



|   |  |
|---|--|
| <b><u>Decision Ref:</u></b>             | 2020-0322  |
| <b><u>Sector:</u></b>                   | Investment   |
| <b><u>Product / Service:</u></b>        | Approved Minimum Retirement Fund AMRF  |
| <b><u>Conduct(s) complained of:</u></b> | Fees & charges applied<br>Delayed or inadequate communication<br>Dissatisfaction with customer service |
| <b><u>Outcome:</u></b>                  | Rejected   |

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

The complaint concerns the Complainant's personal pension plan administered by the Provider.

**The Complainant's Case**

The Complainant submits that she had a matured pension plan, held within a non-interest-bearing account with another pension Provider which was pending instruction from her as to what to do with the funds, until she had reached the age of 75 years. The Complainant submits that she intended to keep the funds in the same plan until her 75th birthday, at which time she intended to convert them to an approved retirement bond.

The Complainant submits that on the advice of her financial adviser in late 2016, she made the decision to transfer the funds from matured pension plan into a new pension plan with the Provider. The Complainant submits that at the time the new policy commenced, she was unaware that any charges and commissions would be deducted from her single contribution to the policy.

The Complainant submits that the policy document dated 12 January 2017 shows that the single contribution in the new pension plan was €29,363.38 and that the investment contribution by the Provider was only €28,922.93. The Complainant submits that after receiving the policy documentation in January 2017, she requested clarification from the Provider as to the exact amount that the Provider invested into the fund on her behalf compared to the amount that she had invested in the new plan.

The Complainant submits that the Provider delayed its response to her queries on this matter for 17 months. The Complainant submits that the Provider allowed the 30 day rewinding period on the new policy to lapse without furnishing her with the information she required to make an informed decision to continue with the new policy.

The Complainant submits that the Provider took instructions from a financial adviser to deduct money from the fund in question to pay his commission without her prior knowledge or permission. The Complainant submits that if she had been made aware of the extra charges and expenses on the policy, she would not have proceeded with it.

The Complainant argues that it was impossible to get a full explanation of the missing €440 for the commission for the broker. She also argues that attempts were made by the Provider to hide this figure. She points to the policy conditions definition section which contains no information about commission but rather discusses the schedule, contributions and regular management charges. She notes that there is no indication that the commission is removed from the single contribution. The Complainant argues that this is replicated in policy statements. She argues that the reference to allocation does not explain that the €440 commission.

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

The Provider states that the Complainant met with a financial adviser from an independent broker and completed an application form on 1 December 2016 in order to take out an Approved Minimum Retirement Fund (**AMRF**) policy from the Provider. The Provider states that an AMRF policy is a single premium unit linked pension policy. It states that the Complainant had an amount of €29,363.38 to invest in the AMRF which were the proceeds of a personal pension plan held with another Provider. The Provider states that it issued policy documents relating to the AMRF to the Complainant on 12 January 2017. The Provider states that the policy documents consisted of the policy conditions and policy schedule provided to the Complainant which details her policy and the terms under which the policy would be administered. The Provider states that the information enclosed in the policy documents gave the Complainant the option to cancel the policy but to within 30 days if she was unhappy with it for any reason but the Complainant did not avail of this option.

The policy schedule outlined the single contribution amount was €29,363.38 and that the investment contribution amount was €28,922.93. Single contribution amount is defined in Section A of the policy conditions as the "*initial contribution invested by you in the policy*". When the policy was put in force, the Provider states that it paid the broker 5% commission, 3.5% was paid directly by the Provider and the remaining 1.5% (amounting to €440.45) was deducted from the Complainant's single contribution of €29,363.38. The remaining 98.5% the contribution (i.e. €28,922.93) was invested in the specified fund.

The Provider notes that the broker included a 1.5% charge in its cost to the Complainant and it is the Provider's understanding that the broker has offered to refund the amount of €440.45 to the Complainant as a gesture.

/Cont'd...

The Provider states that it cannot comment on any request that the Complainant made to the broker. It states that it received a call from the Complainant on 20 January 2017 querying the policy documents. In a follow-up call on 24 January 2017, the Provider states that it confirmed the policy details and confirmed the allocation rate under which the policy was set up, based on instructions received from the broker. The Provider does not accept that it was delayed in responding to a query made by the Complainant in order to exceed the 30 day cooling off period. The Provider has no record of the Complainant raising any concerns directly with it in relation to the amount invested in the policy and the policy document issued to the Complainant on 12 January 2017 made reference to the 30 day cooling off period. It states that the option to avail of the 30 day cooling off period was available to the Complainant from the date the policy documents were issued.

The Provider argues that the investment amount was clear from the policy document issued which stated that the amount invested was €28,922.93. The policy schedule outlined the single contribution amount and the investment contribution amount, with the single contribution amount defined. It states that the difference between the two figures (i.e. €440.45) was paid to the broker as part of its fee. The Provider points to a statement in the policy schedule which provides that *“the contribution payable for your policy includes all charges, expenses and intermediary/sale enumeration”* which it claims informs the policyholder of the charges to be applied to the policy. It argues that in the case of the Complainant’s policy, this statement means that the single contribution includes €440.45 which was deducted as the broker’s fee.

In relation to the annual management charge (AMC) for the specified fund, the annual fee was specified in the policy schedule of 1.7% per annum. The Provider points to Section C of the policy conditions which states that *“the costs of maintaining, managing and valuing the assets of the fund are deducted from the value of the fund each time that the fund is valued.”*

The Provider argues that the policy was set up as requested by the broker at the time. It accepts that it was not in a position to alter the investment amounts invested on day one as it was requested by the broker. The Provider argues that the complaint primarily relates to matters that arose between her and her broker and states that it was not privy to their discussions.

The Complainant wants this Office to review the conduct being complained of in relation to her pension and is seeking monetary compensation as a resolution to the complaint.

### **The Complaints for Adjudication**

The first complaint is that the Provider failed to answer the Complainant’s queries in relation to policy in a timely manner and allowed the 30 day rewinding period of policy to lapse without having the information she required to make an informed decision to continue with the policy. The second complaint is that the Provider wrongfully deducted money from her investment fund to pay commission to the financial adviser without her consent.

/Cont’d...

## **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 on 17 June 2020, 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.

Following the issue of my Preliminary Decision, the parties made the following submissions:

1. Letter from the Complainant's representative to this Office dated 23 June 2020.
2. E-mail from the Provider to this Office dated 9 July 2020.
3. E-mail from the Complainant's representative to this Office dated 14 July 2020, together with attachments.
4. Letter from the Complainant's representative to this Office dated 8 September 2020.

Copies of these submissions/correspondence were exchanged between the parties.

The Provider advised this Office under cover of its e-mail dated 8 September 2020 that it did not wish to make any further submission.

Having considered these additional submissions, and all of the submissions and evidence furnished to this Office by the parties, I set out below my final determination.

/Cont'd...

Before dealing with the substance of the complaint, I note the pension plan was sold to the Complainant by a third party broker. As this complaint is made against the Respondent Provider only, it is the conduct of this Provider, and not the broker, which will be investigated and dealt with in this Decision.

Therefore, the conduct of the third party broker engaged by the Complainant, does not form part of this particular investigation and decision.

The Provider has submitted that the relevant policy documentation issued to the Complainant by letter dated 12 January 2017. It appears, however, that the relevant documentation was sent to the Complainant's broker and not to the Complainant directly and further it was not received by the broker until 20 January 2017 at which point it was forwarded to the Complainant for review.

The policy schedule sets out the policy commencement date of 23 December 2016, and evidences a single contribution of €29,363.38 and investment contribution of €28,922.93. 100% of the investment contribution was made in the identified fund. The management charge was identified as 1.7% per annum. On the third page of the policy schedule, after the projected benefits of the policy had been set out, the last line indicates as follows:

*"The contribution payable for your policy includes all charges, expenses and intermediary/sales remuneration."*

On the fourth page, under a heading *"What intermediary/sales remuneration is payable?"* a chart indicates as follows:

| <b>Year</b> | <b>Contribution payable in that year (Euro)</b> | <b>Projected total intermediary/sales remuneration payable in that year (Euro)</b> |
|-------------|---|--|
| 1           | 29,363  | 1,602  |
| 2           | 0   | 147  |
| 3           | 0   | 149  |
| 4           | 0   | 151  |
| 5           | 0   | 153  |
| 10          | 0   | 163  |
| 15          | 0   | 174  |
| 20          | 0   | 185  |
| 25          | 0   | 197  |
| 26.33       | 0   | 67   |

Under heading *"if you have second thoughts"*, the Complainant's right to cancel the policy was set out indicating that if an instruction is received within 30 days of the issue of the policy documents, the contributions remitted to the Provider would be refunded to the pension arrangement from which it was received.

/Cont'd...

The policy documents also included the policy conditions of the AMRF the Complainant invested in. Single Contribution is defined as the *“initial contribution invested by you in the policy. It is stated on the Schedule.”*

In respect of the regular management charge, the policy booklet indicates that the product administrator will calculate the amount of the management charge each month and that it will *“deallocate from the policy in a manner determined by the Company’s Actuary a number of units allocated to the policy equal in value to the unit price to this charge”*. The policy conditions booklet also set out the intermediary/sales remuneration payable on a sample policy with a single contribution of €63,500. Based on the figure set out, initial commission seems to be set at approximately 3.5% in this example, with an annual payment from the AMC of 0.5%, though this is not confirmed.

In the relevant policy application form, 100% of the investment was directed to a specified fund. The fund in question was identified in the application form as having a management charge of 0.2% above standard. In section 10, which bears no heading other than the indication that it be completed by the insurance intermediary, the form states that if no instruction is given, *‘standard commission will be assumed’*. There is no indication of the level of this ‘standard’ commission. Under a heading *“special instructions”*, *“5% .5 Trail”* is indicated. An email from the broker to the Provider dated 2 December 2016 in respect of the proposed AM for the Complainant has been submitted. This email requests that the Provider *“set this up under A. 5% 98.5% allocation and .5& trail 1.5% AMC.”*

Recordings of two telephone calls between the Complainant and the Provider were submitted in evidence. I have considered the contents of those calls. In the first call on 20 January 2017, the Complainant raised a concern that the policy documentation had not yet been received by her and that she had had no acknowledgement that the Provider received the proceeds from her third-party pension policy in December 2016. In the second call from 24 January 2017, the Complainant indicated she had received the policy documentation and was concerned by the fact that the entire proceeds of the third-party policy had not been invested. She queried why there was a difference between the contribution amount and the sum invested of approximately €440.50. The Provider’s representative was very helpful in this call and indicated that the difference in the €440.50 was a matter that she should address with her broker. The representative indicated the deduction was made on the basis of an instruction received from the broker and that some brokers allow a higher allocation than 98.5% but also informed her that the broker is paid by the Provider.

Despite the fact that the Complainant has suggested that clarifications that she raised with the Provider were not responded to at this time within the 30 day cooling off period, I do not agree that the queries raised by the Complainant on this call of 24 January 2017 were not adequately responded to. The representative in question was most helpful to the Complainant and referred her to her own broker for further details of the fees which he was to receive. I do not believe that there is anything inappropriate in this. The Provider’s representative made it clear that it acted on instructions from the broker in allocating 98.5% of the investment. I further note that the representative in question followed up with the Complainant the following day by providing her with a fact sheet in relation to the fund in question.

/Cont’d...



It appears that the Complainant and her husband met with representatives of the Provider on their request on 29 March 2018. The note of that meeting suggests that the Complainant indicates that they were informed that MG of the broker gets 0.5% of the 1.7% annual management charge every year. The note further indicates that the Provider told the Complainant that the broker had instructed it to invest only the 98.5% and asked them to write to the broker for an explanation. The note indicates that if the fund is less than a €100,000, only 98.5% is invested but the representative of the Provider indicated that this was not true. By letter dated 20 April 2018, the Provider wrote to the Complainant referring to the meeting held between the parties on 29 March 2018. The writer, RM, indicated that she had contacted MG in the broker's office in relation to the Complainant's queries regarding the setup and allocation rate applied to her policy in December 2016. The letter indicated that MG had advised her that he would contact the Complainant to discuss this. The letter indicated the funds received and the amount invested before confirming the fund invested in and the allocation rate of 98.5%. The letter stated that the *"policy charges on the annual benefit statement are the difference between the funds received and investment amount"*. The letter set out the performance of the fund over the previous year and indicated that the annual management charge on the policy is 1.7% per annum, deducted by way of units on a monthly basis. The email sent by RM to MG dated 13 April 2018 explains that the concern of the Complainant and her husband was the 98.5% allocation as they claim to have been advised that the only fee was the AMC of 1.7% per annum.

RM states that she indicated to them this was between them and the broker and advised them to contact the broker. She also indicates that she explained that the AMC of 1.7% included a "trail payment" also.

Following a further meeting with the Complainant and her husband on 22 June 2018, RM of the Provider wrote to DW of the broker who was handling the complaint against the broker to set out what was discussed at the meeting. She indicated that the Complainant and her husband were dissatisfied about the 98.5% allocation and stated they were not advised of this at the initial meeting. RM states that the Complainant and her husband indicated that they had been advised that as the investment was under €100,000 that the Provider could only invest 98.5%. RM states that she indicated that the Provider has different commission structures and that acted on what was stated on the proposal. RM also indicates that she explained the cooling off period to them but the Complainant and her husband said no one had ever explained about the 98.5% net allocation and that they queried this a number of times at the start, with the Provider indicating that it acted on the broker's instruction to take the 1.5% and with the broker indicating that the Provider had deducted the 1.5% allocation. The Complainant's note of the meeting of 22 June 2018, MJ of the Provider is indicated to have agreed that brokers can take a cover charge when setting up a new policy but that it should have been explained to the Complainant and that is in the terms and conditions.

In a further letter to the Complainants dated 3 July 2018 following the meeting of 22 June 2018, the Provider confirmed that as previously explained on 29 March 2018, the broker instructed the Provider to set up the policy on the basis of the 98.5% allocation.

/Cont'd...

The Provider states that the broker is independent and that it acted in good faith based on the instruction and set up the policy as per the proposal form. The writer notes that she recommended that the Complainant speak to her broker and that she understood that MG of the broker had met with her to discuss the issue. The Provider's letter points out that the allocation rate is outlined in the policy schedule and a 30 day cooling off period is set out. The letter explains that although the funds for investment received were on 23 December 2016, the office was closed during the Christmas period and the policy was processed on system on the 11 January 2017. (I note that the dates stated in the letter are a year later but this is clearly in error.) The Provider states that that the policy documents were sent to the sales support department on 12 January 2017 for onward transmission to her broker and that she is sorry that she did not receive the documents 25 January 2017. The writer indicated that confirmed at the meeting, the Provider was instructed to set up policy on the basis of the allocation and was unaware of any paperwork or agreements between the Complainant and her broker. The writer indicated that at the meeting, MJ explained that the Provider *"has different allocation rates available and this can be dependent on the amount of the investment."*

A formal complaint was raised on behalf of the Complainant by her husband by email dated 19 July 2018 in relation to the lack of clarification provided. The Complainant's husband indicated that the "policy charges" indicated in the schedule seem to be the commission aid to the broker and wonders why this was not clarified.

He argues that there were supposed to be no extra charges above the 1.7% and that the commission was supposed to be paid by the Provider but rather the Provider took the money out of the Complainant's account and paid it to the broker. The Complainant questions under what authority this money was removed from the Complainant's account without permission. The Complainant's husband also stated that it must have been obvious that the explanation received from the broker was insufficient and that as the broker holds a letter of appointment from the Provider, this should have been raised by the Provider and the Provider should tell the broker to explain. The Complainant's husband also claimed that the issue of deducting units receipt is questionable and should have been highlighted and explained by the broker.

By way final response letter dated 16 August 2018, the Provider wrote to the Complainant stating that all issues were raised with their broker on a number of occasions. The letter indicates that the broker is an independent broker with an agency relationship and the Provider relies on instructions sent by the broker to it. The Provider states that it was not privy to the sale of the contract and the fees agreed between the Complainant and the broker. The letter goes on to say as follows:

*"I have enclosed a copy of the documentation completed at point of sale and this reflects the commission rates advised by the Broker. I also enclose a copy of the policy schedule which shows your investment contribution of €28,922.93 which reflects the allocation rate of 98.5%.*

/Cont'd...



*We paid your Broker 5% commission, 3.5% of this was paid directly from [the product administrator] and 1.5% was deducted from your allocation as instructed by the Broker. I respectfully suggest that if you wish to query this further I recommend that you meet with your Broker.*

*The policy document issued to you reflects receipt of the funds at 23 December 2017.*

*The annual management charge on your policy is 1.7% per annum and is deducted on a monthly basis by unit deduction. This is outlined in the policy terms and conditions.*

*[The Provider] is satisfied that this policy was set up in accordance with the policy terms and conditions."*

The Provider has submitted a document stating commission payments made to the broker in respect of the policy in question. The initial commission payable in January 2017 is expressed at €1,468.17. The payment of €291 and 5% have been paid due to the fact that the policy remains in force. Total from January 2017 to December 2018 is expressed to be €1,759.22.

There are two main complaints being made against the Provider in this matter. First is a complaint that the Provider failed to clarify the difference between a single contribution and the investment amount when clarification was sought in January 2017 and prior to the lapse of the 30 day winding up period. As I have set out above, this assertion is not supported by the evidence.

On a call on 24 January 2017 between the Complainant and a representative of the Provider, the representative in question answered all questions raised by the Complainant and referred her to the broker for further clarification in relation to the 98.5% allocation rate that the broker had instructed the Provider to implement setting up the policy.

In relation to the second complaint that the Provider acted without the authority of the Complainant in deducting the €440.50 and paying it by way of commission to the broker, I do not accept that the evidence supports this assertion either. The Provider has submitted evidence showing that it was directed by the broker to allocate 98.5% of the Complainant's contribution into the designated fund. Further, the broker indicated that it should be paid a 5% commission with a 0.5% trail payment or annual payment out of the annual management charge. Agreement of these commission rates was a matter between the broker and the Provider, and should have been agreed in advance, although no further information has been furnished by either party in relation to this. I acknowledge that the Provider has indicated that the 1.5% deducted by the Provider from the Complainant's investment was paid by it to the broker as part of the 5% commission. I am unaware of any express obligation on the part of the product administrator to make this information available to an end customer where there is an intermediary in place and the intermediary has obligations under the Consumer Protection Code 2012 to inform the customer of the nature and detail of fees charges and commissions being deducted and paid.

/Cont'd...

I note that on the fourth page of the policy schedule, a detailed breakdown of the commission and fees to be paid by the Provider to the broker is set out. This reflects a 5% commission in the first year, although I accept that it does not indicate that the 5% is made up of 1.5% deducted from the Complainant's investment and 3.5% from the Provider. In any event, in the present case, Provider's representatives directed the Complainant to her broker for further clarification on this issue and I accept that it gave her sufficient information to explain why it had only invested 98.5% of her total fund on the instruction of the broker.

The Complainant's husband, who has acted as the third party representative in this complaint, has, in his post Preliminary Decision submission of 23 June 2020, raised the argument that:

*"The term I have used at all times in my complaint when referring to MG of [name of company] was "Financial Advisor". I did not use the term Broker. I engaged a Financial adviser – not a Broker. This was not discussed with him or he did not raise any issues either. My understanding was – and still is: he was engaged to advise me on certain investments and financial matters and to proceed with investments [if applicable] on my direction."*

The Complainant's representative believes that some confusion may have been caused in the adjudication of this complaint as:

*"It is possible that the provider assumed that he was a "Broker" who would have different duties and perhaps powers etc. I did not sign a Power of Attorney or any other document giving him any more power than was understood."*

The Complainant's representative further states:

*"I feel that the assumption that MG was a Broker and that he was engaged by me as Broker is distorting the outcome of this complaint."*

*I respectfully request that your document be changed to show that the term "Broker" is changed to "Financial Advisor" where applicable and that your findings will be in keeping with a Financial Advisers reduced powers."*

The Provider responded to the comments of the Complainant's representative, by email dated **9 July 2020**. It submits:

*"We believe we have fully addressed [the Complainant's] complaint however we would like to take the opportunity to clarify our reference to "broker" in our response to the schedule of questions and evidence and the further submission."*

*We used the term broker in reference to the business of [name of company], who are an independent broker. [Name of company] holds an agency with [the Provider] which permits them to assume responsibility to sell and provide advice in respect of our products. We note MG of [name of company] is a Qualified Financial Advisor as stated on their Terms of Business letter and is also a member of Brokers Ireland”.*

The Complainant’s representative, in a post Preliminary Decision submission dated **14 July 2020**, attached a PDF page which gives a definition of a broker, and a definition of a financial advisor. The Complainant’s representative states the definitions are from the Competition and Consumer Protection Commission.

The Complainant’s representative states that:

*“The term Broker is often used to describe a Financial or Insurance institution etc. and is obviously used when referring to a specifically qualified Broker [person]. Financial Advisor should be used when referring to the individual [in this case].*

*If the term Broker is used when referring to a Financial Advisor, it is too easy to misrepresent the Financial Advisor by assuming he had higher authority and responsibility”.*

The Complainant’s representative then states that:

*“The term “Financial Advisor” is not used once in the Preliminary Decision and therefore I have to assume that the outcome may not be totally correct”.*

This statement is incorrect, as in the section titled “**The Complainant’s Case**” in both the Preliminary Decision and this Decision I noted:

*“The Complainant submits that the Provider took instructions from a financial adviser to deduct money from the fund in question to pay his commission without her prior knowledge or permission. The Complainant submits that if she had been made aware of the extra charges and expenses on the policy, she would not have proceeded with it”.*

I also noted in the Preliminary Decision and this Decision that:

*“The Provider states that the Complainant met with a financial adviser from an independent broker and completed an application form on 1 December 2016 in order to take out an Approved Minimum Retirement Fund (**AMRF**) policy from the Provider”.*

The Complainant's representative further states:

*"I accept our Financial advisor is qualified [as per his business card] and it was with that understanding I engaged him. He was not operating as a Broker and was not given permission to act as a Broker on our behalf at any time as we did not need a Broker."*

The Complainant's representative asserts:

*"What is troubling and it is the MOST SERIOUS issue in my complaint: [the Provider] accepted direction from a Financial Advisor to remove money from my account without my permission. Did [the Provider] check first if the advisor had the appropriate permission"?*

Further, the Complainant's representative also states:

*"If [the Provider] assumed that the advisor had this authority:*

- A      *Was this a mistake ??*
- B      *Was this a conspiracy ??*
- C      *Was it legal ?*

*In either case it was wrong.*

*Throughout this adjudication I did ask the question: Under what Rule, Code or Law was this covered by. No answer was forthcoming. This question must be answered".*

I addressed this matter in the Preliminary Decision and will do so again now.

In relation to the legal basis for the deduction as raised by the Complainant's husband, in cases such as this the broker acts as the agent of the customer and with the apparent and ostensible authority of that customer. In such a case, the Provider is entitled, and indeed required to act in accordance with the instructions of the broker, on the basis that the broker is legally assumed to be relaying instructions or authority received from the customer. If there is a dispute between the customer and the broker in relation to the limits of the broker's authority to act on the customer's behalf, this is a matter between the Complainant and the broker but is not something I can hold the Provider responsible for. The Provider is entitled to act on the apparent authority of the broker. It is not the job of the Provider to police the relationship between the broker and the customer and it does not have to be presented with proof of the customer's express permission to deduct the 1.5% commission from the overall investment before it can act in accordance with the instructions of the broker.

/Cont'd...

The Complainant's representative has asserted that the Provider has breached the following sections of the Consumer Protection code:

|     |      |       |       |      |
|-----|------|-------|-------|------|
| 2.1 | 2.7  | 3.7   | 3.36c | 4.54 |
| 2.2 | 2.8  | 3.8   | 4.1   |      |
| 2.3 | 2.12 | 3.31a | 4.2   |      |
| 2.6 | 3.5  | 3.36b | 4.18  |      |

I have been provided with no evidence that the Provider breached any provisions of the Consumer Protection Code.

I believe the Provider's response to the Complainant's complaint and the efforts that it made to meet with the Complainant and her husband on two occasions in 2018 were reasonable and that it made a genuine effort to resolve the complaint.

I further note that it sent a number of letters to the Complainant seeking to clarify the issue for the Complainant and repeatedly suggested that she contact her broker for further details in relation to the initial agreement between the Complainant and the broker on the subject of fees. The Provider had no input or dealings between the broker and the Complainant with this initial agreement and was only ever in a position to act on the instructions received from the broker, which it did. I accept in relation to the complaint that the Provider acted at all times in accordance with its regulatory obligations.

For the reasons outlined in this Decision, I do not uphold this complaint.

### **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**

24 September 2020

/Cont'd...



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.

