



<u>Decision Ref:</u>	2022-0220
<u>Sector:</u>	Banking
<u>Product / Service:</u>	Personal Loan
<u>Conduct(s) complained of:</u>	Failure to provide accurate account/balance information Delayed or inadequate communication Failure to process instructions in a timely manner
<u>Outcome:</u>	Upheld

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The Complainant entered into a number of personal loans/moneylending agreements with the Provider. This complaint concerns two personal loans.

The first loan, 'Loan 1', was drawn down on **16 February 2019** in the amount of **€1,200.00 (one thousand and two hundred Euro)** with a scheduled maturity date of **27 August 2019**. The second, 'Loan 2', was drawn down on **18 May 2019**, also in the amount of **€1,200.00 (one thousand and two hundred Euro)**, with a scheduled maturity date of **26 November 2019**.

The Complainant's Case

The Complainant says that as a result of his entering into an insolvency agreement, the Provider agreed, in **September 2019**, that it would not pursue **Loan 1** and **Loan 2** and these loan agreements were contractually terminated with effect from **7 October 2019**.

The Complainant says he asked the Provider, on a number of occasions, to advise the Central Credit Register to amend his record to reflect that the two loans were now closed.

The Provider advised the Complainant in its **Final Response Letter** dated **14 April 2020** that:

"... I can confirm the amendment has been requested but this can take up to 60 days to be reflected on the Central Credit Register ..."

In addition, the Provider advised the Complainant in its **Final Response Letter** dated **31 July 2020**, in respect of a second complaint he made to it regarding the same matter, that:

“We sent our request to the Central Credit Register on 29 May 2020, within the 60 day timescale advised, and they have confirmed this has been updated to show your three agreements with us contractually ended on 7 October 2019. If this is still not showing as updated, you would need to approach the Central Credit Register directly to query this”.

However, the Complainant says the two loans remained showing as active and in arrears on his Central Credit Register record at the time he completed his **Complaint Form** to this Office in **September 2021**.

The Complainant contacted the Central Bank of Ireland with regard to the matter and it wrote to him on **14 December 2021** to advise, among other things, that:

“I understand that, on 5 May 2020, [the Provider] was advised by the CCR that you had submitted an amendment request. The lender was requested to advise if an amendment was required and it was also provided with details of the timelines for response specified in the Act. Reminders were issued to the lender by the CCR on 15 May 2020, 19 May 2020, 29 May 2020 and 11 Jun[e] 2020. I understand that the lender did engage with the CCR over this period and submitted an amendment file which, according to the lender, included amendments to close the contracts in question. I also understand that the CCR Operations team confirmed to the lender on 12 June 2020 that this file had loaded successfully. However, a successfully uploaded file is not confirmation that what is submitted is correct. As referred to above, the CCR relies on lenders to submit accurate, complete and up-to-date information as it does not have access to any underlying documentation held by a lender in relation to a loan and cannot create or verify the information submitted ...

In relation to the engagements with the lender at this time, I understand that the lender contacted CCR Operations on 8 October 2021 regarding this amendment request. However, I also understand that the lender had emailed the incorrect mailbox within CCR Operations regarding the amendment and, on 13 October, it was requested to contact the correct team/mailbox. Please note that contact details are available on the Lender Area of the CCR website. In addition, the contact details are also explained in the Service Management manual available to lenders. On 21 October 2021, the lender contacted the correct team and on 22 October 2021, the lender submitted a deletion request to CCR Operations. On 28 October 2021, CCR Operations confirmed that this was deleted. On 3 November 2021, the lender uploaded a file and the two contracts in question were then resubmitted as closed.”

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The Complainant sets out his complaint in the **Complaint Form** he completed, as follows:

"In January 2020 I saw on my Central Credit Registrar report that the loans were still active and showing as in arrears. I contacted [Provider] on more than 30 occasions and was assured that they again cleared this off the Central Credit Registrar.

I even sent in a complaint in January and they assured me this would be sorted ASAP on the phone.

At the start of April 2020, I requested a copy of my Central Credit Register report which still showed my loans active, despite previous contacts and complaints with [the Provider] that I was assured that they amended the Central Credit Registrar.

I again made a second formal complaint through email on April 2020 to [the Provider] about my situation. I got a final response on April 14th 2020 by email which states "Having investigated your complaint, I can confirm the amendment has been requested but this can take up to 60 days to be reflected on the Central Credit Registrar. As a result, I am not able to uphold this element of your complaint".

I said I would give [the Provider] the benefit of the doubt and wait 69 days since my last complaint to see if the Central Credit Registrar had been updated. At the start of July 2020, I again requested a copy of my Central Credit Registrar report. I was shocked to see that my account was still showing as active on the Central Credit Registrar and showing in arrears. No action had been taken to remove this by [the Provider] after my last complaint 1. assuring me this had been done, and 2. rejecting my complaint because they said it was done.

I then made a third complaint regarding the situation to [the Provider] by email on 9th July 2020. I received a final response to this third complaint on 31st July 2020... [The Provider] again states that they had amended my Central Credit records. Again, this has not been done (see attached CCR Report from 23/09/2021 which shows the loans as still active, and in arrears. (Last updated on December 2020)).

As you see from my records, what happened is appalling from [the Provider]. I am making the complaint under the following grounds: Wrong Information on Central Credit Registrar, Maladministration, Customer Service, Arrears handling (reported to the CCR incorrectly), advice incorrect, communication. As you will see from the email from [the Provider], they state that - my loans contractually ended on 7th October 2019. If this was the case, they would not be viewable to lenders from 7th October 2021 as only the last 2 years are shown to lenders on Credit Checks. I currently have loans and wished to get them restructured in October 2021. However, the two [Provider] loans are still showing as active and in arrears so this will have a detrimental effect on me should I wish to restructure a current loan or obtain new credit. This is simply not acceptable after all the time I put into contacting [the Provider] on the matter and who have continuously lied and left my Central Credit Registrar marked".

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The Complainant sets out that, due to the Provider's delay in ceasing to report the loans to the Central Credit Register as and when agreed, he could not apply for finance for his college fees and had to defer his college course for a year which will impact on his promotional opportunities at work and result in a deferral fee. He says that the Provider's delay also affected his application for a mortgage.

The first element of the Complainant's complaint is that the Provider wrongfully reported the Complainant's two loans to the Central Credit Register from **April 2020** to **October 2021**. The second element of the Complainant's complaint is that the Provider gave poor customer service to the Complainant and poorly handled his complaint in the period **April 2020** to **October 2021**.

The Complainant says he seeks the following:

"1. I want my Central Credit Registrar rectified immediately.

2. I wish to be compensated for the stress, upset, and handling of my several complaints. I was also lied to on several occasions. This will also have a detrimental effect when I want to restructure my loans in October 2021 and could also affect my accessing other credit as they are showing as active and in arrears. For the financial impact, this could have on me, and that it has already had on my record when it should have been removed, I am see[k]ing a payment of goodwill of €3000".

The Provider's Case

The Provider notes that this complaint concerns two personal loans that the Complainant held with it. The first loan, '**Loan 1**', was drawn down on **16 February 2019** in the amount of **€1,200.00** with a scheduled maturity date of **27 August 2019**. The second, '**Loan 2**', was drawn down on **18 May 2019**, also in the amount of **€1,200.00** with a scheduled maturity date of **26 November 2019**.

The Provider says it had cause to send arrears letters to the Complainant in respect of both **Loan 1** and **Loan 2** and that these letters advised him of the impact that missed repayments would have on his credit record, as follows:

" .. If you took out a loan/s of €500 or more with us we are required to share credit information including non-payment information about your loan/s each month with the Central Credit Register. This could affect your ability to obtain credit in the future ..."

The Provider says that **Loan 1** and **Loan 2** were subsequently closed on its records from **9 September 2019** with the amount of **€450.00 (four hundred and fifty Euro)** written-off on **Loan 1** and **€1,290.00 (one thousand two hundred and ninety Euro)** written-off on **Loan 2**. The Provider says that these loans were written off, due to 12 weeks of missed payments.

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On **4 April 2020**, the Complainant emailed a complaint to the Provider in which he complained that he had been advised by the Provider that the Central Credit Register would be updated to reflect the fact that **Loan 1** and **Loan 2** had been written off by the Provider, but this amendment was not yet showing on the Central Credit Register. The Complainant also advised that he had previously completed **Online Complaint Forms** but did not receive any responses to these, from the Provider.

The Provider says that on **7 April 2020**, the Complainant contacted it to advise of his debt settlement arrangement and the Provider agreed to amend his credit report with the Central Credit Register to reflect that both **Loan 1** and **Loan 2** were no longer active, but were closed.

On **14 April 2020**, following its complaint review, the Provider emailed the Complainant its **Final Response** as follows:

"... Having investigated your complaint, I can confirm the amendment has been requested but this can take up to 60 days to be reflected on the Central Credit Register. As a result, I am not able to uphold this element of your complaint.

I have check (sic) through the mailbox where the complaint forms are stored and unfortunately cannot find any previous complaint forms completed by you based on customer information we hold for you. If you have been trying to complete these and they have not come through then I do apologise. As a result, I am upholding this element of your complaint ..."

On **20 May 2020**, the Provider says it sent a request to delete one of the Complainant's two loan agreements to the Central Credit Register. The Provider says that later that same day, the Central Credit Register acknowledged and confirmed the completion of this request.

On **29 May 2020**, the Provider says it sent a request to the Central Credit Register to delete the other of the Complainant's loan agreements. The Provider says that later that same day, the Central Credit Register acknowledged and confirmed the completion of this request. The Provider says it also sent a Type 2 Amendments Submission file request to the Central Credit Register to update the history for both **Loan 1** and **Loan 2** to reflect a "*Contractual end date of 07/10/2019*".

On **2 June 2020**, the Provider says it received an email from the Central Credit Register to advise that the file it sent on **29 May 2020** was "*in the queue and will be processed asap*".

On **9 June 2020**, the Provider says it sought an update from the Central Credit Register regarding the amendment request of **29 May 2020**.

On **12 June 2020**, the Provider says it received confirmation from the Central Credit Register that the Type 2 Amendments Submission file that it had sent on **29 May 2020**, had been successfully uploaded with no errors.

On **9 July 2020**, the Complainant emailed a complaint to the Provider because his file with the Central Credit Register had still not been updated, despite requesting this on **7 April 2020**.

On **31 July 2020**, following its review of the second complaint, the Provider sent the following **Final Response** to the Complainant:

“Having investigated your complaint, I can see you registered a complaint previously ... In our Final Response Letter to you on 14 April 2020, it was confirmed this had been requested and would be updated within 60 days.

We sent our request to the Central Credit Register on 29 May 2020, within the 60 day timescale advised, and they have confirmed this has been updated to show your...agreements with us contractually ended on 7 October 2019. If this is still not showing as updated, you would need to approach the Central Credit Register directly to query this”.

On **27 September 2021**, the Provider says it received a third complaint from the Complainant in relation to this matter, in which he enclosed the Central Credit Register’s record of **Loan 1** showing an active outstanding balance of **€450.00** on **31 December 2020** with no payments past due, and **Loan 2** showing an active outstanding balance of **€1,290.00** on **31 December 2020** with 4 payments past due. The Provider says that responses were sent to the Complaint Handler throughout the day.

On **8 October 2021**, the Provider says it contacted the Central Credit Register asking what was showing for **Loan 1** and **Loan 2** on the Complainant’s record. The Provider says it chased the Central Credit Register for a response on **11 October** and **13 October 2021**.

On **13 October 2021**, the Provider says it received a response from the Central Credit Register. The Provider says it sent a history update request to the Central Credit Register and received an acknowledgement of this request later that same day, and that it also questioned its initial requests from **May 2020** with the Central Credit Register. The Provider says it chased the Central Credit Register for a response on **19 October 2021**, **21 October 2021**, **28 October 2021** and **1 November 2021**.

On **3 November 2021**, the Provider says it received confirmation from the Central Credit Register that the files were uploaded.

On **12 November 2021**, the Provider says the Complainant telephoned and the fact that the Central Credit Register was blaming the Provider, and the Provider was blaming them was discussed. The Agent told the Complainant that he appreciated how frustrating this must be for him and confirmed that the amendments should now be processed as the Provider had sent them through again. The Complainant advised that he would check this.

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On **15 December 2021**, the Provider says the Central Credit Register confirmed that it had been its issue, that the first requests in **May 2020** had not being completed at that time.

On **11 January 2022**, following its review of the Complainant's third complaint which it had received on **27 September 2021**, the Provider sent the following **Final Response** to the Complainant:

"Having investigated your complaint I can confirm we have processed every one of your requests forward to the Central Credit Register (CCR) who controls your credit report. The CCR has acknowledged receipt, however, if your credit report has not been updated they have not followed through on our requests.

We have evidence the CCR has received all of your instructions. If your credit report still shows the loans as open, you need to raise this issue with the CCR".

The Provider says it is satisfied that the contents of its **Final Response** letters to the Complainant dated **14 April 2020**, **31 July 2020** and **11 January 2022** were complete and correct.

The Provider says it continuously requested updates from the Central Credit Register and that they have not acknowledged that there have been any errors on their part.

In relation to the Provider complying with the relevant provisions of the **Credit Reporting Act 2013** in respect of the time it took to inform the Central Credit Register that the Complainant's two loans were closed, in a manner which met the Central Credit Register's requirements to reflect those closures, the Provider says that monthly credit file amendments were passed on to the Central Credit Register on several occasions and they confirmed there was no errors in the reporting data they received. The Provider says it therefore expected the information to have been acted on and reported at the time.

The Provider says it needs to make it clear that **Loan 1** and **Loan 2** did not contractually end, thought it appreciates that the wording "*contractual end*" in its submission to the Central Credit Register is misleading. Rather these loans were written off by the Provider due to 12 weeks of missed repayments. The Provider says that at no point did it state that it would fully remove **Loan 1** and **Loan 2** from the Complainant's credit report, instead it advised that these loans would be amended on the Central Credit Register to show them as settled.

The Provider says the Complainant mentioned to it in **April 2020** that he was in a debt settlement arrangement and that this should mean that the credit file entries for **Loan 1** and **Loan 2** with the Central Credit Register should be amended.

In response to the Complainant's comments that its failure to ensure that such amendments were carried out, had affected his access to credit, the Provider says that if the Complainant was involved in a debt settlement arrangement, this would indicate financial difficulties which far exceed the loans owed to the Provider and therefore this would have been having a larger impact on the Complainant's credit file, than the Provider can be held responsible for.

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Furthermore, the Provider says that having checked the **Insolvency Service of Ireland Registers**, it could locate no evidence of the Complainant being in a debt settlement arrangement, which would indicate that he has either never entered into a debt settlement arrangement or was discharged for breaching the terms of the arrangement.

The Provider says that ultimately the Complainant took out **Loan 1** and **Loan 2** and did not repay the Provider and, as a result, the negative credit reporting seems fair to the Provider given the loan repayment performance. The Provider says the Complainant cannot reasonably say that there should be no consequence for the non-repayment of loans, such as being declined for further credit, at a later date.

The Provider says that the Complainant raised a total of three complaints in relation to this matter, with **Final Response** letters issuing to him on **14 April 2020**, **31 July 2020** and **11 January 2022**. In response to the Complainant's comment in his email to the Provider of **4 April 2020** that he had made "*several complaints through [the Provider's] online form and have not got a reply*", the Provider says it did not receive a complaint from the Complainant prior to **April 2020**.

In this regard, the Provider notes that its **Online Complaints Form** generates an email detailing the complaint points which is then sent directly to its Complaints Department. The Provider says there is no evidence of any emails being received into its Complaints Department from the Complainant, prior to **April 2020**.

The Provider says that once the complaint is submitted, a message appears on the **Online Complaints Form**, as follows:

"... Thank you for contacting us ...

We will aim to respond to your query within five working days, if not sooner ..."

The Provider notes that there is no option to download or save the **Online Complaints Form**, nor is a confirmation email issued to the sender.

In response to the Complainant's comments that he "*contacted [the Provider] on more than 30 occasions and was assured that they again cleared this off the Central Credit Register*", the Provider would agree the Complainant contacted it on several occasions however it cannot attest to the exact number of times he believes he may have contacted it.

The Provider is satisfied that the failure to update the Complainant's credit file in relation to **Loan 1** and **Loan 2** sits with the Central Credit Register, as it sent the request to the Central Credit Register on **29 May 2020** to update the credit file.

The Complaint for Adjudication

The complaint that:

1. the Provider wrongfully reported the Complainant's two loans to the Central Credit Register from **April 2020** to **October 2021**, and
2. the Provider gave poor customer service to the Complainant and poorly handled his complaint from **April 2020** to **October 2021**.

Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision, I have carefully considered the evidence and submissions put forward by the parties to the complaint. Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties on **3 June 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. Following the consideration of additional submissions from the parties, the final determination of this office is set out below.

I note that the Complainant had entered into a number of personal loans/moneylending agreements with the Provider. The Provider advises that due to the Complainant missing 12 weeks of repayments, it closed **Loan 1** and **Loan 2** on its records from **9 September 2019**, with the total of **€1,740** being written off (**€450.00** on **Loan 1** and **€1,290.00** on **Loan 2**).

In relation to the first element of the complaint, that is, that the Provider wrongfully reported the Complainant's two loans to the Central Credit Register from **April 2020** to **October 2021**, I note that in or around **7 April 2020** the Provider agreed with the Complainant to amend his credit report with the Central Credit Register to reflect that both **Loan 1** and **Loan 2** were now closed, rather than active and in arrears.

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The Provider has advised that on **20 May 2020** it sent a request to delete one of the Complainant's loan agreements to the Central Credit Register and that later that same day, the Central Credit Register acknowledged and confirmed the completion of this request. The Provider also advises that on **29 May 2020** it sent a request to the Central Credit Register to delete the other of the Complainant's loan agreements and that later that same day, the Central Credit Register acknowledged and confirmed the completion of this request.

It is not clear to me why the Provider uses the terminology "*Request to delete one of the agreements*" in its **Formal Response** to the complaint investigation by this Office dated **22 March 2022**, given that the Provider was not seeking to delete the record of the loan agreement, but rather was seeking to amend its status.

In addition, the Provider has also advised that it sent a Type 2 Amendments Submission file request to the Central Credit Register on **29 May 2020** to update the Complainant's credit file history for **Loan 1** and **Loan 2** to reflect a "*Contractual end date of 07/10/2019*".

It is not possible to ascertain what exact information the Provider sent to the Central Credit Register on **20 May 2020** and **29 May 2020** from the documentary evidence that the Provider has supplied to this Office as part of its **Formal Response**. I note that its email to this Office of **22 March 2022**, the Provider advised, as follows:

"To give you some insight into the current business situation, the business closed in December 2021 so as the winding down of the home credit business continues we're unable to provide evidential information to the level we previously were".

I am of the opinion that the Provider's responses to the questions posed by this Office in the **Summary of Complaint** and the quality of the information supplied by the Provider as part of its **Formal Response** to this complaint investigation is disappointing.

For example, I note that in its **Formal Response**, the Provider states, among other things, that:

"... CCR then confirmed it was their issue with regard the first requests in 2020 not being completed 15/12/2021 ..."

I am, however, unable to locate any such confirmation in the documentation that the Provider furnished to this Office.

Instead, I note that the Central Bank of Ireland wrote to the Complainant on **14 December 2021** to advise, among other things, as follows:

"I understand that, on 5 May 2020, [the Provider] was advised by the CCR that you had submitted an amendment request. The lender was requested to advise if an amendment was required and it was also provided with details of the timelines for response specified in the Act. Reminders were issued to the lender by the CCR on 15 May 2020, 19 May 2020, 29 May 2020 and 11 Jun[e] 2020. I understand that the lender did engage with the CCR over this period and submitted an amendment file

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which, according to the lender, included amendments to close the contracts in question. I also understand that the CCR Operations team confirmed to the lender on 12 June 2020 that this file had loaded successfully. However, a successfully uploaded file is not confirmation that what is submitted is correct. As referred to above, the CCR relies on lenders to submit accurate, complete and up-to-date information as it does not have access to any underlying documentation held by a lender in relation to a loan and cannot create or verify the information submitted”.

In addition, I also note the internal email from the Provider’s Complaints Department at **16:38** on **7 October 2021**, as follows:

“[The Complainant] previously had two complaints, the outcome of which was we would agree to show his accounts as closed as of 7/10/19.

The customer is now complaining these updates were not made. Reviewing the previous complaints, we seem to have confirmation from CCR they have updated the record accordingly. However, these now seem to be open on CCR ...

What has happened here do we feel, is it the case CCR have not completed the amendment or they have completed the amendment but we have then later sent information advising the accounts are still live?”

Having regard to the above, I am of the opinion that it is not possible for this Office to ascertain from the documentation that the Provider supplied to this Office, what exact requests the Provider sent to the Central Credit Register on **20 May 2020** and **29 May 2020**. I note, however, the Central Credit Register emailed the Provider at **12:25** on **13 October 2021** to advise that:

“The last correspondence received by CIS Data Check for this request was on 12/06/2020, please find same attached.

We can see that both contracts are still reporting as ACTIVE on the database”.

In any event, I note that the Provider had cause to send the request to the Central Credit Register in **October 2021** before the details for **Loan 1** and **Loan 2** were amended on the Complainant’s record with the Central Credit Register. I note too that the Provider followed-up with the Central Credit Register on a number of occasions throughout **October** and **November 2021** to ensure that this request was actioned.

In relation to the second element of the complaint, that is, that the Provider gave poor customer service to the Complainant and poorly handled his complaint in the period **April 2020** to **October 2021**, the Complainant emailed a complaint to the Provider on **4 April 2020** complaining that he had been advised by the Provider that the Central Credit Register would be updated to reflect the fact that **Loan 1** and **Loan 2** had been written-off by the Provider, but that this amendment was not yet showing on the Central Credit Register.

I note that following its complaint review, the Provider emailed the Complainant its **Final Response** on **14 April 2020**, as follows:

"... Having investigated your complaint, I can confirm the amendment has been requested but this can take up to 60 days to be reflected on the Central Credit Register. As a result, I am not able to uphold this element of your complaint ..."

However, I note that as part of its **Formal Response** to this complaint investigation, the Provider indicated to this Office that it first sent the Type 2 Amendments Submission file request to update the history for the Complainant's **Loan 1** and **Loan 2** to reflect a "*Contractual end date of 07/10/2019*" to the Central Credit Register on **29 May 2020**.

This is some six weeks after the date the Provider had confirmed to the Complainant in its **Final Response** of **14 April 2020** that it had already done so. This is unsatisfactory and indicates to me that the Provider's response to the Complainant's complaint of **4 April 2020** was erroneous.

The Complainant emailed a second complaint to the Provider on **9 July 2020** complaining that his file with the Central Credit Register had still not been updated. I note that following its complaint review, the Provider emailed the Complainant its **Final Response** on **31 July 2020**, as follows:

"Having investigated your complaint, I can see you registered a complaint previously ... In our Final Response Letter to you on 14 April 2020, it was confirmed this had been requested and would be updated within 60 days.

We sent our request to the Central Credit Register on 29 May 2020, within the 60 day timescale advised, and they have confirmed this has been updated to show your...agreements with us contractually ended on 7 October 2019. If this is still not showing as updated, you would need to approach the Central Credit Register directly to query this".

I am, however, unable to locate in the documentation that the Provider furnished to this Office, any communication from the Central Credit Register confirming to the Provider that it had specifically updated the Complainant's file for **Loan 1** and **Loan 2** to show a "*Contractual end date of 07/10/2019*".

It is disappointing that the Provider, irrespective of what exact request it may have sent to the Central Credit Register on **29 May 2020**, did not, as part of its investigation of the Complainant's complaint of **9 July 2020**, take that opportunity to follow-up with the Central Credit Register to confirm that the information it had sent across on **29 May 2020** was correct and had or would be actioned, particularly given that six weeks had passed since it says it first sent the request.

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The Complainant had the right to expect the Provider to investigate his complaints thoroughly. I take the view that the Provider's **Final Responses of 14 April 2020 and 31 July 2020** do not suggest that the Provider appropriately investigated the Complainant's two complaints. This is unsatisfactory.

In addition, in my opinion, if the Provider had investigated his complaint of **9 July 2020** thoroughly, the Complainant would not then have had cause to submit a third complaint to the Provider some fourteen months later, on **27 September 2021**, in respect of the same matter.

I accept that after receipt of this third complaint, the Provider then took the necessary steps to ensure that the correct information was sent to and actioned by the Central Credit Register.

The Complainant has advised that due to the Provider's delay in ceasing to report the loans to the Central Credit Register as and when agreed, he could not apply for finance for his college fees and had to defer his college course for a year, which will impact on his promotional opportunities at work and result in a deferral fee. He has also advised that the Provider's delay affected his application for a mortgage.

The Complainant also advised the Provider in **April 2020**, that he had entered into a debt settlement arrangement. When the preliminary decision of the FSPO was issued on 3 June 2022, the Complainant had supplied no evidence to demonstrate that he entered into a formal Debt Settlement Arrangement or Personal Solvency Agreement.

Since that time, in more recent submissions, the Complainant has now shared details of a Debt Settlement Arrangement (DSA) which provided for a dividend of 20c to non-preferential creditors and was approved by the Court on **7 November 2019**.

The Complainant also clarified that:

"... I did enter into a Debt Settlement Arrangement, which after entering I was advised to that this could affect my Credit Register, therefore I immediately sought the help of family and paid all my creditors in full. (I have attached the successful completion of the DSA). My successful DSA was not on the register as it is removed after 3 months of a successful completion as per the ISI website which states:

"The ISI will record the successful completion of the DSA on the Register of Debt Settlement Arrangements and all information shall be removed within 3 months of receiving the notification of its successful completion."

This was completed soon after my DSA started but I did not get the letter to confirm successful completion from [Personal Insolvency Practitioner] until October 2020. The advice to seek help from family and clear this, came from my Credit Union manager.

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He was aware of my situation and gave me this financial advice. It was this member of the Credit Union who agreed to give me the loan for college, however as there was an issue from [Provider], he could not help, saying the loan was active and in arrears. He was aware of previously financial difficulties and said if the loan was showing it was written off in 2019, he would be able to provide credit now for college as he would have known that related to my previous financial difficulties 2 years earlier in 2019. (It should not have been active in 2021). This did have a detrimental affect on my education and promotional opportunities in work. I rang [Provider] several times and explained the situation and if they changed in to "written off in 2019" as it should have been, I was told by the Credit Union they would provide a loan for my college year. However, [Provider] still said it was the CCR's fault as they never changed it and there was no more they could do in [Provider].

We must remember that I had made three complaints to [Provider] and on all three they did not accept that they were wrong. While in face we know from the letter from the Central Bank that while they did contact the CCR and provided mass data files, and received confirmation from the CCR that the file was uploaded successfully, the information within that file in relation to my accounts were totally incorrect."

I note that the Provider had written off the 2 loans in question in **September 2019**, some weeks before the DSA was approved by the Court on **7 November 2019**. The DSA listed several loans, which did not include the two loans which had been held with the Provider. The Complainant has also submitted a Certificate of Completion of the Debt Settlement Arrangement, which is dated 13 **October 2020**.

The essence of the Complainant's argument is that if the Provider had acted correctly, he would not have been faced in **September/October 2021**, with the situation which arose, when he was looking to "apply for a restructure/loan top up ... on an existing loan to pay for college fees".

I accept the Provider's position however that although the Complainant was in discussions with the Credit Union, his history of a debt settlement arrangement, in addition to his existing loans, is likely to have impeded his access to credit, irrespective of the conduct or behaviour of the Provider.

I note that what the Provider had agreed to in **April 2020** was to amend the Complainant's credit report with the Central Credit Register to show that both **Loan 1** and **Loan 2** were no longer active and in arrears, but instead had been closed. I accept that this amendment would, more precisely, reflect that the loans were settled with an outstanding balance.

In this regard, the Complainant is mistaken if he understood that the Provider's request to the Central Credit Register (even if that request had been carried out expeditiously in **April 2020**) would have removed from his credit file, that he had two loans with the Provider that had been written-off. The fact that the Complainant had two loans with the Provider that he had not repaid in full, forms part of his credit history and he ought reasonably to have anticipated that this would inevitably have some impact on his access to credit.

Although the Complainant suggests that "*only the last two years are shown to lenders*", in fact, it is when a loan is active, that lenders will see only the two most recent years of payment information. The relevant CCR details for a closed loan account, including status of the loan, will be visible on a written-off loan, for a period of 5 years.

I note that the **Moneylending Agreements** that the Complainant signed respectively on **30 March 2019** for **Loan 1** and on **18 May 2019** for **Loan 2**, included the following warnings:

"Other important legal aspects

Missing payments

Missing payments could have severe consequences for you and make obtaining credit more difficult ...

NOTICE:

Under the Credit Reporting Act 2013, lenders are required to provide personal and credit information for credit applications and credit agreements of €500 and above for the Central Credit Register. This information will be held on the Central Credit Register and may be used by other lenders when making decisions on your credit applications and credit agreements ...

Terms and conditions ...

Entering this agreement also means that: ...

- *We may share your information with the Central Bank of Ireland's Central Credit Register, any other credit reference bureaus and other companies for use in making credit decisions, fraud detection and prevention, tracing, analysis, administration, market research and debt collection. Information may be held by the Central Bank of Ireland's Central Credit Register or other credit reference bureaus any may also be seen and sued by the other companies in making credit decisions".*

Having regard to all of the above, I take the view that the Provider's conduct in this matter has been unfair to the Complainant and was unjust and unreasonable within the meaning of **Section 60(2)(b)** of the **Financial Services and Pensions Ombudsman Act 2017**. Accordingly, on the evidence before me, I consider it appropriate to uphold this complaint.

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In determining the appropriate amount of compensation payable in this matter however, I am cognisant of the fact that the Complainant has already benefitted from the Provider writing-off debts totalling **€1,740.00 (one thousand seven hundred and forty Euro)**.

The Complainant says in that regard that:

“It is also worth noting that when I original contacted [Provider] and explained that I was considering entering a Debt Settlement Arrangement, they informed me that they did not want to pursue the loans and would be amending my CCR record within 28 days. This was totally their choice and I don't believe that this written off amount should be taken into consideration when determining the amount of compensation. If they had engaged with the DSA process, like all other creditors they would have received full payment, however it was their choice they decided not to do so, not mine.”

I note that the Complainant has explained that when he realised the potential impact that the DSA could have on his credit worthiness, he secured help from his family to address the relevant debts so that those debts could be repaid in full. Accordingly, if the Complainant had secured the assistance of his family to also pay the debts in question to the Provider, he would have found himself owing his family the monies in question. To that extent therefore, I do not accept that the Complainant has not benefitted financially from the Provider having written off the total amount of €1,740, in September 2019.

I accept the Complainant's argument, however, that the period it took for the Provider to correct the reporting issue, may have had an impact on his ability to borrow in late 2021, albeit that this situation was in no way a straightforward one, given the Complainant's complicated borrowing history and the completed DSA.

As a result, taking account of all of the evidence and the parties' submissions, including those submissions since the preliminary decision of this Office was issued, I consider it appropriate to mark my finding that the complaint is upheld, by directing that the Provider pay the Complainant a compensatory amount, as specified below.

Conclusion

- My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is upheld, on the grounds prescribed in **Section 60(2)(b)**.
- Pursuant to **Section 60(4)(d) and Section 60 (6)** of the **Financial Services and Pensions Ombudsman Act 2017**, I direct the Respondent Provider to make a compensatory payment to the Complainant in the sum of **€500.00 (five hundred Euro)** to an account of the Complainant's choosing, within a period of 35 days of the nomination of account details by the Complainant to the Provider. I also direct that interest is to be paid by the Provider on the said compensatory payment, at the rate referred to in **Section 22** of the **Courts Act 1981**, if the amount is not paid to the said account, within that period.

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- The Provider is also required to comply with **Section 60(8)(b)** of the **Financial Services and Pensions Ombudsman Act 2017**.

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.



MARYROSE MCGOVERN
Financial Services and Pensions Ombudsman (Acting)

29 June 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.