



<b><u>Decision Ref:</u></b>	2020-0386
<b><u>Sector:</u></b>	Banking
<b><u>Product / Service:</u></b>	Interest Only
<b><u>Conduct(s) complained of:</u></b>	Application of interest rate Complaint handling (Consumer Protection Code) Dissatisfaction with customer service
<b><u>Outcome:</u></b>	Rejected

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

The Complainants entered into a mortgage loan agreement in respect of an investment property with a third party financial services provider (the **TPP**) in **October 2007**. The TPP subsequently merged with the Provider, against which this complaint is made. The Complainants maintain the loan agreement with the TPP was subject to interest only repayments for the full 16 year term of the loan. However, the Provider asserts, referring to the letter of offer, that the interest only arrangement was for a period of 5 years after which repayments would be on a full capital and interest basis.

**The Complainants' Case**

The Complainants explain that they were dealing with the TPP since **1997**. In **2004**, the Complainants' mortgage loan was transferred to the TPP. This loan was repayable on a capital and interest basis. In **2007**, the First Complainant had a meeting with a manager within the TPP to discuss the mortgage loan and the Complainants' future plans. It is stated that "[c]oming to the end of the meeting he offered me an interest only tracker mortgage for the remaining term of the mortgage that was 16 years." To avail of this offer, the Complainants were required to "... close down my existing mortgage of 2004 and apply for a new mortgage." The TPP manager completed a mortgage application form and the Complainants signed it.

The Complainants received a loan offer letter dated **3 October 2007**. This letter comprised nine pages and “... was confusing to me, as the verbal offer and the completed application form by the manager was for an interest only tracker mortgage for a term of 16 years.”

The First Complainant telephoned the TPP manager to explain he was not interested in an endowment pension mortgage as this was referred to in the loan offer letter. The letter also stated that repayments would go from €1,484.38 to €3,652.92. The TPP manager advised the First Complainant “... that this was the way it had to be set up for administration purposes.” The First Complainant “... accepted his explanation in good faith as he had completed the application form for a 16 year interest only tracker mortgage.”

The Complainants outline that:

*“From the [Provider] files (appendix 3B) is the [TPP] computer printout setting up the mortgage. On page two it states **“Term 16 years” “Repayment type interest only”**. This printout has a prepared date of 03<sup>rd</sup> October 2007 as the loan offer letter above. If the interest only was for five years only it made no financial sense for me to take the mortgage as I was already paying Capital and Interest on my original mortgage of 2004. On the 23 October 2014 I signed the loan offer letter in my Solicitors office. We had a discussion on the loan offer and I told him what had been said to me.”*

The Complainants received a letter from the TPP dated **9 November 2007**, stating “**Your Mortgage Type --- Your Mortgage is an interest only mortgage’.**” It is stated that:

*“This letter satisfied me that I had my interest only tracker mortgage for 16 years as the letter states my repayment will be €1484.38. It also states **‘Your subsequent monthly payments, based on current interest rates will be the same amount. No time limit.’**”*

A statement of account was the next document received by the Complainants on **10 November 2008**. The Complainants observe that:

*“This statement states on page 1 **Repayment Method Interest only, term remaining 15 years 1 month**. On page 3 under the heading of Repayment Method it states **this is an interest only mortgage** and it goes on to say that I should ensure that my investment vehicle will be on track to pay off the mortgage. Every year until the November 2014 the statements state the same.”*

It is further emphasised that “[a]s far as I am concerned I have an interest only tracker mortgage for 16 years given to me by [the TPP]. [The Provider] closed down [the TPP] and then wants to impose [Provider] rules on my mortgage.”

The Complainants explain that two of the Provider’s agents investigated the subject matter of this complaint. Agent A “... takes the view that I have an application for a 16 year interest only tracker mortgage that was completed by [the TPP].” Agent B “... took the view that I had signed the loan offer letter and that was that.”

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In support of the view expressed by Agent A, the Complainants refer to a letter of complaint dated **29 October 2015** and two telephone conversations with Agent A on **6 November 2015** and **30 November 2015**. The Complainants have also referred to and cited from the transcript of the **30 November 2015** telephone call.

The Complainants received a letter dated **15 December 2015** from Agent B advising that she had taken over the investigation of the complaint. The Complainants received the Provider's response to the complaint dated **23 December 2015** on **4 January 2016**. The Complainants explain that:

*"I was surprised by the contents of her letter as she ignored any reference to [Agent A's] investigation and his results which I agree with. **"The mortgage issue is a product issue to be sorted out by the Complex Complaint Handling Team"**. To me it seemed that [Agent B] was carrying out a complete separate investigation. ... I could not understand how she could come to the conclusions that she did."*

Referring to this letter and Agent B's investigation, the Complainants state they responded to this letter on **11 January 2016** but no response was received. However, Agent B did respond to a letter sent to the Provider's arrears manager dated **18 January 2016** on **27 January 2016**. To understand Agent B's reasoning, the First Complainant contacted the Provider by telephone on **9 February 2016**. The First Complainant was unable to speak with Agent B and then contacted Agent A. When the First Complainant spoke to Agent A, he was advised by Agent A that he would take care of the matter. The Complainants cite an entry in the Provider's notes which states *"09/02/2016 Quote **"Customer called to discuss his complaint, this is with ... I advised I would see if I can confirm a detail for him and call him back this week. E-mail sent to ..."*** The Complainants advise that no call back was received.

Following a Data Subject Access Request (**DSAR**), the Complainants received, amongst other documentation, the documentation considered by Agent B in the course of her investigation. The Complainants raise a number of points in respect of Agent B's letter of **23 December 2015**. First, the letter enclosed an eight page Loan Offer Letter and *"[t]hree of the pages with the heading General terms and conditions, I had never seen before. The other pages I had seen."*

Second, Agent B could not find evidence of any contradictions in the letter dated **3 October 2007** because the Provider did not have a copy of the original Loan Offer Letter referred to the letter of complaint dated **29 October 2015**. The Complainants submit Agent B was aware she did not have the Loan Offer Letter on **8 December 2015**. Referring to DSAR documents, the Complainants state: *"Quote **"E-mail sent to [Agent B] in ... We rec'd the deed pack and there are no loan offers in this pack. The loan offers that are on [the Provider's computer system] is all we hold on file."*** The Complainants contacted the Provider on **9 September 2015**, to request a copy of the Loan Offer Letter. The Complainants outline this letter consisted of four pages and in a letter from the Provider's Data Protection section dated **25 February 2016**, it was confirmed the Provider did not have part of the Complainants' loan offer letter. In light of this, the Complainants pose the question: *"Where did [Agent B] get the terms and conditions document from, where there was no loan offer document with my deeds and in September ... [the Provider] could only provide me with four pages."*

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Third, in respect of Agent B's reference to correspondence issued in relation to the expiry of the interest only facility in **May 2015**, the Complainants maintain the position that they received no such correspondence at that time and "... the Data Protection section have confirmed, quote **"we have been advised by the mortgage centre that there is no copy held of the letter you refer to confirming the interest only facility ended in May 2015"** ..." The Complainants also observe that Agent B did not furnish a copy of any such letter either.

The Complainants remark that Agent B:

*"... looked at the loan offer letter of four pages which I signed, made her decision without looking at all the facts or calling me to understand my letter like [Agent A] ... I stated in my complaint letter of 29/10/2015 that the loan offer letter I received was confusing until the manager clarified it for me. [Agent B] has never seen my loan offer letter and never asked for it."*

A letter dated **11 March 2016** was issued to the Complainants advising them the loan related to a rental property and was not the Complainants' primary residence. The Complainants query whether Agent B made "... her decision on a buy to let property as part of a pension portfolio or a primary residence. [Agent B] made her decision in December 2015 and the system was updated in 2016."

In resolution of this complaint, the Complainants want "[t]o continue with my interest only tracker mortgage until the term ends in 2023."

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

The Provider refers to the terms and conditions and the loan offer letter dated **3 October 2007** as forming part of the mortgage loan contract entered into with the Complainants when they signed the loan offer on **23 October 2007**.

The Provider states that it submitted an obsolete copy of the loan offer dated **3 October 2007** in its submission dated **26 July 2019**. This letter was not issued to the Complainants and the documents furnished by the Complainants' solicitor and signed by the Complainants on **23 October 2007** is the correct loan offer. The Provider has apologised for this oversight.

It is submitted that in each loan offer, the specific term regarding interest only remained the same.

The Provider rejects that the Complainants never saw the original loan offer letter as the loan offer dated **3 October 2007**, signed by the Complainants in the presence of their solicitor on **23 October 2007**, was returned to the Provider on **23 October 2007**.

During telephone calls on **22 September 2015**, **28 October 2015** and **6 November 2015**, the First Complainant confirmed he had a copy of the loan offer dated **3 October 2007**. The First Complainant stated on these calls that the copy of the loan offer he received in **September 2015** was missing pages that were contained in the original loan offer.

The Provider states that on these calls, the First Complainant confirmed he understood the loan offer was for five years interest only and stated he knew what he signed when he signed for the five years. The Provider asserts that the First Complainant also stated that he understood the loan would be reviewed every two years.

The Provider states that the Complainants' loan repayments reverted to capital and interest after the five year interest only facility expired on **15 November 2012** as per the conditions of the loan offer letter signed by the Complainants on **23 October 2007** in the presence of their solicitor. The Provider submits the offer confirmed the repayments due were interest only repayments for a period of 60 months and would revert to capital and interest thereafter. A letter was issued to the Complainants on **15 November 2012** advising that capital and interest repayments would commence on **9 December 2012**.

As the mortgaged property was a buy to let property, the Provider's policy at the time was to offer to extend the interest only period for a further two years following receipt of a written request from a customer. The Provider's records show the First Complainant spoke with one of its agents on **16 April 2013** who advised the Complainants to submit a request to extend the interest only repayments on the loan account. The Complainants submitted a letter dated **22 April 2013** requesting an extension to the interest only repayments and the facility was extended for two years from **10 June 2013** to **10 May 2015**. The Provider states that the First Complainant was informed by telephone on **16 April 2013** that the interest only facility would be extended for two years and backdated to **December 2012** when the repayments reverted to capital and interest.

The Provider outlines that following the expiry of the initial five year interest only period, while it is not specified in the terms and conditions of the loan offer, it was a policy within the Provider to offer to extend the interest only period for a further two years on a buy to let property.

The Provider states that the loan was drawn down on interest only repayments on **9 November 2007**. On the expiry of the five year interest only period in **November 2012**, the First Complainant contacted the Provider. The Provider asserts that the First Complainant acknowledged that he was aware that the interest only period had expired and requested an extension. However, this had not been done. A Temporary Forbearance Arrangement was put in place and backdated to **March 2013** to allow the Complainants to submit a request to extend the interest only period for two years.

Statements that issued to the Complainants listed the *Repayment Method* at the time the relevant statement issued. In the Complainants' case, the repayment method was listed on the annual mortgage loan account statements as *Interest Only* until **2015** when the repayments reverted to capital and interest repayments.

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The Provider refers to a statement issued to the Complainants on **30 November 2015** which it states confirmed the repayment method as capital and interest in line with the type of repayments that were falling due at the time the statement issued. The Provider states that this was explained to the Complainants in a letter dated **13 March 2017**.

The Provider states that it began to issue arrears correspondence to the Complainants in line with its regulatory obligations as arrears began to accrue on the loan account from **June 2015** following the expiry of the two year extension to the interest only repayments.

The Provider advises that the Complainants were notified of the expiry of the interest only period by letter dated **7 May 2015**. However, the Complainants continued to make interest only repayments when capital and interest repayments were falling due on the account, leading to the accrual of arrears.

The Provider states that two members of staff were involved in the investigation of the complaint. Agent A spoke with the First Complainant on **5, 6, 11 and 30 November 2015** in relation to the subject matter of the complaint.

The Provider's system notes indicates that Agent A advised the First Complainant on **30 November 2015** that the Customer Care Team based in Dublin would be taking the complaint forward. The Provider states that Agent A did not provide the Complainant with the outcome of the investigation into this complaint and, as per the letter issued to the Complainants on **15 December 2015**, the complaint was taken forward by the Customer Care Team. Agent B investigated the complaint and issued a resolution letter on **23 December 2015**.

The Provider explains the loan account the subject of this complaint was transferred to a third party as part of a loan sale in **March 2017**.

### **Further Submissions**

The parties have delivered a number of submissions in respect of this complaint. I will now outline certain aspects of these submissions.

The Provider states in a submission dated **16 December 2019**, that at the time the Complainants applied for and drew down the loan, an interest only mortgage loan for the lifetime of a mortgage was not a product offered by the TPP or the Provider. The wording on the loan offer letter described the type of loan at drawn down, in the same way the account statements described the repayment method at the time the statements issued. The Provider states that as the loan was drawn down with interest only repayments for the first five years, this is the reason the letter of **9 November 2007** advised the Complainants the loan was an interest only facility.

In terms of the account statements issued to the Complainants, the Provider advises that statements list the *Repayment Method* as the repayment method on the loan account at the time the statement is issued: if the account is on interest only when the statement is printed, the *Repayment Method* will be listed as interest only; if the account is on capital and interest repayments, this will be reflected under the *Repayment Method*. As the loan was drawn down on interest only repayments for five years, any statements issued during this period would have shown the repayment method as interest only.

Likewise, when the interest only arrangement was extended for two years from **November 2012** to **November 2014**, statements issued during this period would have recorded the repayment method as interest only.

The Provider advises that its submission of **22 October 2019**, contained the wording *'In the Complainants case the payment method was listed on the annual mortgage statements as Interest Only up to 2015.'* The Provider clarifies that it was its intention to confirm that any statements issued to the Complainants during the initial interest only period would have confirmed the *Repayment Method* as interest only. *"It was not the Bank's intention to confirm that the statements confirmed the account was on Interest Only up to 2015. We would like to apologise for any confusion this may have caused."*

The Provider also clarifies that the statement dated **30 November 2015** accompanying its **October 2019** submission, is in a different format to the annual statements that issued automatically to the Complainants. The transactions included on the **November 2015** statement cover the period **9 November 2007** to **27 November 2015**. This statement shows the repayment method as capital and interest as the account was expecting capital and interest repayments at the time.

In a submission dated **10 January 2020**, the First Complainant outlines that:

*"I am aware from talking to a broker of late that [the TPP] and [the Provider] were selling endowment mortgages supported by endowment or pension. I have also become aware of a [TPP] endowment mortgage that does not have the endowment assigned to the bank. What do you call this mortgage."*

The Complainants also believed the *Repayment Method* and *Term Remaining* sections on the account statements related to the term remaining on the interest only term of the loan, indicating the full term of the loan was subject to interest only repayments. Responding to this on **24 January 2020**, the Provider advises that the *Term Remaining* is the overall term remaining on the loan and not the term remaining for the *Repayment Method* listed on the statement. The *Repayment Method* describes that repayment methods at the time.

### **The Complaints for Adjudication**

The Complainants have made a number of complaints in the written submission accompanying their Complaint Form.

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By letter dated **9 October 2018**, this Office sought to clarify the precise nature of the complaints being made before proceeding to the formal investigation stage of the complaints process. In an email to this Office dated **12 October 2018**, the Complainants confirmed the complaints they wished to have investigated.

In a letter dated **20 February 2020**, the Provider raised a jurisdictional objection regarding the time limits prescribed for the investigation of the complaints. Following consideration of this objection, this Office issued correspondence dated **25 May 2020** expressing the firm opinion that the complaints being investigated were not outside the prescribed time limits.

Accordingly, the complaints being investigated and adjudicated are that the Provider:

1. Wrongfully sought, in **2013** and **2015**, to renege on and/or deny the Complainants' interest only agreement with the TPP for the duration of the mortgage loan term; and
2. Conducted two investigations into a complaint made on **29 October 2015** which resulted in conflicting outcomes.

### **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 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 2 November 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.

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In the absence of additional submissions from the parties, within the period permitted, I set out below my final determination.

### ***Loan Application***

#### *Application Form*

A *Mortgage Application Form* was signed by the Complainants on **19 August 2007**. In section 8a, *Loan Details*, the subsection, *Type of Loan*, lists a number of loan types. These are *Annuity, Pension, Interest Only Option, and Deferred Start*. The *Interest Only Option* has been selected.

#### *Offer Data Check Form*

This appears to be an internal form generated in respect of the Complainants' loan application. The form records the data as having been inputted on **24 September 2007** and prepared on **3 October 2007**.

The second page of this document states:

*"Sub-Accounts*

<u><i>A/C</i></u>	<u><i>Amount</i></u>	<u><i>Product Code</i></u>	<u><i>Product</i></u>	<u><i>Term</i></u>	<u><i>Repayments</i></u>	<u><i>Type</i></u>	<u><i>Loan</i></u>
<u><i>Type</i></u>							
1	€375,000.00	...	...	16 Yrs	Interest Only		HP
Total Loan		€375,000.00			Interest Only		Yes
Reserve		€0.00					
Retention		€0.00 ..."					

### ***The Loan Documents***

The Provider wrote to the Complainants and their solicitor on **3 October 2007** enclosing the original *Loan Offer Letter, Specific Terms and Conditions, General Terms and Conditions, and Loan Acceptance*.

The *Loan Offer Letter* contains the following information:

***"Repayment Details***

*Mortgage Account Number*  
*Loan Type*  
  
*Loan Amounts*  
*Interest Rate*

***Loan Accounts***

...  
*Ltd Ed L/T ECBR+ 0.75% for term 80% LTV*  
*Interest Only*  
*€375,000.00*  
*4.75%*

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<i>Interest Type</i>	<i>Variable</i>
<i>Term</i>	<i>16 years</i>
<i>Monthly Loan Repayments</i>	<i>€1,484.38 from 03/11/2007</i> <i>€3,652.92 from 03/11/2012</i>
<i>..."</i>	

The *Loan Offer - Consumer Credit Act 1995* document outlines certain *Important Information* regarding the loan offer:

<i>1. Amount of credits advanced</i>	<i>€375,000.00</i>
<i>2. Period of Agreement</i>	<i>16 years</i>
<i>3. Number of Repayment instalments</i>	<i>192</i>
<i>4. Amount of Each instalment from 03/11/2007</i>	<i>€1,484.38</i>
<i>Amount of Each instalment from 03/11/2012</i>	<i>€3,652.92</i>
<i>5. Total amount repayable</i>	<i>€571,248.24</i>
<i>...</i>	
<i>8. Amount of endowment premium (if applicable)</i>	<i>To be advised</i>
<i>9. ..."</i>	

At the eight paragraph of the *Specific Loan Offer Conditions*, it is stated that:

*"[The TPP] has agreed that the borrower(s) pay interest only for the first 60 months of this loan facility. Thereafter, repayment will revert to capital and interest for the remaining term of the loan."*

The *General Terms and Conditions* state as follows:

### ***"1. Repayment Method***

#### ***Interest Only***

*When the Loan is not being repaid by instalments of capital and interest, the Borrower is responsible for maintaining a Repayment Vehicle(s) (e.g. an endowment policy or pension plan) which will provide a sum sufficient to repay the loan amount outstanding at the end of the Loan Term. ...*

#### ***2. Monthly Payment***

*...*

*The Borrower undertakes to make the Monthly Payments as set out in this Offer of Loan on the due dates.*

*...*

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#### 4. Special Conditions

Please refer to the Schedule to the Offer of Loan for details of your Mortgage Product(s) (including any charges for early repayment) in addition to other special conditions which may apply.”

The European Standardised Information Sheet (ESIS) states:

“This document does not constitute a legally binding offer.

...

The provision of this information does not oblige the lender to grant a credit.

<b>Summary</b>	
<b>Item</b>	<b>Description</b>
<b>1. Lender</b>	[TPP]
<b>2. Description of Product</b>	Purpose of Loan: House Purchase Loan Type: Interest Only
<b>3. Interest Rate</b>	
...	
<b>6. Duration of Home Loan Agreement</b>	16 years
<b>7. Number and frequency of payments</b>	192 monthly payments
<b>8. Amount of each instalment from</b>	03/11/2007: €1,484.38 03/11/2012: €3,652.92
<b>9. Interest Only Home Loans</b>	<b>Where repayments are Interest Only for the term (Endowment, Pension) ...</b>
...	

...”

Section 14 of this table sets out an illustration of the repayments under the loan for each of the first 12 months and then yearly from year 2 to year 16. For each of the first 12 months, the repayments are €1,484.38. From year 2 to 5, the yearly repayment amounts are €17,812.56 and from year 6 to 16, the yearly repayment amounts are €43,835.04.

The final page of the ESIS states:

**“In the event of inconsistencies between the information provided in this information sheet and the terms of the loan offer, the terms of the loan offer shall prevail.”**

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The Complainants signed the *Loan Acceptance* on **23 October 2007**. This states as follows:

*“(a) I/We acknowledge receipt of the General Terms and Conditions and Specific Conditions attached to the Loan Offer. I/We have had the Loan Offer, the Specific Loan Offer Conditions and the General Terms and Conditions explained to me/us by my/our Solicitor and I/We fully understand them. I/We hereby accept the Loan Offer on the terms and conditions specified. I/We undertake to complete the Mortgage Deed as soon as possible.*

*[Complainants’ signatures]”*

The Complainants’ solicitor wrote to the Provider on **23 October 2007** enclosing a Solicitor’s Undertaking and an acceptance of the loan offer dated **3 October 2007**.

### ***Subsequent Correspondence***

The Complainants have furnished a copy of a letter from the TPP dated **9 November 2007**. This letter states:

*“... We are delighted to advise that your mortgage account has been opened, and would like to take this opportunity to confirm further details of your mortgage and how it will operate.*

#### ***Your Mortgage Type***

*Your mortgage is an interest-only mortgage.*

*If your mortgage is interest only or includes an interest only element and the Company has not provided a repayment vehicle for payment of the capital, we recommend that you ensure that a suitable vehicle is in place. Your Offer of Loan provides further information.*

#### ***Your Monthly Mortgage Payments***

*The first monthly payment at current interest rates will be €1,484.38 ...*

*Your subsequent monthly payments, based on current interest rates, will be the same amount. ...”*

The Complainants have also submitted pages 1 and 3 of a four page annual account statement dated **10 November 2008**. On the first page of the statement, it states under *Repayment Method* that the loan is *Interest Only*.

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On page 3, it states:

***“Repayment Method***

*This is an interest only mortgage. ...*

*You might wish to keep in mind that you can switch your mortgage to capital and interest if this is an appropriate step for you. ...”*

A statement in similar terms dated **10 November 2014** has also been furnished.

***Expiry of Interest Only Periods***

The Provider wrote to the Complainants on **15 November 2012** advising them that the interest only arrangement on their loan account had ended and the new monthly repayments would be €3,068.33 commencing on **9 December 2013**.

The Complainants wrote to the Provider on **22 April 2013**, following a conversation with the Provider, requesting an extension of the interest only facility. It appears that a two year interest only extension was then granted by the Provider.

In a submission dated **16 December 2019**, the Provider states that it did not confirm in its submission on **22 October 2019**, that the Complainants were advised of the two year extension of the interest only arrangement in writing. It was confirmed to the First Complainant by telephone on **16 April 2013** that interest only repayments would be extended for two years and backdated to **December 2012**.

The Provider wrote to the Complainants on **7 May 2015** advising them the agreed interest only period on the loan had expired and the new monthly repayments would be €3,737.67 commencing on **9 June 2015**.

The Complainants responded to this letter on **18 May 2015** explaining *“I do not understand why I am receiving this letter as my mortgage is interest only.”* A similar view was expressed by the Complainants on **2 July 2015** in response to a number of the Provider’s arrears letters.

A number of arrears letters were issued by the Provider during **2012, 2013** and **2015** advising the Complainants that the loan account was in arrears.

The Complainants made a formal complaint to the Provider by letter dated **29 October 2015** outlining that they had entered into an interest only loan agreement for the full duration of the loan and not simply for the first five years.

Agent A wrote to the Complainants on **5 November 2015** acknowledging a call made on **28 October 2015** and apologising for the delay in responding to this call.

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The letter explained the reason for the delay was "... due to an unforeseen delay in receiving your communication to this department." The letter also advised that the Provider aimed to resolve complaints as soon as possible. However, should the complaint not be resolved within 20 business days, an update would be issued. Agent A issued an update to the Complainants on **23 November 2015**, to advise that he was still gathering information on the complaint and hoped to inform the Complainants of his findings within the 10 days.

The First Complainant spoke with Agent A on **30 November 2015**. The Provider has been unable to furnish a recording of this conversation and a transcript of the call was subsequently provided.

Agent B wrote to the Complainants on **15 December 2015** to advise them that she had taken ownership of the complaint and was continuing to gather information. Agent B hoped to issue a full response to the complaint within 10 working days.

The Provider issued a resolution letter to the complaint on **23 December 2015**. I note the following parts of this letter:

*"Our records show that the signed loan offer document dated 3 October 2007 states:*

*'[The TPP] has agreed that the borrower(s) pay interest only for the first 60 months of this loan facility.*

*Thereafter, repayment will revert to capital and interest for the remaining term of the loan.'*

*The Bank is satisfied that the Letter of Loan Offer, received and signed by you prior to drawn down clearly illustrated that the loan was to avail of an interest only repayment facility for a period of 5 years.*

*You advise in your correspondence dated 29 October 2015 that upon receipt of your loan offer document dated 3 October 2007, you contacted the Bank. You state that you advised that there were contradictions within your loan offer document. Having reviewed our records, I am unable to locate any evidence of this.*

*It is also important to note that in signing the letter of acceptance enclosed with the loan offer, you confirmed your understanding of the terms and conditions of the agreement that you were entering into with the bank. This is outlined in the acceptance section of the Letter of Loan Offer ...*

*Subsequent to the expiration of the Interest only repayment facility on 15 November 2012, a further two year interest only facility was approved and applied to your mortgage account. This two year interest only facility ended as of 7 May 2015. The bank forwarded correspondence to you confirming this.*

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*As a result of the timeline of events as outlined, the Bank is satisfied that the mortgage has been placed on Capital and Interest repayments in compliance with the conditions as set out within the Letter of Loan Offer for the mortgage in question and the subsequent approval of a further two years of the interest only repayment facility. We are also satisfied that you were fully aware of this condition and accepted it in full, by signing the Letter of Loan Offer on 23 October 2007. ...”*

This was followed by a further exchange of correspondence between the parties. The most immediate being a letter dated **11 January 2016** wherein the Complainants disagreed with and raised a number of points in response to the Agent B’s letter.

In a letter from the Provider dated **29 December 2016**, the Provider apologises for a response not being received in respect of the letter sent to Agent B on **11 January 2016**. The Provider advised the Complainants that a response issued in respect of this letter on **27 January 2016** and enclosed a copy of this letter for the Complainants’ attention. I note the Provider’s letter of **27 January 2016** does not address the matters raised in the Complainant’s letter of **11 January 2016** but refers to a separate letter sent by the Complainants dated **18 January 2016**. The Complainants’ letter dated **18 January 2016**, addresses, amongst other matters, that a response to the letter of **11 January 2016** was still awaited.

### **Telephone Conversations**

During a telephone conversation on **8 April 2013**, the Provider’s agent and the First Complainant engaged in a discussion of the loan agreement entered into in **October 2007**. This conversation is recorded by transcript. The Provider’s agent explained the loan offered five years interest only repayments from the date of drawdown. Following this, the transcript states:

**Agent:** *So I will check the original drawdown but the likelihood is that you get 5 years.*

**First Complainant:** *Yes that’s right. The original, sorry yes, the original letter right? That in November that the 5 years is up and needs to be renewed. So that is what was sold to me by [the TPP]. I am very familiar with that because I have other properties as well and I have the same arrangement with another bank. That when the 5 years are up, the letter came out, I come in to you, and it rolls over. So that is how I do my business, it might not be done in your time but I am going back to the time I took the mortgage out with you. And that you guys sold me that mortgage. It didn’t make sense to me to go in to something for 5 years and then have to pay back 300,000 over 11 years when I was already paying you the interest and principle. And you got me to switch. And I have all that detail in the letter to you what you don’t seem to know about.*

/Cont’d...

The conversation continued:

**Agent:** ... a lot of these mortgages with investment properties; you get 5 years interest only from drawdown then you have the right to extend it to 2 years by writing in a letter. So I need to check. So if you are saying it is interest only for life then I need to check the original drawdown.

**First Complainant:** Yes ... The original drawdown has it that from November 11 I would get my, my, I would get my, what do you call it? November 11, I would get my principal and interest and then at that stage then, that guy said that I have got to come back in to you, right? Now if you look at that letter you have sent me with a statement telling me that. Basically if I look at it, its like an endowment mortgage that you have set up for me.

**Agent:** Endowment?

**First Complainant:** Except I don't have the endowment. No, but when I sell the property, you would get your money back. And that is what was sold to me. ... I am telling you that is what you told me, and there was no issue.

There was never a discussion about only no an (sic) extension for another 2 years.

During a telephone conversation between the First Complainant and the Provider on **9 September 2015**, the First Complainant states, referring to an account statement, that he had 9 years and 1 month remaining on his interest only mortgage. This conversation is also recorded on a transcript. I note the following parts of this conversation:

**Agent:** But on your original loan application, there's nowhere that states your mortgage is going to be interest only for the lifetime of the mortgage.

**First Complainant:** Yes, that is correct. No, no, that is correct. Because at the time. Right, and I have other mortgages, interest only mortgages as well. And at the time what was being said was that for Central Bank regulations, you could only get a 5 year mortgage on (inaudible), but that was alright, you know, as time goes on. Right, that was what was said. Because I'm not an idiot. Why would I have gone for an interest only mortgage if I have to pay back higher principle than if I had stayed, paying back the principle 7 years ago.

**Agent:** It's possible it was a miscommunication when you first took out the mortgage.

/Cont'd...



**First Complainant:** *No, it was good selling probably on [the TPP] (inaudible) all out looking for market share at the time and you were throwing money at people.*

During a telephone conversation with the Provider on **22 September 2015**, the First Complainant briefly describes that arising from his discussions with the TPP manager in **2007** it was understood that the loan would be interest only and repaid when the secured property was sold. Later in the conversation, the First Complainant explains his understanding of the purpose of the 5 year interest only arrangement:

*"I had other interest only mortgages with other banks and why I was familiar with that when [the TPP] offered it to me was because what the guy said was the reason that the 5 years was put in and I knew what I signed when I signed the 5 years that was to protect the Bank if I start to feck around and not pay or anything like that along the way, you would have had the hassle of 5 years with me and then after that you went where you had to go. And that's the way things were done here in Ireland and that's the way banking was done."*

A further telephone conversation took place between the Provider and the First Complainant on **5 October 2015**.

I note the following passage from the transcript of this call.

**First Complainant:** *And my application form was for, basically what was happening at the time, I switched my current account mortgage onto the, onto an interest only mortgage. My application applied for, for term 16 years, 375,000, interest only option, tracker variable.*

**Agent:** *Yeah*

**First Complainant:** *That's what I applied for and that's what I got, okay? In, I signed the loan offer in October 2007 but I had a query on just the way the structure of it was done because I was told that every 5 years that the thing would roll over, right? And I got another letter dated the 9<sup>th</sup> of October, sorry the 9<sup>th</sup> of November 2007 that's stating my type of mortgage is a, your mortgage is an interest only mortgage.*

...

**First Complainant:** *... When I took out the thing I was given an interest only mortgage that was reviewed every 5 years, okay?*

The First Complainant explains that the manner in which the loan was entered into during a telephone conversation on **28 October 2015**.

The relevant part of the transcript states:

**First Complainant:** ... So I went and met the manager. I presume he was the manager, well he was the mortgage manager, we'll call him that, right? So anyway I had a long chat with him, explained what I had and everything else and said look you're offering money out there to see, it might suit me to take out the money blah, blah, blah, right? So at the heel of the hunt he offered me, he told me I had a current account mortgage that would have to stop, that he would transfer me onto an interest only, an interest only mortgage for the balance of the 16 years, right?

...

**First Complainant:** And that was a tracker? So I said fine, okay I said why wouldn't I take that, right? Because it fitted into my plans ... I get my offer letter, right? Out on the 3<sup>rd</sup> of October, which is an 8 page letter and the opening part of the description of the product, the product is a house purchase, type of loan interest only, right? So when I go down through the whole thing anyway and I then see at the back, which is what the part that you're talking about, with all this stuff about 2012 and everything else, right?

...

**First Complainant:** ... I got back onto the guy, right, and I said I don't understand this because you've, I've applied for an interest only mortgage from you, you're telling me the first part of it I have an interest only but then (inaudible) at the back, right? So what he said to me was no that's all for administration. What'll happen is when the 5 years is up it'll be rolled over. So I said fine, okay. So then that was okay. Then I go to my solicitor to sign the documentation, right?

...

**First Complainant:** And the, having a discussion with the solicitor, you know about, you know, looking at the back because I'd told him what I was getting and then he looked at the back and he said what I've got here [First Complainant] he said is I've only got 4 pages but it's basically the loan offer up to 20, 2012, right? So I said to him no, so anyway between the discussions with him I decided I'd go back to the manager again in [the TPP] and explain what, you know, what I'd already spoken to him already about it but my solicitor was also querying, that you know, the whole scenario, okay? So then, no, so I signed that on the 25<sup>th</sup> of October, right? 2007. Okay?

/Cont'd...

...

**First Complainant:** *When I queried it then with the manager because of the back pages ... He said no, no, that's the way it's done for administration things, with the Central Bank or something like that. That's the way it's done and basically what happens is then it's rolled over. The 5 years an then it rolled over. I said okay, that's fine. But when I was with my solicitor he said now, now, just be careful, right?*

...

**First Complainant:** *So I went back to the manager and then I got a, I explained the same thing as I'm explaining to you now. I then get a letter on the 9<sup>th</sup> of November from him, right? And it's saying your type mortgage, your mortgage is an interest only mortgage, right? Okay?*

Further into the conversation, it is stated:

**First Complainant:** *... I applied for a 16 year interest only mortgage. ... When I queried the loan offer that I signed I was told that for Central Bank regulations that's the way it was done. It would be rolled over when the 5 years was up for another 5 years at that stage ...*

...

**Agent:** *I said the repayments, right, you're on interest only, right? So when you drew down the mortgage, on the system interest only repayments, right, was set up for 5 years.*

**First Complainant:** *That's right.*

**Agent:** *After the 5 years it reverted back onto full capital and interest repayments.*

**First Complainant:** *That's right and I would have been back into my man in [the TPP] saying to him okay roll it over for another 5 years, right?*

### **The First Complaint**

The loan offered to the Complainants in **October 2007** was subject to five year interest only repayments for the first five years of the loan. As such, repayments were to change to capital and interest in **November 2012**. When this occurred, the Provider offered a further two year interest only repayment arrangement. This arrangement expired in **June 2015**. However, the Complainants continued to make repayments on an interest only basis as they maintain the loan was subject to interest only repayments for the entire loan term.

/Cont'd...

The complaint is that on the expiry of each interest only period in **2013** and **2015**, the Provider advised the Complainants that the loan was subject to interest only repayments for the first five years only. Accordingly, the Complainants believe that in both **2013** and **2015**, the Provider had wrongfully refused to accept the correct terms on which the loan was accepted. To properly adjudicate on this aspect of the complaint, it is necessary to determine the precise terms on which the loan was entered into.

### ***The Application Form***

On the Application Form, the *Type of Loan* selected from the four options in section 8a was the *Interest Only* option. There was no option in this subsection to specify or limit the interest only period being applied for. In the circumstances, the selecting of this option does not automatically mean or demonstrate that an interest only option for the full term of the loan was being sought. However, it does mean the Complainants were applying for some form of interest only option, the duration of which was not clearly specified on the application form.

It is important to note that applying for a particular loan arrangement does not mean the Complainants were entitled or guaranteed to be offered what was being applied for nor does it mean the TPP was obliged to offer the loan on the terms expected by the Complainants irrespective of any prior discussions with the TPP manager.

### ***The Loan Documents***

An offer letter dated **3 October 2007** was issued by the TPP. The *Loan Offer Letter* describes the *Loan Type* as *Interest Only* with the *Monthly Loan Repayments* being €1,484.38 from **November 2007**, and €3,652.92 from **November 2012**. The *Loan Offer - Consumer Credit Act 1995* outlines that the instalments under the loan would be €1,484.38 from **November 2007** and from **November 2012**, instalments would be €3,652.92.

The *Specific Loan Offer Conditions* expressly state:

*"[The TPP] has agreed that the borrower(s) pay interest only for the first 60 months of this loan facility.*

*Thereafter, repayment will revert to capital and interest for the remaining term of the loan."*

Looking at each of these documents together and in an objective manner, it is clear the loan being offered to the Complainants, while an interest only loan, was subject to interest only repayments for the first five years, after which, repayments would revert to capital and interest. These documents also state that repayments would increase from approximately €1,485.00 to €3,650.00 after five years.

/Cont'd...

Moving on to the *General Terms and Conditions*, while reference is made to interest only and repayment vehicles in section 1, reading this document as a whole, section 2 explains that the Complainants were required to make the repayments as set out in the *Offer of Loan* and section 4 directs the Complainants to the *Special Conditions*. This document contains general terms regarding TPP loans and not necessarily terms specific or directly applicable to the Complainants' loan. Furthermore, this document refers the Complainants to the documents that contain the specific terms on which the loan was being offered and identifies those documents as containing the relevant contractual repayments terms.

Finally, the ESIS expressly states that it does not constitute a legally binding offer and importantly, in the event of any inconsistencies between the ESIS and the loan offer, the loan offer prevails. The information contained in the ESIS is broadly similar to that contained in the above mentioned loan documents and provides an illustration of the repayments under the loan for the 16 year term which is consistent with a five year interest only arrangement followed immediately by capital and interest repayments for the remaining term of the loan.

The Complainants signed the *Loan Acceptance* on **23 October 2007** acknowledging receipt of the loan documents, that these were explained to them by their solicitors and that they accepted the loan offer on the terms and conditions specified.

Considering the loan documentation outlined above, I accept that, on an objective appraisal of these documents, it is clear that the loan was offered to and accepted by the Complainants on the basis that it would be subject to five year interest only repayments for the first five years and, on the expiry of the five years, the loan would revert to capital and interest repayments.

### ***The European Standardised Information Sheet***

The loan documentation issued by the TPP in **October 2007** comprised several documents. At various points in the Complainants' submissions and during a number of telephone conversations, reference is made to 8/9 pages of loan documentation being received in **October 2007**. However, the loan documents I have outlined above and the ESIS total 13 pages. The Complainants appear to assert that the ESIS document was not received.

It appears, however, that it was only when a subsequent data access request was made during **2015**, that the Provider was unable to furnish a copy of the ESIS to the Complainants. The Provider's DSAR section wrote to the Complainants on **25 February 2016** in respect of a data subject access request. In respect of the ESIS, the letter states:

*"We have been advised by the mortgage centre that there is no document headed 'European Standardised Information Sheet' held in the file for [account ending 6465]."*

Notwithstanding this, a copy of the ESIS was provided in the course of the Provider's response to this complaint.

/Cont'd...

In a submission to this office dated **10 January 2020**, the First Complainant made a number of comments in respect of the ESIS:

*“From all the documentation received and what I know now re the above, was it the intention of the manager to offer me endowment mortgage, and that is why I received the European Standardised Information Sheet as part of my offer that was all about endowments and pensions. In the loan offer documents that the bank are relying on as my mortgage on the page loan offer Consumer Credit Act 1995 point 8 states amount of endowment (if applicable) **to be advised**.*

*In my discussions with him as stated in my complaint I was not interested in an endowment. Why has the European Standardised Information Sheet disappeared with the bank and who created the document appendix D that I did not receive.*

...

*It is not correct to state that the documentation requested by the complainants were forwarded to them following receipt of their Subject Access Request. I did not receive the European Standardised Information Sheet and that is why I wrote to [Agent B] ...*

*... I would not have signed that document [the Loan Acceptance Form] as it stood, if the Mortgage Manager had not clarified the confusing loan offer letter with the signed documents and the European Standardised Information Sheet. ...*

*The loan offer letter 3 October 2007 I received.*

*The European Standardised Information Sheet relates to an endowment. ... (This document has gone missing). ...”*

Having considered the evidence in this complainant, I believe it is likely that the Complainants were provided with a copy of the ESIS in **October 2007**. However, even if the Complainants did not receive the ESIS, this would not alter the terms and conditions set out in the other loan documentation.

### ***The Complainants’ Understanding of the Loan***

The First Complainant was the one involved in the discussions with the TPP manager and the loan application process. At the time the Complainants received the loan documents, the First Complainant believed he found an inconsistency in the manner in which the loan was being offered. In essence, the First Complainant’s understanding of the terms on which the loan was being offered, following his discussions with the TPP manager, was that the TPP was offering a loan with a 16 year term on an interest only basis for the full term of the loan and it was described as a five year interest only loan for regulatory purposes.

/Cont’d...

The First Complainant understood/was told that when the five year period elapsed, the interest only arrangement would roll over for a further five years. When the loan matured, the principal would be repaid through the sale of the secured property.

The basis for the First Complainant's belief, as demonstrated from the telephone conversations with the Provider's agents, also appears to have been based on the First Complainant's loan arrangements with other financial services providers, and a custom or practice that he asserted prevailed within banks where interest only arrangements would simply roll over.

The First Complainant's understanding of how the loan would operate is contrary to the clear terms contained in the loan documentation. Furthermore, I have not found any inconsistency in or between the loan documents themselves. The First Complainant's confusion appears to have come from the collateral discussions had with the TPP manager, how his loans with other financial service providers operated, and a practice he believed existed within banks of rolling over interest only arrangements. Fundamentally, there is no documentation, record or note evidencing the discussions between the First Complainant and the TPP manager nor is there any document which acknowledges that the loan was being offered to the Complainants on the terms as the First Complainant believed them to be. While the First Complainant refers to loans with other entities and practices within banks, this is largely irrelevant. The terms of the Complainants' contract is contained in the loan documents accepted by them in **October 2007**.

### ***Legal Advice***

The Complainants had the benefit of legal advice at the time the loan was accepted. It also appears the First Complainant consulted with the Complainants' solicitor prior to accepting the loan regarding an inconsistency in the loan terms. The transcript of the telephone conversation which took place on **28 October 2015**, suggests the Complainants' solicitor indicated to the First Complainant that the TPP was only offering a five year interest only loan. The First Complainant also explains during this telephone conversation that his solicitor advised him to be careful regarding the type of loan being entered into. This advice seems to have been largely ignored in favour of the assurances the First Complainants says were given by the TPP manager.

### ***Subsequent Documentation***

The Complainants refer to correspondence received from the Provider in **November 2007** as evidence of the fact the loan was interest only for its full term and also account statements which outline the period remaining on the interest only arrangement which always equalled the unexpired part of the loan term.

While these documents may have caused confusion for the Complainants, they do not demonstrate the loan was offered on the basis of a full term interest only arrangement. The Provider explains that the repayment method stated in the correspondence and the account statement reflects the repayments arrangement that was in place at the time the relevant documents issued.

These documents were generated after the loan agreement was entered into and the various terms and conditions accepted by the Complainants. As stated above, the terms on which the loan was offered and accepted were clear and documentation issued after the execution of the loan agreement cannot be relied on to vary the express terms contained in the previously accepted loan documentation.

The loan terms are clear and unambiguous. I accept that the loan was subject to a five year interest only arrangement after which the loan would revert to full capital and interest repayments. However, having considered the manner in which the loan was going to be offered, the First Complainant believed this was inconsistent with the discussions he had with the TPP manager. Following further discussions with the TPP manager and his solicitor, the First Complainant believed the five year interest only arrangement would roll over. However, there is no documentation to demonstrate the TPP agreed to offer the loan on those terms. Accordingly, there is insufficient evidence to support the Complainants' position regarding the terms on which he believes the loan was offered and accepted.

In the circumstance, the evidence supports the position that the interest only period properly expired in **November 2012** and again in **June 2015**. As such, I have no evidence that the Provider reneged on and/or denied the Complainants' interest only agreement with the TPP.

### **The Second Complaint**

The Complainants maintain the position that following their formal complaint, Agent A and Agent B reached conflicting outcomes during the course of their investigations into the complaint.

A formal complaint was made on **29 October 2015**. It appears the First Complainant initially spoke with Agent A on **6 November 2015**. During this conversation, Agent A advised the First Complainant as follows:

*"So I have found evidence at the moment and this is going to take a bit of investigating this is not the end game this is just the catching up.*

*So I have found evidence on your loan document that after 5 years your payments increase.*

*So that would indicate to me at the moment and I can't stress that [inaudible].*

/Cont'd...



*That would indicate at the moment that there was a five year interest only then you came off that and your payments ballooned up because then you were then paying the capital and interest.*

...

*What I will say [First Complainant] I will resolve this okay and I will do it properly and fairly and if you don't accept it or agree with it at the end of it then there is a process for you to take it further.*

*Anything I do decide I will provide evidence for and the explanations for so you why/how I came to a decision."*

Another conversation took place between the First Complainant and Agent A on **11 November 2015**. Towards the end of this conversation, Agent A advises the First Complainant that:

*"At the end of the day, I keep this complaint until I resolve it number one, or if I'm unable to resolve it, then I'll need to pass it on but not until I've done all the ground work."*

The Complainants have highlighted part of the transcript of the conversation with Agent A on **30 November 2015** in support of their position that contradictory findings were made by Agent A and Agent B. Having reviewed the relevant transcript, I note the following statements made by Agent A:

*"Anyway I have looked in great depth back through the history of your account and the conversations you have had and in addition the copy of your original loan offer and more importantly your loan application.*

...

*Okay because this is a product complaint I have gone as far as I can with it. So I am passing it on to our complex complaints handling team in Dublin.*

*Who are more suited.*

*They have got more experience on this as it is a product issue.*

...

*It would be the best place to deal with it.*

*I don't want you to think that I am bumping it off.*

...

/Cont'd...

*But I will be passing this with all the investigation that I have done I will be passing this on to them okay."*

The First Complainant appears to have had a further conversation with Agent A on **9 February 2016**. The First Complainant mentioned that "... you had done an investigation and it seems she had done an investigation right, and there is two different answers." The conversation later continues as follows:

**Agent A:** ... I did quite a lengthy investigation. I didn't make any decisions, okay.

**First Complainant:** No, no, that's right.

**Agent A:** That wasn't within my remit. But following my investigation it was obvious to be dealt with over in the complex handling team.

**First Complainant:** That's right.

**Agent A:** Which is [Agent B]. And she is, as far as I know, very good. As soon as I reached a certain point I had to stop and say I can't really deal with this so.

**First Complainant:** Yeah, I understand that. Because it is a product issue.

Having considered the evidence in this complaint, while Agent A began an investigation into the complaint, it came to a point where he could no longer continue with his investigation due to the nature of the complaint. The First Complainant was advised of this by Agent A on **30 November 2015**.

There is no evidence to suggest Agent A reached any conclusion or issued any decision in respect of the complaint. He simply carried out an investigation and at some point during the investigation transferred the complaint to Agent B. It was also made clear to the First Complainant on **9 February 2016** that Agent A had not made any decision or findings in respect of the complaint.

The investigation of the complaint was then taken over by Agent B and a resolution letter issued on **23 December 2015**. The resolution letter, referring to the letter of loan offer and the specific conditions, concluded the Complainants entered into a five year interest only arrangement and the loan had been correctly placed on capital and interest repayment in compliance with the conditions set out in the letter of loan offer.

Having considered all of the evidence and submissions in this complaint and the absence of any documentation regarding the discussions with the TPP manager, I accept that it was reasonable for Agent B to reach this conclusion and had sufficient evidence to do so. Accordingly, I do not accept the Provider's investigation of the complaint yielded conflicting outcomes.

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### **Goodwill Gesture**

In its submission dated **16 December 2019**, the Provider has identified and acknowledged certain service issues and states:

*“... the Bank have acknowledged some service issues and would like to offer the Complainants a fair and reasonable offer of redress €5,000 namely in relation to the following:*

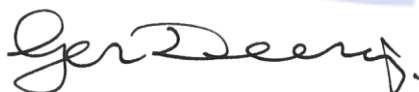
- 1. Being unable to retrieve some of the relevant call recordings*
- 2. Not providing call transcripts of calls relevant to this dispute with our submission of 22 October 2019, although they were previously provided to the Complainants following their Data Subject Access Requests*
- 3. Providing a copy of an obsolete loan offer in our letter of 26 July 2019 to your office*
- 4. Providing correspondence unrelated to the Complainants or their mortgage account in our letter of 26 July 2019 to your office.”*

I consider this goodwill gesture offered by the Provider to be a reasonable sum of compensation for its customer service failings. In these circumstances, on the basis that this offer remains available to the Complainants, 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**

2 November 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.

