



<b><u>Decision Ref:</u></b>	2019-0172
<b><u>Sector:</u></b>	Insurance
<b><u>Product / Service:</u></b>	Whole-of-Life
<b><u>Conduct(s) complained of:</u></b>	Failure to provide correct information Dissatisfaction with customer service Maladministration (life)
<b><u>Outcome:</u></b>	Rejected

**LEGALLY BINDING DECISION**  
**OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

**Background**

The Complainants, a husband and wife, incepted a dual life Guaranteed Whole of Life assurance policy with the Provider with effect from **1 February 2018**, which provides them with life cover in the amount of €10,000 for a fixed monthly premium.

**The Complainants' Case**

The Complainants had received a policy review notification in January 2018 in respect of a flexible life assurance policy that they had held with the Provider since **1 March 1988**. This policy review presented the Complainants with options that they considered *“unsuitable for elderly pensioners”*. Following a sales meeting on 30 January 2018 with Mr G., a Financial Advisor with the Provider, the Complainants ceased this flexible life assurance policy and replaced it with a new dual life Guaranteed Whole of Life assurance policy with the Provider with effect from 1 February 2018, *“which would have a fixed monthly price and fixed benefit, with no reviews”*.

The Provider sent the Complainants a Welcome Pack dated **14 March 2018**, which included the policy schedule detailing the monthly premium as €103.21, which included the 1% Government levy and a discount of €7.17. The Complainants submit that *“this document clearly states that this will be the monthly premium, and will not change. We took this*

*discount as a gesture on the part of [the Provider] to compensate us for previous unsatisfactory service".* The Complainants note that *"two debits of 103.21 euro had been taken from our...account"* in respect of the February and March 2018 payments and they expected this to remain their monthly premium *"until one of us died"*.

Shortly after, however, the Complainants received a second Welcome Pack dated **23 March 2018**, which included a different policy schedule detailing the monthly premium as €110.45, which included the 1% Government levy but did not include the previous discount of €7.17. In this regard, the Provider has since advised the Complainants that due to an administrative error on its part, the first Plan Schedule dated 14 March 2018 had incorrectly outlined that the monthly premium would be €103.21.

During a telephone call with the Complainants on **20 April 2018**, the Provider offered to waive two monthly premiums by way of an apology but the Complainants declined this offer. Instead, the Complainants seek for the Provider to set their monthly policy premium at €103.21, *"as outlined in the first contract dated 14-03-2018 that was in the welcome pack of that date"*.

In this regard, in their correspondence to this Office dated 12 December 2018, the Complainants submit that on 30 January 2018 they had had *"a very long conversation...with [Mr G.] expressing our dissatisfaction with the service and advice we had received over the preceding years, none of which appears in the fact find, however we were confident our feelings would be relayed to the relevant people in [the Provider], hence we were not surprised when we were given a discount of Euro 7.17 on the 110.45 Euro price quoted"*.

The Complainants submit that *"it seems very petty on the part of [the Provider] to be trying to "rewind" the small discount that had been applied to the quoted figure of €110.45"* and they seek for the Provider to set their monthly policy premium at €103.21, *"as outlined in the first contract dated 14-03-2018 that was in the welcome pack of that date"*.

### **The Provider's Case**

Provider records indicate that the Complainants met with one of its Financial Advisors, Mr G. on 30 January 2018 and agreed to take out a new Guaranteed Whole of Life plan which provides life cover in respect of each life in the amount of €10,000 in return for a fixed monthly premium of €110.45. In this regard, the Provider is satisfied that on the day Mr G. met with the Complainants on 30 January 2018, the cost to provide them both with €10,000 of life cover under the new Guaranteed Whole of Life Plan was €110.45 and that this was clearly agreed with the Complainants and documented in the Fact Find and policy application.

Given the very close proximity to the Second Complainant's next birthday, which fell on 4 February 2018, Mr G. discussed the cost of the policy increasing in the event that the policy did not commence prior to that date. For this reason, Mr G. advised that he would request for the Provider to accept and commence the policy at €110.45 per month, which was the correct cost pre the Second Complainant's next birthday on 4 February 2018. The cost to

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provide the same level of cover after this date would have been €116.53 per month. Whilst it did not set up the policy prior to 4 February 2018, the Provider was agreeable to backdating its commencement date to 1 February 2018, thereby providing the Complainants with their chosen level of cover at the agreed cost of €110.45 per month.

The Plan Schedule that the Provider sent to the Complainants dated 14 March 2018 incorrectly advised that the monthly premium was €103.21. The Financial Advisor, Mr G. brought this error to the attention of the Provider, which rectified the premium to what it should have been from the outset. As a result, a second Plan Schedule issued to the Complainants on 23 March 2018 detailing the correct and previously agreed monthly premium of €110.45. The Provider notes that Mr G. then spoke with the Complainants explaining that the correct premium was €110.45 per month as per their meeting of 30 January 2018, and not €103.21 as set out in the Plan Schedule of 14 March 2018.

By way of an apology for its error and for any inconvenience caused, the Provider applied one month's credit of €110.45 to the Complainants' new Guaranteed Whole of Life plan. In addition to this, during its later telephone call with the Complainants on 20 April 2018, the Provider offered a further two months' credit. The Complainants declined this offer, however the Provider notes that its offer of applying €220.90 credit to their policy is still available to them to accept and this would take the total customer service award for any inconvenience caused, to €331.35. The Provider believes that this offer is very fair and represents many multiples of the monthly €7.17 discount sought by the Complainants.

By way of explanation for the error at hand, the Provider notes that because the Complainants' application for cover was input into its system after 4 February 2018, the system generated a monthly premium of €116.53 per month. This was the correct premium rate for the Complainants' policy after the Second Complainant's birthday on 4 February 2018. As the Financial Advisor had requested for the Complainants' policy to be issued with a start date of 1 February 2018 in order for their premium to be based on the Second Complainant's age on the date that the application was completed, that is, €110.45 per month on 30 January 2018, the Provider set about making amendments in the background so that this could happen.

It was unfortunate and regrettable that following the Provider's efforts to rewind the higher premium of €116.53 in order to ensure that the Complainants benefitted from the lower premium of €110.45, that its system generated a policy schedule with a lower premium of €103.21. As a result of its processing error, the incorrect policy schedule dated 14 March 2018 showed a discount of €7.17 per month. In this regard, it was the Provider's intention to apply this discount of €7.17 to the premium of €116.53 to reduce it to €109.36, then add the government levy of 1% to take the premium to the correct and agreed figure of €110.45. The Financial Advisor, Mr G. noted the error, brought it to the Provider's attention to amend and also spoke to the Complainants about what had happened. The Provider rewound the policy and corrected the premium to what it should have been from the outset, that is, €110.45 per month and the correct policy documents then issued to the Complainants on 23 March 2018.

The Provider notes that a member of its Welcome Team telephoned the Complainants on Friday 6 April 2018. This is what is referred to as a 'Welcome Call', designed to check with new customers or customers with new plans to make sure that they have received the policy documentation and that the new product meets with their expectations. This Agent was a member of the Welcome Team and was not involved in the production or issue of either of the two Welcome Packs sent to the Complainants and thus would not have been aware of any errors in that regard. The Agent did register the Complainants' stated concerns over the conflicting information contained in the two Plan Schedules that they had received and escalated this to the Complaints Management Team. A formal complaint was set up in the afternoon of Monday 10 April 2018 and an acknowledgement letter issued to the Complainants the next day, on 11 April 2018. A member of the Complaints Management Team telephoned the Complainants on 13 April 2018 to ascertain the details of their complaint. Following an investigation into the matter, a member of the Complaints Management Team then telephoned the Complainants on 20 April 2018 to explain what had taken place. During this telephone call, in an attempt to resolve the matter, the Agent offered to apply €220.90 credit to the Complainants' policy, but they declined this offer.

The Provider has apologised to the Complainants for its error and it considers that this offer to apply €220.90 credit to their policy, an offer which remains open to them to accept, is very fair, given that the Complainants had agreed to the monthly premium of €110.45 from the outset.

### **The Complaint for Adjudication**

The Complainants' complaint is that the Provider provided them with poor customer service insofar as it altered the fixed monthly premium for their Guaranteed Whole of Life assurance policy from €103.21, as the Provider advised them it would be in writing on 14 March 2018, to €110.45.

### **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 Complainants were 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

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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 16 April 2019, 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.

Following the consideration of additional submissions from the parties, the final determination of this office is set out below.

The complaint at hand is that the Provider provided the Complainants with poor customer service insofar as it altered the fixed monthly premium for their Guaranteed Whole of Life assurance policy from €103.21, as the Provider advised them it would be in writing on 14 March 2018, to €110.45.

In this regard, the Complainants incepted a dual life Guaranteed Whole of Life assurance policy with the Provider with effect from 1 February 2018, which provides them with life cover in the amount of €10,000 for a fixed monthly premium. The Plan Schedule that the Provider sent to the Complainants dated 14 March 2018, advised that the monthly fixed premium was €103.21, which included a 1% Government levy and a discount of €7.17. The Provider states that shortly afterwards it came to its attention that this Plan Schedule was incorrect and, as a result, a second Plan Schedule dated 23 March 2018 was sent to the Complainants correctly advising that the monthly fixed premium was €110.45, which included the 1% Government levy but did not include the previous discount of €7.17.

I note that the Complainants met with Mr G., a Financial Advisor with the Provider on 30 January 2018 and opted during this meeting to incept a new dual life Guaranteed Whole of Life assurance policy with the Provider with effect from 1 February 2018, "*which would have a fixed monthly price and fixed benefit, with no reviews*". Following receipt of the application papers, the Provider agreed to backdate the commencement of the Complainants' policy to 1 February 2018, before the Second Complainant's next birthday on 4 February 2018. In doing so, the Complainants could thus avail of the lower fixed monthly premium rate of €110.45 instead of €116.53, which I note would have been the correct cost for the same level of cover after the Second Complainant's birthday on 4 February 2018.

The Provider states that as the Complainants' application for cover was input into its system after 4 February 2018, the system generated a monthly premium of €116.53 per month. As the Financial Advisor had requested for the Complainants' policy to be issued with a start date of 1 February 2018, in order for their premium to be based on the Second Complainant's age on the date that the application was completed, that is, €110.45 per month on 30 January 2018, the Provider set about making amendments in the background so that this could happen.

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The Provider then sent a Plan Schedule to the Complainants dated 14 March 2018 advising that the monthly fixed premium was €103.21, which included a 1% Government levy and a discount of €7.17. I note that the Provider advises that it was its intention to apply this discount of €7.17 to the premium of €116.53 to reduce it to €109.36, then add the government levy of 1% to take the premium to the correct figure of €110.45.

The Financial Advisor, Mr G. noted the error and brought it to the Provider's attention. The Provider rewound the policy and corrected the premium to what it should have been from the outset, that is, €110.45 per month and the correct policy documents then issued to the Complainants on 23 March 2018.

The Complainants submit that they assumed the discount of €7.17 that appeared on the Plan Schedule dated 14 March 2018 was *"a gesture on the part of [the Provider] to compensate us for previous unsatisfactory service"*. In this regard, I note from the Complainants' correspondence to this Office and from listening to a recording of the telephone calls between the Complainants and the Provider on 6 April, 13 April and 20 April 2018 that the Complainants had been dissatisfied with matters relating to the flexible life assurance policy that they had previously held with the Provider since 1 March 1988 and which ceased when they incepted their new Guaranteed Whole of Life assurance policy on 1 February 2018. In addition, I also note from these recordings that the First Complainant clearly stated to the Provider that the Complainants wanted to move on from matters relating to their old policy as that was in the past, and that the Complainants' complaint, that is, the complaint at hand, relates solely to the premium rate of their new policy.

The Complainants met with Mr G., a Financial Advisor with the Provider on 30 January 2018 and opted to incept a new dual life Guaranteed Whole of Life assurance policy with the Provider with effect from 1 February 2018, *"which would have a fixed monthly price and fixed benefit, with no reviews"*.

I note from the documentary evidence before me that Section B, 'Statement of Suitability', of the Policy Review Fact Find that was completed during this sales meeting on 30 January 2018 provides, *inter alia*, as follows:

<b>The Proposal is take out a new guaranteed whole of life plan with the following benefits</b>		
	<b>Current Benefit</b>	<b>Proposed New Benefits</b>
Life Cover	€10,949	€10,000 Dual Life
Specified Illness		N/A
Other Benefits		N/A
For payment of	€128.38 per month	€110.45 per month

Furthermore, I note that Section 3, 'New Guaranteed Whole of Life Cover Details', of the Transfer to Guaranteed Whole of Life Cover Plan application clearly notes the monthly

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premium as €110.45. As a result, I am satisfied that the Complainants were advised and accepted from the outset that the fixed monthly premium would be €110.45.

The Complainants now seek to rely on the error contained in the Plan Schedule dated 14 March 2018, insofar as they are seeking for the fixed monthly premium for their policy to be set at €103.21, that is, with the monthly discount of €7.17 that the Provider erroneously applied.

In this regard, I note that by their own admission, the Complainants assumed that the discount of €7.17 was *“a gesture on the part of [the Provider] to compensate us for previous unsatisfactory service”*. This was an assumption on the Complainants' part and I am satisfied that it was not the fixed premium that they were advised of, or indeed accepted, during the sales meeting on 30 January 2018.

I accept the Provider's position that the discount of €7.17 that appeared on the Plan Schedule dated 14 March 2018 was as a result of its efforts to backdate the commencement of the Complainants' policy to 1 February 2018 when inputting the application for cover into its system at a later date so as to ensure that the Complainants benefitted from the lower premium rate of €110.45 that had previously been agreed, rather than the higher premium that would have applied on and after 4 February 2018, when the inputting was done.

In this regard, given that the Complainants first applied for the policy during a sales meeting on 30 January 2018, it was not surprising that the Provider did not receive the application papers and input them, prior to 4 February 2018, before the higher premium rate applied. I am also mindful that the Provider corrected its error as soon as it came to its attention by way of issuing an amended Plan Schedule to the Complainants on 23 March 2018, just nine days later.

Nevertheless, processing errors of this nature can cause considerable confusion, as was the case in this instance. I note that by way of an apology for any inconvenience caused by these events, the Provider applied one month's credit of €110.45 to the Complainants' policy. In addition to this, during its later telephone call with the Complainants on 20 April 2018, the Provider offered as a gesture of goodwill a further two months' credit. The Complainants have declined this offer, however the Provider advises that this offer of applying €220.90 credit to the Complainants' policy remains open to them to accept. I note that this would take the Provider's total customer service payment to €331.35 in this matter.

I am satisfied that in the circumstances this is a reasonable and appropriate offer from the Provider by way of acknowledgement of the processing error which occurred. It will be a matter for the Complainants to now advise the Provider, if they wish to accept its offer which currently remains open to them. In that event, the Complainants should proceed expeditiously to notify the Provider of their intention to accept that offer, as the Provider cannot be expected to hold that offer open for an indefinite period.

For the reasons outlined above, in circumstances where the Provider has long-since acknowledged its error and made an offer to the Complainants which this office considers

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to be reasonable and which remains open to the Complainants for acceptance, it is not considered necessary or appropriate to uphold this complaint.

Finally, I note that since the Preliminary Decision was issued, the Complainants have raised a query regarding their entitlements to end the contract, particularly taking into account the issue of a second Welcome Pack on 23 March 2018. The Complainants have suggested that the Provider has denied them their statutory right to cancel the policy within the 30 day “cooling-off period”. As correctly pointed out by the Complainants themselves, this is “a completely different issue” and does not form part of this complaint, which is as specified above on Page 4. It will be a matter therefore, for the Complainants to pursue any such matter separately, directly with the Provider.

### **Conclusion**

My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is rejected.

**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.**

**MARYROSE MCGOVERN**  
**DIRECTOR OF INVESTIGATION, ADJUDICATION AND LEGAL SERVICES**

11 June 2019

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.