



<u>Decision Ref:</u>	2022-0264
<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

Background

This complaint relates to a mortgage loan account held by the Complainants with the Provider. The mortgage loan that is the subject of this complaint was secured on the Complainants' principal private residence.

The loan amount was €225,000.00 and the term of the loan was 27 years. The **Amended Letter of Offer** dated **4 July 2006** detailed that the interest rate was "*Fixed For 36 months*".

The Complainants' Case

The Complainants submit that they applied for a mortgage loan with the Provider through a broker in **August 2005**. The Complainants state they subsequently drew down a mortgage loan with the Provider on an interest rate that was fixed for a period of 36 months. The Complainants note that the mortgage loan drew down in stages.

The Complainants detail that the terms of the **Amended Letter of Offer** dated **04 July 2006**, provided that the Provider's "*prevailing variable rate*" would apply at the end of the fixed rate period. The Complainants assert that the Provider did not make it clear that this meant that the Provider's prevailing standard variable interest rate would apply.

The Complainants submit that after their mortgage loan was drawn down on a fixed interest rate in **2006**, the Provider issued a flyer to brokers on **07 November 2006** which stated that *"All [Provider] Homeloan fixed rates will now roll onto tracker rate upon expiry."*

The Complainants submit however that on the expiry of the fixed interest rate period in **2009**, their mortgage loan account rolled onto the Provider's standard variable interest rate, and they were not offered *"a tracker rate or reduced rate of interest"* at that time despite the Provider's flyer having *"clearly stated ALL fixed rate mortgages would roll onto a Tracker rate"*. The Complainants detail that the Provider *"seem[s] to disregard the [knowledge] of Brokers and many financial experts by suggesting that brokers would have understood the intent and content of the document issued in November 2006"*. In this regard, the Complainants state that *"[e]verybody did understand it because it said exactly what it said in plain English and referred to ALL customer accounts and not what [the Provider has] tried to define it as since."*

In response to the Provider's submission that the term *"prevailing variable rate"* in the Complainants' mortgage loan documentation refers to the *"standard variable rate"*, the Complainants submit that this *"quite simply is not true"* as the term *"standard variable rate"* is not mentioned in the **Amended Letter of Offer**. The Complainants maintain that a tracker interest rate is a variable rate of interest and therefore the term *"prevailing variable rate"* could be interpreted to refer to a tracker rate of interest. The Complainants assert that the term *"prevailing variable rate"* is *"confusing"*, *"ambiguous"* and *"open to different interpretation"*.

The Complainants submit that if they had been offered a tracker interest rate in **2009**, they *"would have a much lower debt with [the Provider] than [they] have now and a more affordable agreement"*.

The Provider's Case

The Provider states that the Complainants were not offered a tracker interest rate on the expiry of the fixed interest rate period in **2009** because *"there was no default or contractual entitlement established for the Bank to do so"* and *"there were no tracker rates available from the Bank after [mid] 2008."*

The Provider states that **General Condition 7** of the Letter of Offer dated **6 July 2006** provides that the Provider's prevailing variable interest rate will apply on the expiration of a fixed interest rate period.

The Provider states that it is satisfied the term “*prevailing variable rate*” was “*sufficiently clear in its ordinary meaning, and refers to the Bank’s standard variable rate as applicable, for the relevant category of loan i.e. homeloans or investment property.*” The Provider details that there is no reference to the variable interest “*being linked in any way to the ECB rate and no commitment that the prevailing variable rate referenced would track the ECB rate or any other quoted rate.*”

The Provider submits that a Mortgage Handbook was supplied to the Complainants with their Letter of Offer which “*provided an explanation of the various types of interest rates generally available, including a variable rate and a tracker rate.*”

The Provider submits that on the expiry of the fixed interest rate period in **September 2009**, the Complainants mortgage loan account defaulted to the Provider’s standard variable interest rate in accordance with **General Condition 7** of the Letter of Offer dated **6 July 2006**. The Provider submits that no interest rate options were provided to the Complainants when the initial fixed interest rate expired in **September 2009** as the interest rate automatically defaulted to the Provider’s standard variable interest rate.

The Provider submits that, apart from the “*default*” or the “*contractually provided for tracker rates*”, there were no tracker interest rates available after **mid-2008**. The Provider states that even if the Complainants had contacted the Provider “*to enquire about a tracker rate option in September 2009, the Bank would have confirmed that tracker rates were no longer available.*”

In response to the Complainants’ submission that the Provider's communication to brokers in **November 2006** “*clearly stated ALL fixed rate mortgages would roll onto a Tracker rate*”, the Provider explains that “*the loan application, offer, acceptance and drawdown were all completed prior to the Banks notification of the new product for new mortgage applications to brokers*”. The Provider details further that “[*t*]he availability of this product was made known via the Banks broker communicate process and did not form any part of an advertisement from the Bank to the general public, rather it was a communicate provided to brokers only” and the “*intent and context of the flyer would have been understood by Brokers, to whom the communication was sent*”.

The Complaint for Adjudication

The complaint for adjudication is that the Provider incorrectly failed to apply a tracker interest rate to the Complainants’ mortgage loan account on the expiry of the initial 36-month fixed interest rate period.

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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 **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.

Following the issue of the Preliminary Decision, the Complainants made further submissions by way of e-mail to this Office, copies of which were transmitted to the Provider for its consideration. The Provider has not made any further submissions.

The Complainants, in their post Preliminary Decision submissions, state that having had reviewed the Preliminary Decision that issued to the parties on **29 March 2022**, they "*are not of the belief that [their] submissions have been fully considered accurately with the relevant consumer and Central Bank directives, both Irish and the EU, which were highlighted in the overall Tracker Mortgage Examination*". This Office does not agree with the Complainants in this respect and is of the view that this Office conducted a full and detailed investigation and adjudication of this complaint in accordance with the procedures of this Office. This involved a careful consideration of all the submissions and evidence furnished by both parties to this Office together with a consideration of the relevant standards expected of the Provider.

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Having considered the Complainants' additional submission and all of the submissions and evidence furnished to this Office, I set out below my final determination.

Firstly, before dealing with the substance of this complaint, I note that the application for the mortgage loan was submitted by the Complainants to the Provider through a third-party broker. As this complaint is made against the respondent Provider only, it is the conduct of this Provider and not the broker which will be investigated and dealt with in this Decision. The Complainants were informed of the parameters of the investigation by this Office, by letter dated **15 January 2020**, 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 named 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.

Secondly, I note that the Complainants included reference to a data access request made to the Provider in their post Preliminary Decision submissions and appear to be dissatisfied with the data that they received from the Provider pursuant to their data access request. In this regard, the Complainants were informed of the parameters of the investigation by this Office, by letter dated **27 May 2022**, which outlined as follows:

"In the interests of clarity, you might note that this Office cannot consider a complaint about data access requests. In your email you mention the Data Protection Commission. Should you wish to make a complaint about your data access request, then you must contact that organisation. Further details are available on the Data Protection Commission website at www.dataprotection.ie."

In circumstances where this Office is not the correct forum to investigate this element of the complaint, it does not form part of this investigation and decision.

Finally, I further note that the Complainants, in their post Preliminary Decision submissions, appear to suggest that the Provider failed to carry out a review of their mortgage loan account, the subject of this complaint, in accordance with the Central Bank of Ireland directed Tracker Mortgage Examination (the "Examination"). The Complainants, in their post Preliminary Decision submissions, state as follows:

“A substantial part of our enquiry and submissions, was to establish full particulars of the review of our account that [Provider] say they had undertaken and we tried to establish whether that had indeed taken place. Actual evidence of this was requested but has not been forthcoming. Responses from the bank to requests for documentation made by both ourselves and indeed the FSPO have still not been dealt with fully, yet they are not referred to in your preliminary decision which we are surprised to see....”

During the course of the investigation of this complaint, this Office queried with the Provider whether the Complainants’ mortgage loan account was considered as part of the Examination. The Provider responded to this Office as follows:

“The mortgage loan account was not found to be within the scope of the Tracker Mortgage Examination. The loan account did not fall within the Framework for Conducting the Tracker Mortgage Examination as stipulated by the Central Bank of Ireland..... However, the case was reviewed by the Tracker Mortgage Examination Dedicated Unit and no impact or detriment was identified. We have provided the Letters of Offer and rate change tables used to determine that the correct contractual interest rate was applied”.

It is the Provider’s position the Complainants’ mortgage loan account did not fall within the scope of the Examination and therefore was not assessed as part of the Examination. Rather, the Provider submits to this Office that it carried out its own internal review.

The Complainants suggest that the Provider failed to carry out a review of the Complainants’ mortgage loan account under the Examination. In this regard, the Complainants were informed of the parameters of the investigation by this Office, by letter dated **27 May 2022**, which outlined as follows:

“The function of this Office is to investigate complaints about the conduct of financial service providers. Under Section 44(1)(a) of the Financial Services and Pensions Ombudsman Act, 2017, as amended, this Office can consider complaints relating to the following:

- (i) the provision of a financial service by a financial service provider,*
- (ii) (an offer by a financial service provider to provide such a service,*
- (iii) a failure by a financial service provider to provide a particular financial service requested by the complainant.*

....

Your complaint that the Provider has failed to carry out a review of your mortgage loan account under the Central Bank of Ireland directed Tracker Mortgage

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Examination does not relate to the provision of a financial service, but rather how the Provider conducted the Central Bank of Ireland directed Tracker Mortgage Examination. Therefore, this Office cannot consider any complaint that the Provider failed to carry out a review of your mortgage loan as part of the Tracker Mortgage Examination”.

For these reasons, this Office has not investigated the manner in which the Provider carried out the Central Bank of Ireland directed Tracker Mortgage Examination.

In order to determine the complaint that the Provider incorrectly failed to apply a tracker interest rate to the Complainants mortgage loan account, which has been the subject of an investigation by this Office, it is necessary to review and set out the relevant documentation relating to the Complainants’ mortgage loan. It is also necessary to consider the details of certain interactions between the Complainants and the Provider in **2009**.

An **Application Form** was completed by the Complainants on **29 July 2005** with a third-party broker. The Complainants had the option to select a variable interest rate, fixed interest rate or discounted interest rate under the “*Mortgage type, rate and term details*” section of the Application Form. The Complainants selected a variable interest rate on the Application Form and included a handwritten note detailing “*Disc Variable*”.

In circumstances where the Complainants were engaging with a broker with respect to their mortgage loan application, there was no requirement for the Provider to communicate directly with the Complainants at that time in relation to the completion of the Application Form or to discuss their preferred interest rate option.

An initial **Letter of Offer** dated **28 June 2006** issued to the Complainants for an amount of €225,000.00 repayable over a term of 27 years on a 36-month fixed interest rate of 4.69%. I note that the **Letter of Offer** dated **28 June 2006** was not signed and accepted by the Complainants.

The Provider subsequently issued an **Amended Letter of Offer** dated **04 July 2006** to the Complainants.

The **Particulars of Advance** contained in the **Amended Letter of Offer** detail as follows:

“IMPORTANT INFORMATION AS AT 4th July 2006

<i>Amount of Credit Advanced</i>	<i>€225,000.00</i>
<i>Period of Agreement (Years – Months)</i>	<i>27 – 0</i>
<i>...</i>	

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The **Additional Particulars of Advance** detail as follows:

“...
Type of Advance ANNUITY HOMELOAN
Interest Rate 4.69
Fixed For
36 months”

General Condition 5 of the **Loan General Conditions** details as follows;

“The rate of interest specified in the Particulars is the rate of interest charged by the Lender on the relevant category of home loans as of the date of the Letter of Offer. While this interest rate prevails the advance and interest (in the case of Principal and Interest type Mortgages) and the interest accruing on the advance (in the case of Investment Linked Mortgages) will be payable by the monthly instalments specified in the Particulars the first of such payments to be made on the first day of the calendar month immediately following the date of the making of the advance to the Applicant’s Solicitor and each subsequent payment to be made on each subsequent calendar month thereafter unless otherwise directed by the Lender.

*However, this rate may vary before the advance is drawn down and will be subject to variation throughout the term. The amount of the monthly instalments will fluctuate in accordance with the fluctuations in the applicable interest rate. Payment of the monthly instalments must be made by Direct Debit Mandate.
...”*

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

“The rate of interest applicable to this loan will be fixed for 36 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. 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 ... At the expiry of the fixed rate period the Lenders prevailing variable rate will apply.”

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General 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 THE ATTACHED DOCUMENTS. THE ACCEPTANCE SHOULD BE SIGNED IN THE PRESENCE OF THE SOLICITOR(S) CONCERNED WHO SHOULD BE A PRINCIPAL OR PARTNER IN THE FIRM(S) CONCERNED ...”

The **Loan General Conditions** also detail as follows:

“WARNING:

...

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

The **Special Conditions** attaching to the **Amended Letter of Offer** dated **4 July 2006** detail as follows:

“149 This Letter of Offer replaces the Letter of Offer dated 04/07/2006 which is hereby cancelled.

45 The Advance will be released in stage payments on receipt of satisfactory Architects Certificates in the attached form (up to a maximum of 100% at each stage and a maximum of 3 stages and final stage). The final payment of €5000 will be released on receipt of a satisfactory Certificate of Compliance and Valuer’s Report.”

The **Form of Acceptance** was signed by the Complainants on **12 July 2006** 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***

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

The **Statement of Account** provided in evidence shows that that the mortgage loan was drawn down in the following stages on a fixed interest rate of 4.69%:

Date	Amount
31 August 2006	€83,700.00
18 September 2006	€35,000.00
12 October 2006	€35,000.00
19 February 2007	€35,000.00
18 April 2007	€35,000.00

The Provider has submitted a copy of its **Mortgage Handbook** in evidence which details as follows:

"This handbook is intended to assist our customers in understanding detailed aspects of the mortgage they have taken with [the Provider] and aims to provide in plain English a clear understanding of how mortgages work".

Section 3 of the **Mortgage Handbook** details as follows:

"3. Rates Explained

...

FIXED RATE

With a fixed rate loan, the repayment you make is fixed for an initial term, (such as 1, 2, 3, or 5 years). When you choose a fixed rate, it's often easier to budget because you will know exactly how much the mortgage repayment will be for some time ahead. A fixed rate is not affected by changes in general market interest rates. When the fixed rate you chose comes to an end you can agree another fixed rate, or you can switch to the variable rate at the time. The choice is yours.

...

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VARIABLE RATE

With a variable rate, your monthly repayments may rise or fall from time to time, in line with general market interest rates. If rates fall, your monthly repayment reduces, but if rates rise, you pay more. A variable rate may suit you if you are in a financial position where an increase in interest rates would not adversely affect your ability to repay. You may also benefit from the fact that unlike fixed rate mortgages a fee will not be applicable if you wish to change to another mortgage type or voluntarily increase your repayments.

TRACKER RATE

'LOCK IN' TO CURRENT MARKET RATES

With a Tracker Mortgage, movements in the European Central Bank (ECB) rate are fully transmitted in a defined timeline to the customer. In effect, from the customer's perspective this is a 'lock in' to current market rates.

This is a 'variable rate' type mortgage which guarantees to track the ECB reference rate within a specified margin (percentage points), which means you will not be subject to any rate increases in the fixed period or any rate reductions that may be passed to variable rate customers.

PRICE GUARANTEE

Our Tracker Mortgage is a variable rate product that guarantees full European Central Bank (ECB) rate changes will be passed on to customers within 30 working days.

This product gives a price guarantee to customers locking them in at various rates above the ECB rate, dependent on other factors, such as loan amount, loan-to-value, and the type of securities against which the loan is held (i.e. primary residence or residential investment property).

..."

Page 17 of the **Mortgage Handbook** details as follows:

"IMPORTANT INFORMATION

NO LEGALLY BINDING LOAN AGREEMENT SHALL COME INTO EXISTENCE UNTIL SUCH TIME AS A FORMAL LETTER (WHICH INCLUDES [THE PROVIDER'S] STANDARD TERMS AND CONDITIONS) HAS BEEN SIGNED BY BOTH THE CUSTOMER AND [THE PROVIDER].

..."

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The Provider states that a copy of the **Mortgage Handbook** was furnished to the Complainants together with the **Amended Letter of Offer** in **July 2006**.

The **Mortgage Handbook** does not form part of the mortgage loan agreement between the parties in circumstances where there is no reference to the Mortgage Handbook forming part of the terms and conditions of the **Amended Letter of Offer** dated **04 July 2006**. I accept however that the Mortgage Handbook was provided to the Complainants by way of information. I note that the definitions of “*variable rate*” and “*tracker rate*” contained in the **Mortgage Handbook** show the difference between these two types of rates.

It is clear that the **Amended Letter of Offer** provided for a fixed interest rate of 4.69% for the first 36 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. There is no mention in the Complainants’ mortgage loan documentation that a tracker rate of interest would apply to the Complainants’ mortgage loan at any stage during the term of the loan. The Complainants accepted the **Amended 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.

Upon the expiration of the 36-month fixed interest rate period on **01 September 2009**, the interest rate on the Complainants’ mortgage loan account switched to the Provider’s prevailing variable interest rate which was 3.24% in **September 2009**, in line with **General Condition 7** of the **Loan General Conditions**.

The Provider’s prevailing variable interest rate fluctuated as follows between **September 2009** and **January 2016**:

Effective Date	Reflected in Repayment Date	Interest Rate
01/09/2009	01/10/2009	3.24%
03/05/2010	01/06/2010	3.65%
31/08/2010	01/10/2010	3.85%
31/05/2011	01/07/2011	4.25%
04/09/2011	01/10/2011	4.50%
04/12/2011	01/01/2012	4.25%
03/03/2013	01/04/2013	4.50%
01/12/2015	01/01/2016	4.25%

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The Complainants refer to a communication that was issued by the Provider to brokers on **07 November 2006**. This broker communication states as follows:

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

Product Features

- ✓ *For loan amounts greater than €150k the tracker applicable will be 1.25%.*
- ✓ *For loan amounts less than €15k the tracker that will apply will be 1.40% tracker.*
- ...”

I understand that this communication was issued to brokers rather than to customers of the Provider and provided details of a fixed rate product that would roll onto a tracker interest rate on the expiry of the fixed interest rate. The Complainants are of the view that this product offering applied to their mortgage loan held with the Provider.

However, the “flyer” communication does not amount to a mortgage loan contract between the Complainants and the Provider. The Complainants’ mortgage loan is governed by the terms and conditions of the **Amended Letter of Offer** which was signed and accepted by the Complainants on **12 July 2006** which provided for a fixed interest rate for period of 36 months that would convert to the Provider’s prevailing variable rate on expiry. In those circumstances I cannot accept the Complainants’ submission that the broker communication was applicable to their mortgage loan account to the extent that it conferred an entitlement to a tracker interest rate on the Complainants’ mortgage loan.

In circumstances where the Complainants engaged the service of a broker with respect to the mortgage loan application, there was no requirement for the Provider to communicate directly with the Complainants in relation to the application form or the interest rate options for the mortgage loan. Although tracker interest rates were on offer by the Provider at the time the Complainants applied for their mortgage loan, subject to certain qualifying criteria, the **Amended Letter of Offer** dated **04 July 2006** did not contain an offer of a tracker interest rate or an expectation that a tracker interest rate would apply either at the time of drawdown or at any other time during the term of the mortgage loan. It follows that the Complainants were not entitled as a matter of policy or contract to a tracker interest rate on the mortgage loan at the end of the fixed interest rate period in **September 2009**.

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Consequently, I cannot accept the Complainants' submission that the Provider incorrectly failed to apply a tracker interest rate to the mortgage loan account on the expiry of the initial 36-month fixed interest rate period.

As stated previously, in order for the Complainants to have a contractual right to a tracker interest rate either on drawdown or on expiry of the fixed interest rate period in **September 2009**, that right would need to be specifically provided for in the Complainants' mortgage loan documentation. However, no such right was set out in writing in the **Amended Letter of Offer** dated **04 July 2006**, which was accepted and signed by the Complainants on **12 July 2006**. It was open to the Complainants to decline the Provider's offer if they were dissatisfied that the terms and conditions did not provide that a tracker interest rate would apply at the end of the initial fixed interest rate period.

If the Complainants wished to pursue the potential option of applying a tracker interest rate on the mortgage loan account at any stage before tracker interest rates were withdrawn by the Provider in **mid-2008**, the Complainants could have contacted the Provider. However, I have not been provided with any evidence to suggest that the Complainants contacted the Provider to explore alternative interest rates. The Complainants, in their post-Preliminary Decision submissions, state that they "*do not accept that there should be any onus put on [them] to have foreseen events in the future*" and they "*cannot be considered responsible for events arising after we had accepted the mortgage offer from [the Provider]*". This Office is in no way suggesting that the Complainants could have known that the Provider would withdraw tracker interest rate from the market in **mid-2008**. However, in circumstances where the Complainants never had a contractual entitlement to or were not given any reasonable expectation from the Provider that they would be offered a tracker interest rate at any stage in their mortgage loan journey, the Provider's decision to withdraw tracker interest rates from the market had no impact on the Complainants' entitlements with respect to their mortgage loan.

Even if the Complainants had contacted the Provider to apply for a tracker interest rate before **mid-2008**, it would then have been a matter of commercial discretion for the Provider as to whether it wished to accede to any such request made by the Complainants to apply a tracker interest rate to the mortgage loan.

In light of the foregoing, I am of the view that the Complainants' mortgage loan documentation is sufficiently clear and transparent regarding the Complainants' interest rate entitlements, and I am satisfied that the Provider acted in accordance with the terms and conditions of the **Amended Letter of Offer** dated **04 July 2006**. There is no evidence that the Provider acted unreasonably with respect to the Complainants' mortgage loan as there was no obligation on the Provider to offer them a tracker interest rate.

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For the reasons set out in this Decision, I do not uphold the 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**

11 August 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—

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- (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
- (c) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.

