



<u>Decision Ref:</u>	2022-0146
<u>Sector:</u>	Banking
<u>Product / Service:</u>	Tracker Mortgage
<u>Conduct(s) complained of:</u>	Failure to offer a tracker rate throughout the life of the mortgage
<u>Outcome:</u>	Rejected

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

This complaint relates to one of two mortgage loan accounts held by the Complainants with the Provider.

The Complainants' mortgage loan account ending **449/2**, that is the subject of this complaint, was secured on the Complainants' residential investment property. The loan amount was €262,000.00 and the term of the loan was for 30 years. The Letter of Offer dated **19 March 2008** outlined the loan type as a "FLEXI RESLET ANNUITY" on an interest rate of 4.89% "fixed for 24 months".

The Complainants also hold another mortgage loan account ending **449/1** with the Provider which was secured on the Complainants' private dwelling house. Mortgage loan account ending **449/1** is not the subject of this complaint however the Complainants rely on the Provider's treatment of mortgage loan account ending **449/1** in support of their complaint in relation to mortgage loan account ending **449/2**.

The Complainants' Case

The Complainants submit that they obtained mortgage loan account ending **449/2** from the Provider through a broker in **2008**. The Complainants state that the loan product was purchased through a broker on foot of a "marketing/sales flyer" that offered "all new customers" a right to a tracker interest rate after a fixed interest rate period.

The Complainants submit that the flyer clearly states at provision 3.1 that all of the Provider's home loans "will roll onto a tracker rate" upon expiry of a fixed rate and provision 3.2 states that "this tracker product is available to ALL NEW CUSTOMERS who wish to take out a mortgage". The Complainants further submit that "the flyer 100% does not state that this offer is only applicable to" private dwelling house mortgage loans and not residential investment properties.

The Complainants maintain that "armed with these Sales Packs and excellent commission from [the Provider] Brokers used the info present in packs to sell a service/product that [the Provider] now wants to withdraw. This clearly breaks the Consumer Information Act 1978 protecting [the Complainants] from false/misleading advertising.

The Complainants state that the product offered on the "flyer" was identical to the mortgage product that applied to their private dwelling house mortgage loan account ending **449/1** which was deemed impacted as part of the Central Bank of Ireland directed Tracker Mortgage Examination (the "Examination"). The Complainants assert that the Provider did not deem mortgage loan account ending **449/2** to be "impacted" as part of the Examination despite the mortgage loan meeting "the timeframe criteria as impacted".

The Complainants assert that the loan offer for mortgage loan account ending **449/2** refers to "prevailing rate" which, at the time of drawdown of both mortgage loans, the Complainants state was a tracker interest rate. The Complainants further state that "the flyer specifically does say ALL NEW customers will revert to a tracker rate."

The Complainants submit that the mortgage terms and conditions in relation to mortgage account ending **449/2** are identical to their residential home loan mortgage under mortgage loan account ending **449/1** which was deemed impacted. In particular, the Complainants submit that the wording of General Condition 7, contained in the mortgage loan offer letters for both mortgage loan accounts, is identical. The Complainants also note that the marketing flyer used to sell the Provider's mortgage loan products in respect of mortgage loan accounts ending **449/1** and **449/2** "does not contain any differentiation and therefore both product/properties must be deemed as impacted".

The Complainants maintain that mortgage loan account ending **449/2** should have been deemed impacted as part of the Examination and the only argument that the Provider has put forward is that "it was common knowledge" that the flyer only applied to private dwelling house loans and "never to investment properties". The Complainants are of the view that "this is another attempt by [Provider] to try a little damage control".

The Complainants submit that they have spent 10 years in negative equity, financial ruin and constant repayment arrangements as the Provider clearly overcharged and underdelivered on its promised product sold to them. The Complainants state that the financial loss suffered is hard to calculate. The Complainants submit that the balance of €260,000.00 should be €201,000.00 *“working off 10 years annuity collections”*.

The Complainants submit that their credit history *“was destroyed”* for future loans because of the overcharge on mortgage loan account ending **449/2**. The Complainants submit that the overcharging on the mortgage loan account caused unnecessary stress to their family, and they had to work long overtime hours to make the repayments.

The Complainants are seeking the following:

- (a) Mortgage loan account ending **449/2** is switched to a tracker interest rate; and
- (b) Redress and compensation based on overpayment on mortgage loan account ending **449/2** for over 8 years.

The Provider’s Case

The Provider submits that the communication to brokers dated **07 November 2006** contained information on two separate product offerings, *“the first was the product for new PDH [private dwelling house] applications that would provide for a tracker rate on expiry of the initial fixed rate period and the second was the launch of a new 0.90% over ECB tracker rate, which was a standalone rate, not dependent on any fixed rate offering.”* The Provider states that the communication was circulated to brokers inviting them to contact their respective mortgage manager with queries. The Provider asserts that this communication did not form any part of an advertisement to the general public but rather was a communicate provided to brokers only.

The Provider submits that the first product referred to in the communication to brokers was a new product which the Provider offered from **late 2006** to **February 2008** for new private dwelling house mortgage loan applications that provided a specific guarantee of a tracker interest rate on expiry of an initial fixed rate period in the loan offer documentation. The Provider explains that this mortgage loan product was not available for residential investment properties.

The Provider submits that the **Letter of Offer** dated **March 2008** in relation to mortgage loan account ending **449/2** provided no entitlement to a tracker interest rate. The Provider outlines that the **Letter of Offer** was provided to the Complainants with a covering letter to contact their broker should they have any queries. The Provider submits that the letter also included a recommendation that the Complainants obtain independent legal advice.

The Provider details that **General Condition 7** of the **Letter of Offer** dated **March 2008** confirmed that the Provider's prevailing interest rate would apply on expiry of the fixed rate period "*and there is no reference to the variable rate being linked in any way to the ECB rate and no commitment that the prevailing rate referenced would track the ECB rate or any other quoted rate*".

The Provider explains that on the expiry of the fixed interest rate on mortgage loan account ending **449/2**, it issued an **automated system notification letter** to the Complainants to confirm that the fixed interest rate had ended and to notify the Complainants of the revised repayments. The Provider submits that it "*had no query from the Complainants in response to the notification letter to indicate any expectation or understanding that a tracker rate was to apply to the account*".

The Provider submits that it was notified on **18 March 2010** that the property secured by the residential investment loan under mortgage loan account ending **449/2** had converted to the private dwelling house of the First Complainant as the Complainants had separated. The Provider submits that it wrote to the Complainants on **24 June 2010** to confirm that a home loan variable interest rate of 3.65% had been applied to the mortgage loan account, rather than the residential investment lending rate.

The Provider explains that the Complainants were not offered a tracker interest rate on mortgage loan account ending **449/2** following the expiry of the fixed interest rate period in **May 2010** "*as there was no default or contractual entitlement established for the Provider to do so*". The Provider further submits that it withdrew tracker interest rates from its product offering in **mid-2008** therefore tracker interest rates were no longer available on the expiry of the fixed interest rate period.

The Provider submits that it is the case that both mortgage loans (under mortgage loan accounts ending **449/1** and **449/2**) have the same standard general terms and conditions. The Provider states that it is also the case that "*no contractual entitlement was established for the provision of tracker rate on the mortgage account ending 449/1*". However, the Provider states that mortgage account ending **449/1** "*was included with a cohort of customers identified as part of the tracker review, that had applied and received a loan offer for a PDH within a certain period, on a fixed rate with a roll off to a standard variable rate*".

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The Provider highlights that only private dwelling house loans were impacted in this cohort. The Provider notes that while the Complainants' mortgage loan account ending **449/1** was never on a tracker interest rate, the Provider decided to include this mortgage loan account within a cohort of customers considered impacted "***as if they had received a loan offer providing for a tracker rate on expiry of an initial fixed rate based on an offering available from the Bank at the time as notified to Brokers, due to the particular circumstances of this cohort***" [Provider's emphasis].

The Provider maintains that mortgage loan account ending **449/2** did not fall within the parameters of this cohort of impacted mortgage loan accounts because mortgage loan account ending **449/2** did not relate to a new private dwelling house mortgage loan but rather concerned a residential investment property.

The Complaint for Adjudication

The complaint for adjudication is that the Provider incorrectly failed to offer the Complainants a tracker interest rate on mortgage loan account ending **449/2** upon expiry of the fixed interest rate period in **2010**.

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 29 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.

Before dealing with the substance of the complaint, I note that the Complainants applied for the mortgage loan that is the subject of this complaint through a broker. As this complaint is made against the respondent Provider only, it is the conduct of the Provider and not the broker which will be investigated and dealt with in this Decision. The Complainants were informed of the parameters of the investigation by this Office, by letter dated **18 September 2019**, which outlined as follows:

“In the interests of clarity, the complaint that you are maintaining under this complaint reference number is against [the Provider] and this office will not be investigating any conduct of the Broker in the course of investigating and adjudicating on this complaint.”

Therefore, the conduct of the third-party broker engaged by the Complainants, does not form part of this investigation and decision for the reasons set out above.

In order to determine this complaint, it is necessary to review and set out the relevant provisions of the Complainants’ mortgage loan account ending **499/2**. Given the circumstances of this complaint, it is also helpful to consider the particulars of mortgage loan account ending **449/1**. I will also set out details of certain interactions between the Complainants and the Provider in **2010**.

I have been provided with a copy of the communication which the Provider circulated to brokers on **07 November 2006** which provides details in relation to two different product offerings from the Provider as follows:

“Fantastic News from [the Provider]

*All [Provider] fixed rates will now **roll onto** tracker rate upon expiry. Offering your clients even better value.*

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Product Features

- For loan amounts greater than €150k the tracker rate applicable will be 1.25%
- For loan amounts less than €150k the tracker that will apply will be 1.40% tracker.

New Tracker Product 0.9%

[The Provider] is delighted to launch a **New Tracker product**

Offering excellent value to you and your clients, this **'Tracker product'** is available to **ALL NEW CUSTOMERS**, who wish to take out a mortgage with [the Provider]

Product Features

- This product is available for Loans Greater than €500K and LTV less than 80%.
- Normal lending criteria apply.

Availability

The new product is available immediately – Normal broker commission arrangements will apply.”

The Complainants' broker submitted a mortgage loan application to the Provider by way of letter dated **31 August 2007** seeking a mortgage loan in relation to the Complainants' private dwelling house. It appears that this mortgage loan application was not progressed by the Complainants.

The Complainants' broker subsequently submitted a further mortgage loan application to the Provider by way of letter dated **01 February 2008** in respect of both the Complainants' private dwelling house and the Complainants' residential investment property. The letter dated **01 February 2008** detailed that the Complainants were seeking to switch their mortgage in relation to the investment property from another provider and also purchase a new private dwelling house.

I will firstly consider the particulars of mortgage loan account ending **449/1** which was secured against the Complainants' private dwelling house and which the Provider deemed impacted under the Central Bank of Ireland directed Tracker Mortgage Examination (the "Examination").

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This mortgage loan account is not the subject of this complaint, and my consideration of this mortgage loan account serves to provide some context to the overall complaint for adjudication.

- **Mortgage loan account ending 449/1**

The Provider issued an **Amended Letter of Offer** dated **29 February 2008** to the Complainants which details as follows:

"1. Amount of Credit Advanced:	€328,000.00
2. Period of agreement (Years – Months)	35 - 0
...	
18. Type of Advance	ANNUITY HOMELOAN
19. Interest rate:	4.85%
	Fixed for 24 months"

I note that the secured property the subject of the mortgage loan was the Complainants' private dwelling house and the type of loan offered was an annuity home loan.

Condition 7 of the **Loan General Conditions** details as follows:

"The rate of interest applicable to this loan will be fixed for 24 months from the date of drawdown. The interest rate and fixed rate term specified may vary on or before the date of drawdown of the mortgage and in such event, the prevailing fixed rate and fixed rate term at the date of drawdown will be notified to the Applicant(s) Solicitor. If during the fixed rate period, the Applicant (s) fully or partially redeem the advance or convert it to variable interest rate or another fixed interest rate loan, a break funding fee may be payable to the Lender. The break funding fee is calculated using the following formula: Mortgage Balance Outstanding x Break Funding Cost (No. of unexpired months of fixed term period/12)* Break Funding Cost is calculated by subtracting the current fixed rate on offer for the remaining fixed term from the original fixed rate The Lender reserves the right to (A) cancel the arrangements for fixed interest rate payments if before the expiry of the fixed term the Applicant(s) account falls two or more months in arrears, or (B) vary the rate applicable to the Advance in order to comply with any reserve asset requirements imposed by any regulatory authority at any time. Any change in the applicable rate will be brought to the attention of the Applicant(s) within a reasonable period. At the expiry of the fixed rate period the Lenders prevailing variable rate will apply."*

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Condition 17 of the **Loan General Conditions** details as follows:

“THE LENDER RECOMMENDS THAT APPLICANT(S) SEEK(S) HIS/HER/THEIR SOLICITORS ADVICE IN RELATION TO THE LETTER OF OFFER, THESE CONDITIONS AND ATTACHED DOCUMENTS”

The **Loan General Conditions** also detail:

“WARNING: THE PAYMENT RATES ON THIS HOUSING LOAN MAY BE ADJUSTED BY THE LENDER FROM TIME TO TIME.”

The **Special Conditions** relating to the mortgage loan detail as follows:

“562 The rate of interest applicable to this loan will be fixed for 24 months from date of drawdown. The interest rate and fixed rate term specified may vary on or before the date of drawdown of the mortgage and in such event, the prevailing fixed rate and fixed rate term at the date of drawdown will be notified to the Applicant(s) Solicitor.

...

At the expiry of the fixed rate period your loan will revert to the [Lenders] Renewal Rate. The [Lenders] Renewal Rate is variable rate and may be varied by the Lender from time to time in line with general market conditions...”

The **Form of Acceptance** signed by the Complainants on **05 March 2008**, outlines as follows:

“I/We the, undersigned, accept the offer of an advance made to me/us by [the Provider] on foot of the Loan Application Form signed by me/us and on the terms and conditions set out in:-

- (i) the Letter of Offer;*
- (ii) the Particulars;*
- (iii) the Lender’s General Conditions for Home Loans;*
- (iv) the Special Conditions (if any);*
- (v) the Lender’s standard Form of Mortgage;*
- (vi) the Assignment of Life Policy;*

Copies of which I/We have received and in respect of which I/We have been advised upon by my/our solicitors(s)”

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The **Amended Letter of Offer** envisaged a fixed interest rate of 4.85% for a period of 24 months. **General Condition 7** and **Special Condition 562** were clear that the Provider's prevailing variable interest rate would apply at the end of the fixed interest rate period. The variable interest rate in this case made no reference to varying in accordance with variations in the ECB refinancing rate, rather it was a variable rate which could be adjusted by the Provider. The Complainants accepted the **Amended Letter of Offer**, having confirmed that they had been advised upon the terms and conditions by their solicitor, and ultimately drew down the mortgage on a fixed interest rate.

The Provider explains that mortgage loan account ending **449/1** was included with a cohort of customers, identified as part of the Examination, that had applied and received a loan offer in respect of a private dwelling house loan within a certain period of time. The Provider notes that while this cohort of customers were never on a tracker interest rate and were not contractually entitled to a tracker interest rate, the Provider decided to consider the mortgage loan accounts of those customers as impacted "*as if they had received a loan offer providing for a tracker rate on expiry of the initial fixed rate period*" in line with the private dwelling house mortgage loan product that was available from the Provider at the time of application. The private dwelling home mortgage product to which the Provider refers to appears to be one of the mortgage loan products referred to in the communication which the Provider circulated to brokers on **7 November 2006**, that is the fixed interest rate product that rolled onto a tracker interest rate upon expiry of the fixed interest rate period. The Provider submits that this particular product offering was available from the Provider in respect of private dwelling home loans from **late 2006 to February 2008**. In circumstances where the Complainants were issued with the **Amended Letter of Offer** for mortgage loan account ending **449/1** on **29 February 2008**, prior to the withdrawal of product offering referred to in Provider's "*flyer*" to brokers in **November 2006** and given the secured property was a private dwelling home, the Provider decided to include mortgage loan account **449/1** in the Examination. The Provider submits that no residential investment lending was included in the cohort of customers considered to be impacted as part of the Examination.

- **Mortgage loan account ending 449/2**

After having executed the mortgage loan documentation for mortgage loan account ending **449/1**, the Provider issued a **Letter of Offer** dated **19 March 2008** to the Complainants in respect of a residential investment property which details as follows:

<i>"1. Amount of Credit Advanced:</i>	<i>€262,000.00</i>
<i>2. Period of agreement (Years – Months)</i>	<i>30 - 0</i>
<i>...</i>	
<i>18. Type of Advance</i>	<i>LETTING ANNUITY</i>

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19. Interest rate: 4.89%
Fixed for 24 months”

I note that the secured property the subject of the mortgage loan was the Complainants’ residential investment property and the type of loan offered was a letting annuity loan. I further note that the **Letter of Offer** was issued in **March 2008**, which is after the Provider submits that it withdrew the product offering referred to in the Provider’s communication to brokers in **November 2006**.

Condition 7 of the **Loan General Conditions** details as follows:

“The rate of interest applicable to this loan will be fixed for 24 months from the date of drawdown. The interest rate and fixed rate term specified may vary on or before the date of drawdown of the mortgage and in such event, the prevailing fixed rate and fixed rate term at the date of drawdown will be notified to the Applicant(s) Solicitor. If during the fixed rate period, the Applicant (s) fully or partially redeem the advance or convert it to variable interest rate or another fixed interest rate loan, a break funding fee may be payable to the Lender. The break funding fee is calculated using the following formula: Mortgage Balance Outstanding x Break Funding Cost (No. of unexpired months of fixed term period/12)* Break Funding Cost is calculated by subtracting the current fixed rate on offer for the remaining fixed term from the original fixed rate The Lender reserves the right to (A) cancel the arrangements for fixed interest rate payments if before the expiry of the fixed term the Applicant(s) account falls two or more months in arrears, or (B) vary the rate applicable to the Advance in order to comply with any reserve asset requirements imposed by any regulatory authority at any time. Any change in the applicable rate will be brought to the attention of the Applicant(s) within a reasonable period. At the expiry of the fixed rate period the Lenders prevailing variable rate will apply.”*

Condition 17 of the **Loan General Conditions** details as follows:

“THE LENDER RECOMMENDS THAT APPLICANT(S) SEEK(S) HIS/HER/THEIR SOLICITORS ADVICE IN RELATION TO THE LETTER OF OFFER, THESE CONDITIONS AND ATTACHED DOCUMENTS”

The **Loan General Conditions** also detail:

“WARNING: THE PAYMENT RATES ON THIS HOUSING LOAN MAY BE ADJUSTED BY THE LENDER FROM TIME TO TIME.”

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The **Form of Acceptance** was signed by the Complainants on **02 April 2008** on the following terms:

“I/We the, undersigned, accept the offer of an advance made to me/us by [the Provider] on foot of the Loan Application Form signed by me/us and on the terms and conditions set out in:-

- (i) the Letter of Offer;*
- (ii) the Particulars;*
- (iii) the Lender’s General Conditions for Home Loans;*
- (iv) the Special Conditions (if any);*
- (v) the Lender’s standard Form of Mortgage;*
- (vi) the Assignment of Life Policy;*

copies of which I/We have received and in respect of which I/We have been advised upon by my/our solicitors(s)”

It is clear that the **Letter of Offer** provided for a fixed interest rate of 4.89% for the first 24 months of the term of the loan. **General Condition 7** clearly details that the Provider’s prevailing variable interest rate will apply at the end of the fixed interest rate period. The variable rate in this case made no reference to varying in accordance with variations in the ECB refinancing rate, rather it was a variable rate which could be adjusted by the Provider. The Complainants accepted the **Letter of Offer**, and in doing so detailed that they had been advised upon the terms and conditions of the mortgage loan by their solicitor. The mortgage loan account was drawn down on **01 June 2008** on a fixed interest rate of 5.09%.

The Complainants wrote to the Provider on **09 March 2010** to inform the Provider that they had separated and the secured property the subject of mortgage loan account ending **449/2** was now being occupied by the First Complainant. The Complainants requested that the mortgage loan account be changed from *“investment to residential”*. The Provider’s internal notes dated **18 March 2010** show that the Provider required utility bills from the First Complainant before the Provider could change the status of the secured property. The Provider’s internal notes dated **10 May 2010** show that utility bills were received and passed to the relevant unit for processing. The Provider wrote to the Complainants on **24 June 2010** and confirmed the change of the status of the secured property to a private dwelling house as follows:

“Dear [Complainants]

I am writing in relation to your recent letter regarding your mortgage account.

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I have now amended the stats of your loan to a Private Dwelling House. Your next repayment due on June 1st is for €1,222.50. This repayment is based your revised homeloan variable rate of 3.65%.

...

If you have any further queries, please do not hesitate to contact our Customer Services Department on [number]"

In the meantime, the initial 24-month fixed interest period expired. This Office has not been furnished with a copy of the **automated system notification letter** that the Provider purportedly issued to the Complainants prior to the expiry of the fixed interest rate period in **2010**. The Provider does not appear to have offered any explanation as to why it has not provided a copy of this letter in evidence, which is most disappointing. I note from the Provider's interest rate change report that mortgage loan account ending **449/2** switched to an "investment variable" interest rate of 4.29% on **02 May 2010** which increased to 4.5% on **03 May 2010**. I further note that when the status of the secured property changed to a private dwelling house, the Provider applied a standard variable interest rate of 3.65% to mortgage loan account ending **449/2** on **24 June 2010**.

The evidence shows that both mortgage loan accounts ending **449/1** and **449/2** were drawn down on a fixed interest rate, mortgage loan account ending **449/1** converted to the Provider's standard variable interest rate on expiry of the fixed interest rate period and mortgage loan account ending **449/2** converted to the Provider's investment variable interest rate on expiry of the fixed interest rate period. Both mortgage loan accounts were moved to the respective variable interest rates in accordance with **General Condition 7** of the **Amended Letter of Offer** dated **29 February 2008** in respect of mortgage loan account ending **449/1** and the **Letter of Offer** dated **19 March 2008** in respect of mortgage loan account ending **449/2**.

The Provider decided to retrospectively apply a tracker interest rate to mortgage loan account ending **449/1** because the Provider was of the view that mortgage loan account ending **449/1** fell within a cohort of customers who held mortgage loan accounts that were impacted by the Examination. However, the fact that the Provider has retrospectively applied a tracker interest rate to mortgage account ending **449/1**, which was secured on the Complainants' private dwelling house, does not automatically entitle the Complainants to a tracker interest rate on mortgage loan account ending **449/2** which was secured on the Complainants' residential investment property and which subsequently became the First Complainant's private dwelling house in **2010**.

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The Complainants place great emphasis on the “flyer” communication that issued from the Provider to brokers in **November 2006**. However, it is important to highlight that this “flyer” does not amount to a mortgage loan agreement between the parties.

The Complainants’ mortgage loan account ending **449/2** is governed by the terms and conditions of the **Letter of Offer** dated **19 March 2008** which was signed and accepted by the Complainants on **02 April 2008**. Following a careful consideration of the mortgage loan documentation in relation to mortgage loan account ending **449/2**, it is clear that the Complainants did not have a contractual or regulatory entitlement to be offered a tracker interest rate at the end of the fixed interest rate period in **2010**. In accordance with **General Condition 7** and the **Special Conditions** contained in the **Letter of Offer** dated **19 March 2008**, the Complainants were entitled to the Provider’s prevailing variable interest rate on the expiry of the fixed interest rate period in **May 2010**. The Provider was therefore under no obligation to offer a tracker interest rate to the Complainants in **2010**. The Provider applied a variable interest rate of 4.29% to mortgage loan account ending **449/2** on **02 May 2010**, which was the prevailing variable interest rate available in respect of residential investment loans upon expiry of the initial fixed interest rate period in **2010**. The Provider subsequently applied a standard variable interest rate to the mortgage loan account on **24 June 2010** when the status of the secured property changed from a residential investment property to the First Complainant’s private dwelling house. I am therefore satisfied that the Provider acted in accordance with the terms and conditions of **Letter of Offer** dated **19 March 2008**.

For the reasons set out above 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.



JACQUELINE O'MALLEY
HEAD OF LEGAL SERVICES

22 April 2022

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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.