list of fund options that were available to him to switch into so that he could nominate another investment fund if he wished. It argues that it is clear from the switch options sent to the Complainant that a cash fund/secure cash fund was not an option that was available to the Complainant. On 19 August 2015 in advance of any switch taking place, the Provider states that it received correspondence from the Complainant through his financial intermediary. This letter (which was dated 17 August 2015) again requested that the investment be switched into a cash fund/secure cash fund despite the fact that the list of available options provided to the Complainant on 13 August 2015 demonstrated that this was not an option. In the letter dated 17 August 2015, the Provider argues that the Complainant fully acknowledges that he was aware that the liquidity fund was subject to fluctuations and that a cash fund was not an option. It notes that the Complainant protested about the unavailability of the cash fund in this letter.

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As the cash fund was not a valid switch option, the Provider states that it emailed the Complainant's intermediary with a list of funds actually available to switch into on 19 August 2015. The Provider followed up with the intermediary on 21 August 2015 and the Provider states that AF emailed it confirming that all funds to be switched to a cash, variable deposit or liquidity fund. The Provider states that as neither a cash or variable deposit fund was available, the switch instruction was clear that the monies were to be switched to the liquidity fund. The Provider reiterates that the Complainant's letter of 17 August 2015 acknowledges that he was aware that the liquidity fund was subject to fluctuations and that the cash fund was not available.

The Provider therefore states that it correctly switched the Complainant to the liquidity fund as clarified by his intermediary. The Provider states that it never provided any switch advice to the Complainant and that all advice was provided to him by his independent financial intermediary.

In relation to the administration of the switch, the Provider states that it always made clear that the initial request to switch to a cash fund/secure cash fund was not an option. It accepts, however, that its service was lacking in processing the switch instruction to the liquidity fund as it was not completed in a timely manner and, when done, was applied using an incorrect effective date. It accepts that its error was pointed out by the Complainant's adviser in September 2015. It states that it originally transferred the holdings in Plans A and B with effective dates of 22 August 2015 for the managed pension fund (Plan A only) and of 14 September 2015 for the self-directed investments (Plans A and B). In relation to the self-directed investments in Plans A and B, the Provider states that it did a comparison of switching the investment from the date that it was originally processed (14 September 2015) with the date should have been processed (9 July 2015) and as the Complainant was in a better position by investing in the liquidity fund with effect from 14 September 2015 due to a lower unit price, the investment in the liquidity fund took effect from this date. In relation to the managed pension component of Plan A, the switch was backdated to take effect from when the request was received i.e. 9 June 2015. It argues that these changes have resulted in a slightly better financial position for the Complainant than he would have been in if the error had not occurred.

The Provider apologises to the Complainant for the delay in processing the switch and the incorrect manner in which the switch was processed. The Provider also apologises for any conflicting or incorrect communication received about the switch and offered a customer service award of €500 in recognition. It states that it was the Complainant's decision to remain invested in liquidity fund until he cancelled both pension plans by transferring their values in February 2017 and that he was entitled to make a decision to switch from the liquidity fund any time for this. The Provider acknowledges that there was growth of -1.311% in the liquidity fund in relation to the self-directed investments and growth of -1.512% in relation to the managed pension fund.

In an email dated 10 April 2018, the Provider states that it emailed the Complainant with the list of eligible funds on 13 August 2015. On 19 of August 2015, it received instructions from him to switch to a cash fund. The Provider states that this instruction was invalid as the cash fund was not a valid option and that the lowest risk fund then available to the

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Complainant was the liquidity fund. The Provider notes that in his instruction of 19 August 2015, the Complainant demonstrates an awareness that liquidity was subject to fluctuation and protested about the cash fund not being available to switch into. As the Complainant's instruction did not nominate a valid fund to be switched into, on 19 August 2015 the Provider emailed a list of fund options to his broker, AF. The Provider states that this list included a variable deposit option 'in error'. It states that it received an email from AF on 21 August 2015 setting out clearly that the preferred option was cash but that in the absence of cash being available, the funds were to be switched either variable deposit or liquidity. The Provider argues that the email of 21 August 2015 was not an instruction to switch into variable deposit fund, which in any event was not a valid option. It argues that as neither cash nor variable deposit were valid options, the Complainant was correctly switched to liquidity fund as requested.

Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint.

Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties 11 October 2018, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter.

In the absence of additional submissions from the parties, my final determination is set out below.

A large volume of documentation has been provided to me in relation to the complaint and I note that there was a considerable volume of correspondence between the parties over the period of approximately one year. I intend only to refer to those letters and emails requiring specific comment, though it should be noted that the entirety of the relevant correspondence has been considered.

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There are three main aspects to the present complaint: (i) errors and delays in relation to the processing of instructions received from the Complainant in June 2015; (ii) the Provider's alleged failure to properly process an instruction received from the Complainant's broker dated 21 August 2015; and (iii) general delays and inaccuracies responses to complaints and requests for information from the Provider.

First Complaint

In relation to the first issue, the Provider has accepted that the instruction received in June 2015 in relation to the transfer to the cash fund was mis-read and not acted upon in a timely manner.

I note that there was considerable correspondence between the parties in relation to this issue and that even after the Provider accepted its error and committed to backdating the investment, it did not do so and the Complainant once again had to highlight the Provider's error. This was no doubt very frustrating for the Complainant. Under clause 3.3 of the Consumer Protection Code, a regulated financial service provider "*must ensure that all instructions from or on behalf of a consumer are processed properly and promptly*". I further note, however, that this issue appears to be substantially resolved between the parties in that the Provider has now appropriately backdated the investment and indeed that there was a small financial benefit to the Complainant due to a fall in the valuation of the liquidity fund between the initial instruction and the date that the investment was in fact made. An apology has been offered by the Provider for these errors and a goodwill gesture of €500 has been offered in addition.

I consider this response to be appropriate and adequate in all of the circumstances and I do not uphold this aspect of the complaint.

Second Complaint

The second issue relates to interpreting exactly what the Provider was instructed in an email from Complainant's broker, AF, dated 21 August 2015. A notable feature of much of the correspondence from the relevant period is that the parties appear to be somewhat at cross purposes so it is difficult to interpret exactly what was instructed or agreed, especially as there was more than one issue being discussed at various times.

On 13 August 2015, the Provider confirmed to the Complainant that his self-directed investment had been liquidated and was resting in a temporary holding account. The Provider sent a list of investment funds to the Complainant that were available for him to switch into. This list did not provide the option to switch into a cash or secure cash fund. The only relevant fund set out in this list of 13 August 2015 was the liquidity fund that the Complainant's funds were subsequently switched into. This list of 13 August 2015 did not include a variable deposit fund as an available option.

In response, the Provider received a letter through AF on 19 August 2015, written by the Complainant and addressed to AF dated 17 August 2015. In this letter, the Complainant

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requested that his investment in the pension managed fund be switched to into a '*secure cash fund*'. In relation to the self-directed investment, the Complainant stated as follows:

> "*As previously advised, this should have been transferred to a cash fund but is currently residing in a liquidity account. Based upon conversations with [the Provider], I understand that this fund does not necessarily mean cash, and is subject to fluctuation. Can this also be transferred into a secure cash fund? You mentioned that this may not necessarily be possible, but I do not fully understand why this cannot be placed into an interest-bearing account within [the Provider].*"

In response, the Provider sent an email to AF attaching a list of funds available for Plans A and B and requested forward confirmation from the customer which fund was to be switched into.

This list, like the list sent to the Complainant dated 13 August 2015, did not contain an option for a cash fund or secure cash fund. It did, however, include the option of a variable deposit fund or liquidity fund. In response, AF sent the following email on 21 August 2015:

> "*Thanks for this but to be honest we had already asked you to transfer the fund to cash, of the fund available on this platform that would either be the variable deposit or the liquidity so it should have gone to one of them.*
>
> *… In the meantime either of the above funds would be acceptable and if I have to choose I would opt for the variable deposit*."

The Provider responded by email on 21 August 2015 stating that the customer referred to a secure fund in the letter and that it required confirmation of which fund was requested.

There does not appear to be any further response to this email but in a later email dated 7 September 2015, the Provider states that the customer (i.e. the Complainant) contacted it by phone on 22 August 2015 and the "*switch from pension managed to … liquidity was actioned*". Despite the fact that the Provider was requested to send copies of any relevant telephone recordings to be considered as part of the present adjudication, its response notes that neither party are relying on phone calls. I will therefore proceed on the basis that the only instruction that was received by the Provider in the present case was the instruction from AF on 21 August 2015.

I accept that a cash or secure cash fund option was not available to the Complainant at any time. The Complainant was clearly labouring under a misapprehension as to this fact insofar as he repeatedly requested transfers to a cash or secure cash account even, after the 21 August 2015 correspondence. I note that this was never in fact offered to him by the Provider. More difficult is the issue of the liquidity fund versus the variable deposit fund. As noted above, the email of 13 August 2015 did not include the option of a variable deposit fund, though the email dated 19 August 2015 from the Provider to AF undoubtedly did. In his email of 21 August 2015, AF stated that either fund would be acceptable but he qualified this by stating his preference for the variable deposit fund. The Provider has argued that this was not an instruction to transfer the funds into the variable deposit fund instead of the

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liquidity fund. I disagree. There was undoubtedly ambiguity in the email but it was, in my view, incumbent on the Provider to seek clarification if required. Though the languages somewhat ambivalent, a preference for the variable deposit fund is clearly made. The Provider ought therefore to have transferred the funds to the variable deposit fund or contacted the Complainant if this option was not available to at least alert him to the fact that the liquidity fund was his only option.

I am not satisfied with how this aspect of the complaint has been dealt with in the various submissions from the Provider. In its earlier letters and submissions, the Provider sought first to suggest that the broker had selected the liquidity fund and secondly that the liquidity fund was the only option in fact available as neither a cash fund nor a variable deposit fund was available. When pressed on this issue in submissions made by the Complainant who pointed out that the variable deposit fund was one of the options listed in the schedule to 19 August 2015 email, the only response from the Provider in its email of 10 April 2018 was that the list "*included a variable deposit option in error*".

This statement is not backed up in any way nor expanded upon. It is also the first time that this error was acknowledged by the Provider despite the fact that there has been much communication both between the parties and between each of the parties and this office in respect of the meaning to be applied to the email of 21 August 2015.

It is therefore the position that either: (a) the variable deposit fund was an option in August 2015 and the instruction to transfer the funds into it was not complied with; or (b) the variable deposit fund was not an option in August 2015 and the Complainant was never informed of this. Neither position is acceptable and the attitude adopted by the Provider in its communications surrounding this issue can be characterised as misleading. As the Provider has now clarified in its 10 April 2018 email that the variable deposit fund option was included in error, I will approach this issue on the basis that it was not an option in August 2015 but that the Complainant was never informed of this.

Even if the Provider interpreted the email of 21 August 2015 in a manner that left open to it the option to choose the liquidity fund over the variable deposit fund (and this is not my interpretation of the email), it ought in my view to have acknowledged its error in including the variable deposit fund long before its email of 10 April 2018. As recently as its letter to this office dated 9 March 2018, the Provider states that the email of 21 August 2015 confirmed that the funds were to be switched to either a cash variable deposit liquidity fund and that:

> "*As neither a Cash nor a Variable Deposit Fund was available (as already confirmed by the list of actual fund options provided to [AF] on 19 August and [the Complainant] on 13 August 2015) the switch instruction was clear that the monies … were to be switched to the … Liquidity Fund*."

It is manifestly not the case that this had been confirmed as the list of fund options provided to AF on 19 August 2015 did include the option of variable deposit fund.

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As against this, the email from AF on 21 August 2015 clearly states that either fund was acceptable to the Complainant. It is difficult to see, therefore, how the Complainant could attempt to argue, for example, that the liquidity fund was never acceptable to him. Furthermore, no submission has been made that there was any financial loss resulting to the Complainant as a result of the transfer of monies into the liquidity fund as opposed to the variable deposit fund. I accept on the basis of the Complainant's letter to his broker dated 17 August 2015 that he was aware that the liquidity fund might fluctuate in value and that he was further aware that there was no secure cash option open to him at that time. No actual loss has therefore been demonstrated.

In all of the circumstances, I am satisfied that it is appropriate to uphold the complaint in relation to the Provider's failure to acknowledge its error in including the variable rate fund option at the time the instruction was received. Under clause 2.8 of the Consumer Protection Code 2012, a regulated financial service provider must ensure that it "*corrects errors and handles complaints speedily, efficiently and fairly*." I also feel it is appropriate to uphold the complaint as regards the Provider's subsequent communications both directly with the Complainant and then with this office in relation to the issue.

I am of the view that the Provider first mis-characterised the nature of the instruction received from AF by email dated 21 August 2015 and then attempted to deflect attention away from its error in including the variable deposit option by simply stating that the variable deposit fund was not a valid option for the Complainant to have chosen. It should not have taken almost three years for the Provider to acknowledge its error and explain that the variable rate option should never have been included in the schedule of available options in the 19 August 2015 email. In light of the misinformation provided, and particularly in light of subsequent communications and what I consider to be an unwillingness to accept its error, I uphold this aspect of the complaint.

Third Complaint

The third and final issue that falls be considered is the general delay and inaccuracy experienced by Complainant in seeking information from the Provider.

To properly explain the delay that occurred, the following timeline is useful:

- 9 June 2015 – Complainant letter requesting switch of self-directed investment to cash fund
- 24 July 2015 – plan summary letters with incorrect and overstated plan values sent to the Complainant
- 10 August 2015 – email from Complainant querying values of plans
- 13 August 2015 – email to Complainant confirming liquidation of self-directed funds and providing list of investment funds available. A further email querying the overstated values was sent by the Complainant which the Provider responded to with a breakdown of correct values. The corrected values were significantly less than those stated in the letter of 24 July 2015.

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- 19 August 2015 – letter dated 17 August 2015 received by the Provider from AF. The Provider responded with a list of available funds which inaccurately included the variable deposit fund.
- 21 August 2015 – AF confirmation of fund choice (as set out above)
- 25 August 2015 – email from AF attaching letters of instructions from May and June 2015
- 26 August 2015 – pension managed fund switch to the liquidity fund with an incorrect effective date of 22 August 2015
- 2 September 2015 – email to AF querying email of 25 August 2015
- 7 September 2015 – email from AF alleging that the Complainant's switch instruction had not been carried out per June 2015 request and subsequent emails in which AF confirmed that the switch should be backdated to 9 June 2015 when the instruction was received
- 14 September 2015 – self-directed investment switch to liquidity account
- 23 September 2015 – Provider's inaccurate confirmation that it was backdating the switch request to the correct effective date
- 14 October 2015 – query raised by the Complainant about his plan values and the effective date of the switches
- 19 November 2015 – Provider confirmation that it had not before, but had now backdated the switch request with the correct effective date
- 30 November 2015 – Complainants seeking further detail on the backdating of switches
- 4 December 2015 – email from AF querying the value of the plans
- 25 February 2016 – letter from Provider with a detailed breakdown of plan values demonstrating that values were correct
- 29 February 2016 – email expressing unhappiness with letter of 25 February 2016
- 6 April 2016 – further detailed letter to the Complainant setting out that the values of the plan were correct following the switch
- 18 April 2016 – phone call in which Complainant acknowledges that the values of the plan were correct but querying movements in value since transfer to liquidity fund
- 21 June 2016 – letter in response to demonstrate the plan values correct and switch correctly processed
- 19 July 2016 – letter to the Complainant offering customer service award of €250 in recognition of switch being processed using incorrect effective date
- 3 August 2016 – phone call which Complainant alleges that neither himself nor AF were aware that the cash fund was not available and that the liquidity fund was subject to fluctuations
- 26 August 2016 - final response letter alleging that instruction to transfer to the liquidity fund was received from AF.

The above timeline demonstrates several examples of inaccurate information being provided to the Complainant. The fund values provided on 24 July 2015 were grossly overstated. Having failed to process the Complainant instructions from June 2015, the Provider then inaccurately informed him in September 2015 that the switches had been backdated appropriately and this was not done until November, after the further intervention of the Complainant. I have already addressed the inaccuracy of the Provider's

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letters and submissions in relation to the instructions received from AF on 21 August 2015. Regulated financial service providers are under a duty to provide accurate information to consumers. Under clause 4.1 of the Consumer Protection Code 2012, for example, a regulated entity "*must ensure that all information it provides to a consumer is clear, accurate, up to date, and written in plain English*." I am satisfied that the Provider in the present case has fallen short of its obligations in this respect.

The delay in relation to the processing of instructions as already been dealt with in the context of the first complaint. It appears that although the Complainant raised issues from October 2015 in relation to his plan values, the Provider did not formally respond until 25 February 2016 confirming the accuracy of the valuations. This delay is unacceptable. There were further delays in responding to queries raised by the Complainant thereafter, though it appears to be the case that accurate valuations had by then been furnished by the Provider and that the Complainant was incorrect in his then understanding about the potential fluctuation of the liquidity fund. This must be seen in the context of general confusion as to available funds the previous summer and inaccurate information having previously been provided to the Complainant. Again, I do not feel that the Provider responded to the queries raised by the Complainant in a timely manner and I consider the delays to have been unacceptable.

It is understandable that the Complainant opted to remain invested in the liquidity fund pending resolution of his concerns regarding valuation. However, I consider that this was ultimately his choice and I note further that he did not transfer value to another Provider until February 2017, eight months after he had clarity on all issues. In the circumstances, I do not accept that any loss can be demonstrated to the Complainant as a result of the delay in the Provider's communications.

In light of these circumstances, I uphold this aspect of the complaint as regards the delay with and inaccuracy of communications from the Provider.

In light of the serious shortcomings in the conduct by the Provider, I direct that the Provider pay a sum of €4,000 to the Complainant.

For the avoidance of doubt, this sum of €4,000 is to be paid <u>in addition</u> to the sum of €500 already offered to the Complainant by the Provider.

<u>Conclusion</u>

My Decision pursuant to ***Section 60(1)*** of the ***Financial Services and Pensions Ombudsman Act 2017***, is that this complaint is upheld on the grounds prescribed in ***Section 60(2) ((a), (e) and (f).***

Pursuant to ***Section 60(4) and Section 60 (6)*** of the ***Financial Services and Pensions Ombudsman Act 2017,*** I direct the Respondent Provider to make a compensatory payment to the Complainant in the sum of €4,000 (in addition to the sum of €500 already offered to the Complainant by the Provider), to an account of the Complainant's choosing, within a period of 35 days of the nomination of account details by the Complainant to the Provider.

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I also direct that interest is to be paid by the Provider on the said compensatory payment, at the rate referred to in ***Section 22*** of the ***Courts Act 1981***, if the amount is not paid to the said account, within that period.

The Provider is also required to comply with ***Section 60(8)(b)*** of the ***Financial Services and Pensions Ombudsman Act 2017.***

The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.

GER DEERING
FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

13 November 2018

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will publish legally binding decisions in relation to complaints concerning financial service providers in such a manner that—

(a) ensures that—

(i) a complainant shall not be identified by name, address or otherwise,
(ii) a provider shall not be identified by name or address,
and

(b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.