



<b><u>Decision Ref:</u></b>	2022-0121
<b><u>Sector:</u></b>	Insurance
<b><u>Product / Service:</u></b>	Term Insurance
<b><u>Conduct(s) complained of:</u></b>	Lapse/cancellation of policy (life) Failure to process instructions
<b><u>Outcome:</u></b>	Rejected

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

**Background**

The complaint concerns the Provider's handling of the Complainants' attempts to avail of an option under a Life Assurance Policy to convert cover to another policy.

**The Complainants' Case**

The Complainants state that their life assurance plan was due to mature on **11 November 2019** and that the Provider had offered them the option of converting the existing plan for a further period "*with a new monthly premium*". The Complainants assert that they contacted the Provider by telephone on **2 October 2019** and that the Provider wrote to them on **3 October 2019** supplying the options available to them.

The Complainants state that they "*subsequently completed the Application form...dated the 16<sup>th</sup> October 2019*" and that they:

*"...also telephoned [the Provider] to say we were going to proceed with the Option to renew and forwarded the completed Application Form with the necessary Direct Debit Mandate to [the Provider] prior to the deadline of 10<sup>th</sup> November 2019".*

The Complainants submit that they subsequently noticed that the Provider had not deducted the agreed premium by direct debit from their bank account and that this led them to contacting the Provider on **24 December 2019**.

The Complainants assert that at this juncture the Provider advised them that *“the Policy had lapsed and had not been renewed and that [the Provider] had not received the completed application form”*.

The Complainants state that they rang the Provider again in **January 2020** and that following this conversation, the Provider wrote to them on **8 January 2020** *“stating that [the Provider was] unable to process our Application as they stated they had not received our Application Form before the **November** expiry date”*.

The Complainants want the Provider to accept the Application and Conversion forms that they completed dated **16 October 2019** and agree to convert the cover under the plan.

### **The Provider’s Case**

It is the Provider’s position that;

- The Complainants were made aware that the completed forms had to be received by the Provider, before the original plan expired on **10 November 2019**, in order for a new plan to be put in place, by way of a conversion of the first; and
- The Complainants were also made aware that once the documentation was received by the Provider, that they would receive confirmation/a Welcome Pack, within ten working days (two weeks).

The Provider states it notes that the Complainants say they returned the documents in the days before the deadline of **10 November 2019**.

The Provider notes the Complainants did not contact the Provider to query if the new plan had been arranged, until **24 December 2019**, some six weeks after the deadline of **10 November 2019**. The Provider says that this is despite having been advised to expect confirmation documentation from the Provider, within two weeks of the Provider receiving the completed forms.

The Provider submits that by the time the Complainants followed up on the fact they had not heard anything from the Provider (in relation to the forms they sent), it was too late to avail of a benefit that had expired with the plan, on **10 November 2019**.

### **The Complaint for Adjudication**

The complaint is that the Provider poorly managed the administration of the Complainants’ life assurance plan, and in particular, failed to give effect to the Complainants’ instructions to exercise a conversion option, under their plan.

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## 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 **11 March 2022**, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter.

In the absence of additional submissions from the parties, within the period permitted, the final determination of this office is set out below.

## Analysis

I note that the Complainants had a 'conversion option' under their existing policy which permitted them to convert the cover under the policy, into a new policy, running for a longer period of time, without them having to undergo a medical examination or supply evidence of good health at the time of the conversion. The conversion option was open to be being exercised up to **10 November 2019**.

The conversion option is set out in the Plan Document under Section 5 – “*Conversion Option*” as follows:

*“You may convert this Plan to a new [Provider] policy of life assurance providing cover in respect of the Life Assured – or, if this Plan is effected on a Joint Life First Death basis, you may convert this Plan to a new joint life [Provider] policy of life assurance, on the same basis, providing cover in respect of the Lives Assured – without any requirement to provide evidence of the good health of the Life or Lives Assured, subject to the conditions outlined below:*

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- *Conversion to a new policy may take place at any time prior to the Expiry Date of this plan;*
- *The Policy Document, including the Schedule, must be produced for cancellation when the Conversion Option is exercised, and the commencement date of the new policy shall be one day after this cancellation date”*

The evidence shows that the First Complainant contacted the Provider by telephone on **18 September 2019** to enquire about converting to another policy. The Provider’s call handler advised that quotes could be given.

A maximum quote of up to age 80 was communicated by the Provider’s call handler. The First Complainant then sought quotes for ages 70 and 80 for **€100,000**. The Provider’s call handler did not mention that cover for life was also available. During this telephone call the Provider’s call handler also omitted to advise of the need to have application forms completed and sent back to the Provider before the existing plan had ended.

A follow up letter the following day, on **19 September 2019**, was sent to the Complainants. (Although I note the Complainants deny receipt of this letter, the First Complainant did make reference to this letter in his subsequent telephone call to the Provider – noted below.)

I note that this letter of **19 September 2019** set out two quotes for €100,000 cover, for 12 years and 22 years respectively. The letter also explained that that a Conversion Option Form and the Protection Application Form, were enclosed with the letter.

The Complainants were also sent a letter dated **28 September 2019** advising that the Plan was close to the maturity date and that there was an option to convert to:

- “a. A new protection plan that will provide you with life assurance for a longer period of time, or*
- b. A permanent protection plan that will provide you with life assurance for the rest of your life”.*

I note that this letter also advised:

*“If you want to take out another plan, please let us know as soon as possible and we will send you further details. Please note that after 10 November 2019, this option will not be available”.*

[My emphasis]

The next contact that was made by the First Complainant with the Provider was a telephone call of **2 October 2019**. During this telephone call the First Complainant clearly communicated that he wanted to go ahead with a quote for the conversion of the policy.

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The Provider's call handler asked the First Complainant whether application forms had been received with the quotes that were sent to him (i.e. the letter of **19 September 2019**). The First Complainant advised that no such forms were received.

The First Complainant queried whether a quote for life cover was available and the call handler advised that whole of life quotes were available. The First Complainant then asked for the three quotes – up to 70 years of age, up to 80 years of age, and one for whole of life.

I note from the evidence that the requested quotes were sent to the Complainant on **3 October 2019**, again enclosing a Conversion Option Form and the Protection Application Form. The letter of **3 October 2019** stated:

*"Thank you for your phone call of 2 October 2019.*

*Your Convertible Protection Plan is due to mature on 10 November 2019. On this date your benefits will no longer be in place.*

*As discussed, there is a conversion option with this plan. Before the maturity date, it is possible to replace this plan with a new protection plan.*

[My emphasis]

*I have outlined below a quote for a replacement plan.*

*Term: 12 years  
Life Cover: €100,000  
Premium: €65.11 per month*

*Term: 22 years  
Life Cover: €100,000  
Premium: €92.22 per month*

*Term: Whole of Life  
Life Cover: €100,000  
Premium: €273.84 per month*

*If you wish to take up this new plan, please complete the enclosed Conversion Option Form and the Protection Application Form, sections 1 A-D, the declarations and consent section and the direct debit mandate.*

*This quote is valid for 7 working days from the date of this letter. The forms can be returned to [the Provider's postal address] or scanned to the email address below. We will then send you a confirmation letter in 7-10 working days.*

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*Got any questions?*

*We're here to help. Simply email our [Provider] Customer Service Team at .....ie or give us a call on .... Our lines are open Monday to Thursday, 8am to 8pm, Friday, 10am to 6pm and Saturday, 9am to 1pm".*

I note that the next communication with the Complainants was a letter from the Provider dated **19 October 2019** advising of the conversion option. The letter of **19 October 2019** stated that the Plan was close to maturity date and advised, using the same wording as had been set out in the letter of **28 September 2019**, that there was an option to convert to:

- "a. A new protection plan that will provide you with life assurance for a longer period of time, or*
- b. A permanent protection plan that will provide you with life assurance for the rest of your life".*

This letter also advised:

*"If you want to take out another plan, please let us know as soon as possible and we will send you further details. Please note that after 10 November 2019, this option will not be available".*

[My emphasis]

It is the Complainants' position that they sent the completed documentation to the Provider before the **10 November 2019** deadline. The copy of the forms made available in evidence, that are said to have been sent to the Provider, are dated **16 October 2019**.

After the letter of 19 October 2019, the Provider did not make further contact with the Complainants seeking an acceptance or decline of an application to convert, or to advise that the time to make the conversion had passed, or to communicate that the policy had expired. In the absence of any communication from the Provider, the Complainants followed up with the Provider by way of a telephone call of **24 December 2019**.

I note that during the telephone call on **24 December 2019** the Provider's call handler advised the First Complainant of the expiry of the plan. The call handler stated that the Provider did not receive an application to convert, and that it was now outside the period when the Provider could convert the plan. The Provider's call handler advised that nothing could be done. There was no advice given at this point regarding an appeal or making a complaint.

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The Complainants then contacted their bank where they had originally set up the policy, in relation to the matter. The Complainants' bank forwarded a copy of the conversion application that the Complainants are saying they had previously sent to the Provider prior to the **10 November 2019** deadline.

The letter from the bank (date stamped by the Provider as received on **8 January 2020**), which contained a copy of the conversion application documentation, states:

*"This customer [the First Complainant] advised he had sent in the enclosed documents back in November when the policy was up for maturity. I now enclose a copy of their documents for consideration. Can you please review for the customer as he wants the policy converted as per conversion option Policy [number ...]"*

In its letter of response to the Complainants of **8 January 2020** the Provider, states:

*"Thank you for your conversion application for the above plan, which we received today.*

*I regret to advise we are unable to process your request, as this was received after the expiry of your Plan on 10/11/2019. Unfortunately, all conversion applications must be received before the expiry date of the existing plan".*

It is the Provider's position that it never received the original conversion application documentation that the Complainants say they sent to the Provider. The only conversion application documentation on file, is the copy that was received by the Provider from the bank on **8 January 2020**. It is the Provider's position that it checked with its post room as to whether the original documentation had been received, but it says the documentation was not located.

I accept that it is not possible to say for certain what happened to the original conversion application documentation that the Complainants say they sent to the Provider. That said, I accept that from the above outline of the contacts between the First Complainant and the Provider, that in **September 2019**, the Complainants were exploring the option of converting the cover, and they subsequently sought certain premium prices, during a telephone call with the Provider on **2 October 2019**.

During this telephone call the First Complainant clearly stated his understanding was that the policy was finishing on **10 November 2019** and he requested that quotes be sent to him before then. The Provider's call handler's response was that: *"It is on 10<sup>th</sup> November, you still have time to get them back in"*.

The evidence suggests that the quotes and application forms that were sent to the Complainants by the Provider either on **19 September 2019**, or those sent on **3 October 2019**, were received by the Complainants, as a copy of completed forms dated **16 October 2019** forwarded to the Provider by the bank in January 2020, have been submitted in evidence).

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It is also noted that the said quotes and application forms were received by the Complainants before the second of two separate warning letters had been sent to them by the Provider on **19 October 2019** advising that:

*“Please note that after 10 November 2019, this option will not be available”*

The Complainants state that they: *“subsequently completed the Application form...dated the **16<sup>th</sup> October 2019**”* and that they:

*“...also telephoned [the Provider] to say we were going to proceed with the Option to renew and forwarded the completed Application Form with the necessary Direct Debit Mandate to [the Provider] prior to the deadline of **10<sup>th</sup> November 2019**”.*

The Provider was asked by this Office to submit the telephone call recording of an unspecified date prior to **10 November 2019** during which the Complainants state they advised the Provider that they were *“going to proceed with the Option to renew”*. The Provider’s response was that this information was relayed by the First Complainant verbally in his telephone call of **2 October 2019**.

There is no evidence submitted by the parties of a further telephone call to the Provider on or about **16 October 2019** (the date recorded on the application form) or at any time from that date up to the conversion option deadline date of **10 November 2019**. Despite the Complainants and their bank’s assertion that the completed application forms were sent to the Provider in November 2019, there is no reliable evidence submitted showing that the forms were in fact returned to the Provider, prior to the deadline of **10 November 2019**.

Although the Complainants may have intended to return the forms to the Provider, before **10 November 2019**, when this conversion option expired, there is no evidence of the completed forms being received by the Provider, by the relevant date, and therefore the option to convert was not exercised in time.

Accordingly, on the basis of the evidence available I do not uphold this complaint.

### **Conclusion**

My Legally Binding 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.



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**MARYROSE MCGOVERN**  
**FINANCIAL SERVICES AND PENSIONS OMBUDSMAN (ACTING)**

7 April 2022

## **PUBLICATION**

### **Complaints about the conduct of financial service providers**

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.

### **Complaints about the conduct of pension providers**

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will **publish case studies** in relation to complaints concerning pension 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.