



<b><u>Decision Ref:</u></b>	2020-0014
<b><u>Sector:</u></b>	Banking
<b><u>Product / Service:</u></b>	Repayment Mortgage
<b><u>Conduct(s) complained of:</u></b>	Delayed or inadequate communication Maladministration
<b><u>Outcome:</u></b>	Rejected

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

The Complainant held two mortgage loan accounts with the Provider. The first loan was used to finance the purchase of the Complainant's sole residence and the second loan was used to finance the construction of the Complainant's family home. In **2007**, Complainant began to experience financial difficulty and was unable to meet the repayments in respect of her loans. In **2015**, the Complainant instructed her solicitor to sell the property previously used as her sole residence and an offer was secured on the property in **February 2015**. The Complainant also submitted a Standard Financial Statement (**SFS**) to the Provider in **June/July 2015** which was not assessed and/or responded to by the Provider until **October 2015**. The Complainant states that the Provider failed to respond to correspondence from **June 2015** to **August 2015**. The Complainant submits that the Provider mismanaged her loan accounts which delayed and jeopardised the sale of her property and led to the accrual of additional interest on her loans.

**The Complainant's Case**

The Complainant states that she purchased a house in the North West in **July 2004** with the help of a mortgage loan from the Provider in the sum of €149,000. The Complainant states that it was her intention to build a family home with her husband at another location in the North West. To finance the purchase of the site for her family home, the Complainant states that she entered into an equity release mortgage in the sum of €60,000 in **2006**. The Complainant states that on the completion of her family home she was going to sell her original property. However, the Complainant was unable to find a purchaser for the property and "... became a reluctant Landlord."

From around **2007** the Complainant explains that she began to experience financial difficulties due to the financial crisis and “[o]ver the following years, we moved between reduced payments and full payments.”

The Complainant states that in **2014** her then tenants immigrated and she was left with an unfurnished property and therefore, decided to sell it. The Complainant submits that she approached the Provider’s local branch manager and explained her position and was given a Standard Financial Statement (SFS) to complete. The Complainant states that she asked the branch manager what would happen if the sale price fell below the amount outstanding on the loans and was advised that the Provider would appoint an assessor to confirm whether the sale price was acceptable. If it was, then the Provider would approve the sale and engage with the Complainant in respect of any residual debt which would be transferred to a new loan account with agreed repayments. The Complainant emphasises that:

*“... I specifically asked if the bank would be lending to us a figure for the agreed outstanding residual debt (which would be subject to negotiation) which would then become an unsecured loan equivalent with agreed repayments at an interest rate at my then current mortgage rate. He agreed that this would be the essentially (sic) the process.”*

The Complainant submits that she completed an SFS requesting a moratorium until her house was sold. However, this application was denied. The Complainant advises that she then retained the services of a financial adviser who appealed the Provider’s refusal on her behalf. The Complainant states that this appeal was also refused “... with no substantial grounds given by the [Provider] for their refusal.”

The Complainant states that her financial position “completely deteriorated” and at one point she was unable to pay for her groceries. The Complainant wrote to the Provider on **21 January 2015**, to inform the Provider of her financial situation and requested that the Provider engage with her. The Complainant states that “[o]n receiving no response to this letter, I then had to make a decision so I cancelled my direct debit payments in respect of the mortgage to the [Provider] ...” The Complainant states that despite not engaging with her, the Provider continued to send weekly written correspondence and she continued to receive phone calls every few days seeking immediate repayments. The Complainant states that “... at times I felt harassed and intimidated by the members of staff from the [Provider] who were ringing me on a continuous basis ...”

The Complainant states that in **2015** she instructed her solicitor to engage with the Provider in respect of the sale of her property. The Complainant advises that she secured an offer on her property in **February 2015** in the sum of €159,500. The Complainant then requested updated figures on the amount outstanding on her loans which stood at approximately €164,000. The Complainant has set out the correspondence sent to the Provider between **May 2015** and **July 2016** and submits that no replies were received to the letters dated **24 June 2015**, **9 July 2015**, **4 August 2015** and **18 August 2015** sent by her solicitor to the Provider.

The Complainant states that following this, her solicitor spoke to a representative of the Provider who advised that he was not aware of the situation. The Complainant states that the relevant correspondence was forwarded to the Provider on **20 August 2015**. The Complainant states that she subsequently received a letter from the Provider's Arrears Support Unit offering a reduced repayment moratorium. The Complainant also states that the Provider was not aware that she had decided to sell the property.

Referring to a letter from the Provider dated **12 November 2015**, the Complainant advises that the Provider refused to consent to the sale of her property despite the fact that the residual debt would have been minimal. The Complainant also submits that *"... this blanket denial does not seem to take into account what was discussed at branch level ... either."* Further to this, the Complainant states that the Provider's letter dated **20 November 2015** from its Asset Management Unit (in respect of its investigation into why the letters outlined above went unanswered) *"... gives credence to the fact that nobody in [the Provider] knew exactly what was happening to my file or were up to date in regard to the proposals ..."*

The Complainant states that she decided to proceed with the sale of her property and instructed her solicitor to forward contracts to the purchaser and conclude the sale as quickly as possible. In a letter from the Complainant's solicitor to the Provider dated **17 December 2015**, the Complainant states that the sum of €159,500 plus €5,000 was offered to the Provider in order to settle her outstanding debt and *"[t]his was on the basis that in February 2015 the amount to redeem the mortgage was circa €164,000."* The Complainant states that no reply was ever received to this letter.

The Complainant refers to a series of correspondence and memos prepared by her solicitor between **7 June 2016** and **30 June 2016** in respect of various requests for redemption figures in respect of both of her loan accounts. The Complainant states that two cheques were forwarded to the Provider in respect of these accounts under cover of letter dated **30 June 2016**. The Complainant submits that she had to personally discharge a further €14,157 to the Provider in addition to the proceeds of the sale of her property in order to clear the two accounts. The Complainant advises that in order to finance this payment she had to access funds from her credit card account and her husband had to obtain a loan.

The Complainant submits that:

*"... the sale of the house was jeopardised [and] significantly delayed by the mismanagement of my case by [the Provider and] although I paid the interest which had accrued in that period to get the house sale through that that (sic) figure (I don't know what exactly but €10,000 approx) should be bourne (sic) by [the Provider and] not me."*

The Complainant also wants compensation for the demeaning manner in which she says she was treated by the Provider.

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## **The Provider's Case**

The Provider states that it endeavoured to find sustainable solutions for the Complainant from **2011** to **2015**. The Complainant's financial situation and requests for forbearance were reviewed at each point in time and an appropriate Alternative Repayment Arrangement (ARA) was offered.

### ***Compliance with CPC and CCMA***

In the course of its submissions, the Provider has set out the manner in which it complied with its obligations under the Consumer Protections Code (CPC) and the Code of Conduct on Mortgage Arrears (CCMA). The Provider states that it is satisfied that the Complainant's requests for forbearance were assessed in accordance with the CCMA. However, the Provider accepts that in **2015**, its *"... underwriting and Appeal both noted the accounts as Buy to Let and therefore under CPC but unfortunately did not update the system at this time ..."* The Provider submits that *"[h]ow the Complainant was treated under CPC/CCMA would have been very similar in terms of assessment and would have been based on income and expenditure, affordability and sustainability."*

The Provider states that at the Complainant's request and with her written consent, it liaised with nominated third parties. However, communications such regulatory letters would continue to be issued to the Complainant.

In terms of the Complainant's SFSs, the Provider states that on **9 August 2013** it received an SFS dated **1 August 2013**, which was submitted directly to its Credit Decisioning Unit. An assessment was completed and communicated to the Complainant on **29 August 2013**. On **8 September 2014**, an SFS was submitted to the Complainant's branch which was forwarded to and received by the Provider's Credit Decisioning Unit on **10 September 2014**. An assessment was completed and communicated to the Complainant on **17 September 2014**. The Provider states that on **29 June 2015**, the Complainant's branch submitted a completed SFS to its Credit Decisioning Unit but this was subsequently returned as further documentation was required. This SFS was re-submitted on **13 July 2015** and an assessment was completed and communicated to the Complainant on **20 October 2015**. The Provider *"... acknowledges that the SFS was not assessed in a timely manner and apologised for same."* The Provider states that it apologised for its delay in completing its assessment of the SFS by letter dated **10 December 2015**.

### ***Delay in the Sale of the Property***

The Provider states that on **17 September 2014**, following an assessment of the completed SFS, it issued correspondence to the Complainant advising *'Your Standard Financial Statement indicated affordability to repay the full contractual monthly bills without the need for an Alternative Repayment Arrangement.'* The Provider advises that this decision was re-iterated in **November 2014**.

The Provider states that correspondence received from the Complainant in **January 2015**, referring to her request for a reduced repayment option while the property was being marketed for sale, was declined together with her request for reduced repayments.

The Provider states that it first received a request for consent to sale in **May 2015**. On **12 May 2015** the Provider received correspondence from the Complainant's solicitor advising that an offer of €159,500 had been received for the property which was below the outstanding balance and requested consent to sale. The Provider states that it responded to this correspondence on **27 May 2015** informing the Complainant's solicitor that in order to assess the sustainability of the loans it would be necessary to complete an SFS. The Provider states that the Complainant called to its branch on **26 June 2015** and made an appointment for **29 June 2015**. A completed SFS was submitted to its branch on **29 June 2015**. This SFS was subsequently returned to the branch as account statements for 3 consecutive months within the last eight weeks were required for assessment. The SFS together with the relevant documentation were re-submitted to the Provider's Credit Decisioning Unit for assessment on **6 August 2015**.

Following an assessment of the SFS, the Provider issued correspondence to the Complainant dated **20 October 2015** offering a 6 month part capital and interest ARA with a view to implementing it on a long term basis following successful completion of the 6 month trial period. The Provider submits that as it had "*... identified a sustainable ARA, 'consent to sale' of the property at a shortfall was not offered.*" The Provider states that as an ARA was offered the Complainant's request for consent to sale was declined in correspondence dated **12 November 2015**.

Following further discussions with the Complainant's solicitor, the Provider reviewed the Complainant's request for consent to sale. On **9 December 2015**, the Provider states that it contacted the Complainant's solicitor and apologised for the delay in responding and advised that while it had originally declined the request for consent to sale, they were now willing to consider the proposal. The Provider states that correspondence issued to the Complainant's solicitor on **9 December 2015** setting out the requirements to be satisfied for considering the voluntary sale proposal.

The Provider states that it received correspondence from the Complainant's solicitor dated **17 December 2015** proposing a full and final settlement offer. The Provider responded on **13 January 2016**, advising that it would not be in a position to revert with a decision in respect of the proposal until the documentation requested in its letter of **9 December 2015** was received. The Provider states that the requested information was not received. The Provider submits that it continued to attempt to engage with the Complainant and her solicitor as detailed in the system notes submitted in the Schedule of Evidence. The Provider advises that the Complainants' loan accounts were redeemed in full on **30 June 2016** and **1 July 2016**.

The Provider acknowledges that there was a delay in assessing the Complainant's documentation and "[b]ased on receipt of the documentation on 6<sup>th</sup> August 2015 a response should have been issued during the first week of September. However, due to the volume of requests at that time the response was not issued until 20<sup>th</sup> October 2015." The Provider further states that "[b]etween the first week in September 2015 and the 20<sup>th</sup> October 2015 the [Provider] calculated an increase in accrued interest of €1,010.00. Further additional interest of €1,074.00 accrued between the 20<sup>th</sup> October 2015 and 9<sup>th</sup> December 2015."

### **Customer Service**

The Provider states that it is unable to assign one agent to each case for all queries due to the high volume of telephone calls made and received by its Collections Department. The Provider advises that its agents are trained to deal with customer queries during telephone calls. While agents may not know the history of the account at the outset of the telephone conversation, they would be able to review the notes on the account during the conversation. The Provider states that in some circumstances it may be necessary to transfer a customer to another department in order to assist customers more appropriately with their query.

### **The Complaint for Adjudication**

The complaint is that the Provider mismanaged the Complainant's mortgage loan accounts which resulted in a delay in the sale of the Complainant's property and caused additional interest to accrue on these accounts.

### **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.

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A Preliminary Decision was issued to the parties 13 December 2019, outlining my preliminary determination 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, within the period permitted, I set out below my final determination.

It is important to note that this Office can investigate the procedures and conduct of the Provider but it will not investigate the re-negotiation of the commercial terms of a mortgage loan or an alternative repayment arrangement which is a matter for the Provider and the Complainants and does not involve this Office whose role is an impartial adjudicator of complaints. This Office will not interfere with the commercial discretion of a financial services provider unless the conduct complained of is unreasonable, unjust, oppressive or improperly discriminatory in its application to the Complainants.

### ***Mortgage Conditions 2002***

The Provider has furnished a copy of the mortgage conditions applicable to the Complainant's loans. I note the following provisions:

#### ***"2 Provisions for Payment***

...

*2.11 If on the sale of the Property by the Mortgagor with the consent of [the Provider] the net proceeds are insufficient to discharge the Total Debt the Mortgagor will immediately pay the amount of the deficiency with interest until fully discharged ...*

#### ***5 Covenants Concerning the Property***

*The Mortgagor covenants so long as the Mortgage is outstanding:*

...

*5.11 Not without prior written consent of [the Provider] to make any disposition of the Property subject to the Mortgage nor create or purport to create any rent charge affecting it."*

## **Correspondence**

In a letter to the Provider dated **21 January 2015**, the Complainant advised the Provider of the financial difficulties she was experiencing and that the property was vacant and on sale since **July 2014**. The Complainant asked the Provider to “... work with me in achieving a mutually acceptable repayment figure.” The Provider responded to the Complainant by letter dated **27 January 2015** stating:

*“As the mortgage in question is not secured against your primary residence, it cannot be adjudicated on by the Appeals Board as it falls outside the scope of the Code of Conduct on Mortgage Arrears (CCMA).*

*I can confirm that based on the financial information you have supplied to the bank, the treatment offered is considered to be affordable and sustainable as a long term buy to let treatment.*

...

*I regret that bank does not have a more favourable response for you ...”*

In a letter to the Provider dated **10 April 2015**, the Complainant asserts that the Provider “... refused to facilitate any arrangement with me ... despite the production of evidence by me that I am not currently in a position to meet the full repayments on these mortgages ...” The Complainant also takes issue with the fact that the Provider’s Collections Unit “... are not in possession of the facts of my case, they state that are not aware of the correspondence I initiated in 2014 and the current situation with regards the sale of the property and its non availability as a rental property ...”

The Provider responded to this letter on **20 April 2015**, summarising the matters outlined by the Complainant and advised the Complainant that an investigation had been conducted in respect of those matters. The Provider advised the Complainant as follows:

- “3. *As per our letter of the 17<sup>th</sup> September 2014, the Bank’s Arrears Support Unit (ASU) fully assessed your Standard Financial Statement (SFS) and was unable to offer an ARA as your SFS indicated affordability to repay the full contractual monthly bill without the need for an ARA ...*
4. *Due to the high volume of telephone calls made and received by its Collections Department, we are unable to assign each case to a specific agent. Therefore, every agent is trained to deal with all queries received on a telephone call.*

*They may not know the history of the account but would be able to review the notes on your account while you are on the telephone. All efforts are made to ensure our customers receive a high standard of customer service and I regret that you feel this is not the case.*

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7. *I can confirm that [the Provider] cannot assess your financial circumstances with a view to offering an Alternative Repayment Arrangement (ARA) on the above mortgage account without an SFS and supporting documentation. ...”*

The Provider furnished the Complainant with redemption figures in respect of her loans by letter dated **27 April 2015**. The Complainant’s solicitor wrote to the Provider on **12 May 2015** to inform it that an offer had been received on the property in the sum of €159,500 and sought its consent to sale in that amount.

The Provider wrote to the Complainant’s solicitor by letter dated **27 May 2015**, advising that in order for it to assess the sustainability of the Complainant’s loans, it would be necessary to make an appointment with one of its mortgage advisors and to complete an SFS. Referring to this letter and the Complainant’s attendance at the Provider’s branch, the Complainant’s solicitor wrote to the Provider on **24 June 2015**, requesting that it revert regarding the sale of the property. The Complainant’s solicitor sent reminder letters to the Provider on **9 July 2015**, **4 August 2015** and **18 August 2015**. By letter dated **20 August 2015**, the Complainant’s solicitor forwarded all previous correspondence to the Provider as requested. An SFS was submitted by the Complainant on **29 June 2015** and re-submitted with the necessary documentation on **13 July 2015**.

The Complainant’s solicitor wrote to the Provider on **8 September 2015**, advising that a response had not been received to its previous correspondence and requested a response. A further letter in similar terms was sent by the Complainant’s solicitor on **22 September 2015**. The Provider responded to the Complainant’s solicitor on **1 October 2015** and informed him that the matter was being investigated and it would be in contact shortly. In a letter to the Complainant’s solicitor dated **22 October 2015**, the Provider advised that it was still investigating the matter.

In an internal email dated **20 October 2015**, the Provider’s agent writes:

*“Despite customers’ high monthly household outgoings the customers have enough FCF to keep the property.*

*Bases on the information provided and the resulting FCF of €749pm it is evident the most appropriate and sustainable treatment to the customers is the PC&I treatment.*

*Recommend Pre PC&I Trial at €746.45pm followed by the full treatment.”*

Letters offering the Complainant an ARA to this effect in respect of each of her loan accounts were issued on **20 October 2015**. On the basis of this ARA, the Provider advised the Complainant by letter dated **12 November 2015** that her request for consent to sale of the property was declined.

The Complainant's solicitor wrote to the Provider by letter dated **17 November 2015** referring to the Provider's letter dated **22 October 2015**. The Complainant's solicitor advised the Provider that the intended purchasers of the property were threatening to withdraw from the sale. The Provider was further advised of the Complainant's dissatisfaction at its decision to offer a restructure of the Complainant's loan facilities as opposed to the sale of the property. The Provider wrote to the Complainant's solicitor on **20 November 2017** informing him that the matter was still being investigated.

By letter dated **27 November 2015**, the Complainant's solicitor sought redemption figures in respect of the loans. The Provider wrote to the Complainant's solicitor on **9 December 2015** setting out the documentation required in order for it to consider a voluntary sale of the property.

The Provider wrote to the Complainant's solicitor on **10 December 2015**, in respect of its investigation into the delay in responding to correspondence concerning the sale of the Complainant's property:

*"I acknowledge that [the Provider] have not responded to this request within a timely manner. Due to a high volume of these requests being received we are unable to respond to customers within the time frame we would like to. I apologise for any inconvenience that has been caused to you or [the Complainant] as a result of this delay."*

In a letter to the Provider dated **17 December 2015**, the Complainant's solicitor advised that the intended purchaser of the property was not willing to wait any longer to close the sale and that the sale was to be completed by **16 December 2015**. The Provider was also offered the full proceeds of sale of €159,500 plus €5,000 in full and final settlement of the Complainant's loan.

By letters dated **31 May 2016**, **7 June 2016** and **8 June 2016**, the Complainant's solicitor requested redemption figures in respect of the loans. By letter dated **7 June 2016**, the Provider sought confirmation from the Complainant's solicitor that the property was for sale and whether contracts had been signed, before it could process this request. In a memo drafted by the Complainant's solicitor dated **16 June 2016**, it states that a telephone call was made to the Provider to enquire about the Complainant's redemption figures to which the Provider advised that the matters raised in its letter of **7 June 2016** would have to be responded to before redemption figures could be issued. The Complainant's solicitor replied to the Provider's request on **16 June 2016** and redemption figures were issued on **22 June 2016**. The Complainant's solicitor forwarded two cheques in respect of the Complainant's loan to the Provider under cover of letter dated **30 June 2016**.

### Analysis

The correspondence outlined above indicates that the Provider maintained the view that the Complainant's repayments were affordable and sustainable. This was communicated to the Complainant from at least **September 2014**.

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The Complainant wrote to the Provider on **21 January 2015** outlining the financial difficulties she was experiencing and called on the Provider to engage with her with a view to reaching a sustainable solution. The Complainant states that the Provider failed to respond to this letter. I do not accept this to be the case because, as outlined above, the Provider responded to this letter on **27 January 2015**. It was on foot of this alleged failure to respond that the Complainant cancelled the direct debit in respect of her loan repayments. This led to a number of missed repayments. I note that the correspondence received by the Complainant during **2015** principally related to the Complainant's arrears and the unpaid monthly direct debits. I do not consider this correspondence to be excessive.

The Complainant's evidence indicates that it was never her intention to retain ownership of the property on a long-term basis especially following the completion of her family home and in light of the financial difficulties she was experiencing.

While this may be the case, the Complainant was nonetheless obliged to obtain the consent of the Provider prior to any sale of that property. The Provider's mortgage conditions are clear in that the consent of the Provider is required before the mortgaged property could be sold. The evidence also suggests that while the Provider was aware of the Complainant's intention and efforts to sell the property, no formal consent to sale was sought from the Provider until **12 May 2015**. The Provider replied to this request on **27 May 2015**, advising that in order for it to assess the sustainability of the Complainant's loans, it would be necessary to make an appointment with one of its mortgage advisors and that an SFS should be completed. An SFS was first submitted on **29 June 2015** and again on **13 July 2015**. The Provider informed the Complainant of its assessment of her SFS on **20 October 2015** and offered an ARA in respect of each of the loans.

I accept that there was an unreasonable delay on the part of the Provider in assessing and responding to the Complainant's SFS originally submitted on **29 June 2015**. I also accept that a number of letters from the Complainant's solicitors went unanswered by the Provider between **June 2015** and **September 2015**. While the Complainant has expressed dissatisfaction at the manner in which she was dealt with by the Provider's call representatives, the Provider has not furnished any call recordings in respect of the telephone conversations with the Complainant. Therefore, I am unable to satisfactorily ascertain, on the basis of the evidence presented, the manner in which the Provider's call representatives conducted themselves during telephone conversations with the Complainant.

The Complainant submits that the delay on the part of the Provider jeopardised the sale of the property and also led to the accrual of additional interest on her loans. The implication of the Provider's decision to offer the Complainant an ARA in respect of her loans on **20 October 2015** was that the Provider was not willing to consent to the sale of the property. The Provider advised the Complainant of its decision to decline consent to sale on **12 November 2015**. The Complainant's solicitor wrote to the Provider expressing the Complainant's dissatisfaction at these decisions on **17 November 2015**. The Provider wrote to the Complainant's solicitor on **9 December 2015** outlining the information needed in order to consider a voluntary sale of the property.

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There is no evidence to suggest that this information was forwarded to the Provider. I accept that the foregoing decisions are within the commercial discretion of the Provider. While the conduct of the Provider, through its letter of **9 December 2015**, demonstrated a willingness to re-consider the sale of the property, I do not accept that the Provider's conduct in this regard was unreasonable as it was the Provider's view, based on an assessment of the Complainant's financial position, that her repayments arrangements were sustainable.

Following the letter from the Complainant's solicitor to the Provider dated **17 December 2015** regarding the closing of the sale of the property, the Provider does not appear to have received any further correspondence from the Complainant's solicitor until **31 May 2016** when a request for redemption figures was received. The Provider advised the Complainant's solicitor on **7 June 2016** that certain information was required before it would furnish redemption figures.

The relevant information was given to the Provider on **16 June 2016** and redemption figures of approximately €173,500 were issued on **22 June 2016**. While the Complainant was issued with redemption figures of €164,000 in **April 2015**, she was not in a position to redeem the loans until **June 2016** and interest continued to accrue on her loans during this period.

While I accept that there were delays on the part of the Provider in responding to the Complainant and her solicitor between **June 2015** and **October 2015**, I do not accept that the Provider was responsible for any delays associated with the sale of the property because the Complainant did not have consent to sale at that time and consent was subsequently refused - implicitly on **20 October 2015** and formally on **12 November 2015**. Therefore, the Complainant was not in fact entitled to sell the property. As noted above, while the Provider was aware of the Complainant's efforts to sell the property, the Provider did not indicate a willingness to re-consider such a proposal until **9 December 2015** and as outlined above, the information sought from the Complainant's solicitor on that date was not provided. Furthermore, it is not clear when the property was in fact sold and why redemption figures were not sought until **31 May 2016**. Therefore, I have not been provided with any evidence that the conduct of the Provider delayed or jeopardised that sale of the property.

The Provider accepts that it should have been in a position to respond to the Complainant's SFS in the first week of **September 2015** and estimates that additional interest of approximately €2,000 accrued on the Complainant's loan account between **September 2015** and **9 December 2015**. Furthermore, the Provider has acknowledged and apologised for the delays caused to the Complainant and states that *"[i]n an effort to reach an amicable resolution to the matter the [Provider] offered the Complainant a gesture in the amount of €5,000 which included a refund of €2,084.00 (€1,010.00 + €1,074.00) and €2,916.00 for the service issues incurred."*

I consider this goodwill gesture offered by the Provider to be a reasonable sum of compensation for the delay on the part of the Provider and the service issues experienced by the Complainant. In these circumstances, on the basis that this offer remains available to the Complainant, I do not uphold this complaint.

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## **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.

**GER DEERING**  
**FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

10 January 2020

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.**