



<b><u>Decision Ref:</u></b>	2022-0309
<b><u>Sector:</u></b>	Banking
<b><u>Product / Service:</u></b>	Repayment Mortgage
<b><u>Conduct(s) complained of:</u></b>	Failure to process instructions in a timely manner Delayed or inadequate communication Wrongful consideration of forbearance request
<b><u>Outcome:</u></b>	Partially upheld

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

The complaint concerns the suggested failure by the Provider to consider in a timely manner, a proposal by the Complainants to sell a property securing a debt they owed to the Provider.

#### **The Complainants' Case**

The Complainants in their complaint to this office referenced a letter they sent to the Provider on **14 August 2020**. In that letter the Complainants stated:-

*"On 25<sup>th</sup> November 2019, we wrote to [the Provider] confirming receipt of a formal offer of €180,000 from [Local Council's name] for the acquisition of [Property Address].*

*We specified that this offer required urgent attention to secure the sale. We requested that you would consider this offer as full and final payment of the outstanding mortgage.*

*We confirmed on the 10<sup>th</sup> December 2019 that it was in order to discuss our financial affairs with our representative, (Representative's Name).*

*On 10<sup>th</sup> January 2020 we returned a completed Income and Expenditure document signed by both borrowers as requested by you.*

*On 24<sup>th</sup> March 2020, you acknowledged receipt of the Income and Expenditure documentation and confirmed discussion with [Representative's Name]."*

Further in the letter of **14 August 2019** the Complainants stated:-

*"However no further contact was received from [the Provider] until 17 June 2020, confirming acceptance of €180,000 as full and final settlement of the mortgage accounts (See attached). This was a full seven months after our initial contact with you expressing the requirement for an urgent response to secure the sale. When we finally received your decision, we immediately contacted [the Local Council's name] who advised on 30<sup>th</sup> June 2020 that they were no longer interested in progressing matters (See attached). Furthermore the Council have indicated that property acquisition is no longer a policy priority going forward.*

*Your unreasonable delay in decision making has resulted in the collapse of this sale and rendered us with an ongoing debt of €180,000 that should have been eradicated months ago ... it is critical for us that we outline our complete dissatisfaction with the management of this process on the part of [the Provider]. This continues to place significant pressures on us financially and psychologically."*

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

The Provider issued its Final Response Letter on **30 September 2020** to the Complainants, stating:

*"On 26 November 2019 we received your proposal for a FAFS in the amount of €180,000 which would be achieved by the sale of the property to [the Local Council's name]. On the same date we issued correspondence to you in which we outlined that in order to review your proposal we required you to complete and return an income and expenditure ("I&E") and your consent to carry out a valuation of the property. We received your completed I&E on 5 December 2019 and the valuation to the property was received on 16 December 2019. On 16 December 2019 we attempted to contact you to discuss the figures provided by you in your I&E; however, this attempt was unsuccessful. You returned our call later that day and requested that we contact your nominated third-party [Representative's name] to discuss the figures.*

*We attempted to contact [the Representative] on 20 December 2019 and 23 December 2019; however, these attempts were unsuccessful, and we issued correspondence outlining this on 31 December 2019. On 6 January 2020 [the Representative] contacted our offices and advised that he did not receive a voicemail therefore he was not in a position to return our calls.*

/Cont'd...

*On this call we queried the information provided in the I&E and he outlined that the figures detailed on same were overstated and it was agreed that a new I&E would be submitted. We received an updated I&E on 13 January 2020 and between 20 January 2020 and 28 January 2020 there were a number of unsuccessful attempts to contact [the Representative] to discuss the information provided in the I&E.*

*Thereafter [the Representative] contacted our offices on 5 February 2020 and went through the figures provided in the I&E.....On 25 February 2020 a review of your proposal was completed, and the outcome of the review was determined that a review was to be put on hold until he received clarity on the affordability displayed in the I&E. On 3 March 2020 we spoke with [the Representative] who addressed the queries outstanding on the I&E and our associate confirmed this would be passed for review. We can confirm that the proposal was subsequently passed for review and the outcome of the review was received on 16 June 2020 to accept the sale of the property in the amount of €180,000 in FAFS of the mortgage.”*

Further in the said letter of **30 September 2020** in addressing any proposal regarding a full and final settlement, the Provider stated:-

*“We can confirm, that on receipt of a request for a FAFS we need to have clear view of the requesters personal financial circumstances to enable us complete a review of their request. We are satisfied that upon receipt of the information requested to review your proposal, several attempts were made to clarify the details provided in your I&E in order for a review of your proposal to be completed; however we were not in a position to complete this review until 3 March 2020 when the details were clarified, However, we do acknowledge the delay from 3 March 2020 to 16 June 2020 and we sincerely apologise for the delay. We can assure you that this issue has been highlighted to the relevant personnel for review in order to prevent a similar incident from occurring. By way of apology a payment in the amount of €100 will be paid to the bank details that we hold on file for you.”*

### **The Complaint for Adjudication**

The complaint is that the Provider failed to make a decision in a timely manner, on a proposal by the Complainants, on **25 November 2019**, to pay €180,000 in full and final settlement of their mortgage loan, resulting in the loss of the property sale.

The Complainants want the Provider to provide ‘*compensation that reflects [the Complainants’] loss and ongoing distress.*’

## **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 **16 August 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.

## **Chronology**

**25 November 2019** – The first Complainant wrote to the Provider outlining the proposal to settle the debt owing. The letter states:

*"I refer to my telephone conversation with [Provider's employee name] earlier today in respect of the above mortgage accounts.*

*I have attached a copy of a formal offer of €180,000 from [the Local Council's name] for the acquisition of [the property address]. I would be grateful if you could advise if you will now accept €180,000 as full and final payment of the outstanding mortgage.*

*You will note in the email from [the Local Council's name] that they require a response by close of business on Tuesday 26<sup>th</sup> November 2019, therefore, I would be grateful if you could give this your urgent attention."*

/Cont'd...

Attached to the letter of **25 November 2019** was an e-mail send by an employee of the Local Council. The e-mail is dated **22 November 2019** and the e-mail states:

*"[The Local Council's name] are in a position to make an offer of €180,000 for the acquisition of the [property address]. This offer is in relation to the house only. [The Local Council's name] will not be purchasing the furniture. Please let me know if you are in a position to accept my offer by Tuesday 26<sup>th</sup> November 2019."*

**26 November 2019** – The Provider wrote to the first Complainant acknowledging his letter of **25 November 2019** and requested the following information to allow it assess the proposal: -

- *"Proposed settlement in writing (received).*
- *A completed Income and Expenditure document signed by both borrowers.*
- *Consent to carry out one valuation of the property.*
- *Source of funds (received)."*

**05 December 2019** – The Provider received a completed Income and Expenditure ("I&E") document signed by both Complainants on **03 December 2019**.

**10 December 2019** – The Complainants wrote a letter to the Provider giving the Provider permission to deal directly with their Representative, with regard to their collective financial affairs with the Provider. The Provider received this letter on **13 December 2019**.

**16 December 2019** – The Provider received a valuation report on the property. The valuation report was dated **13 December 2019** and valued the property on that date at **€180,000**.

**30 December 2019** – The Provider wrote to the first Complainant and the letter states:

*"Your mortgage is currently being assessed for an alternative repayment arrangement (ARA).*

*We have reviewed the information provided in your Income and Expenditure (I&E) form and would like to discuss possible options to resolve your current arrears situation. We did try to contact your Authorised Third Party on several occasions but were unsuccessful."*

A copy of this letter was also sent to the Representative on the same date.

**06 January 2020** – The Provider wrote to the first Complainant and the letter states:-

*"In order to assess your current situation, we enclose our Income and Expenditure form (I &E) which is designed to help you set out your financial circumstances.*

/Cont'd...

*Please complete the I&E and return it to us as soon as possible and no later than 21 days from the date of this letter. If you require more time to complete it due to your particular circumstances, please contact us and , where appropriate, we will extend the deadline.”*

A copy of this letter was also provided to the Representative on the same date.

**13 January 2020** – The Provider received a revised I&E statement from the Complainants which was dated **09 January 2020**.

**28 January 2020** – The Provider wrote a letter to the First Complainant stating:

*“We have reviewed the information provided in your Income & Expenditure (I&E) form and would like to discuss possible options to resolve your current arrears situation. We did try to contact you and your authorised third party on a number of occasions but were unsuccessful.”*

A copy of this letter was also provided to the Representative on the same date.

**24 March 2020** – The Provider wrote to the Complainants and the Representative advising them of changes it made to the most recent I&E statement, following prior discussions with the Representative.

**17 June 2020** – The Provider wrote to the Complainants and the Representative accepting the proposal put forward by the Complainants on **25 November 2019**. The letter states:-

*“We can confirm that the request for consent to sale at €180,000 has been approved. We will accept €180,000 as full and final settlement of the mortgage accounts.*

*The current combined outstanding balance is €182,894.59. This is not a redemption quote and is subject to change due to the passage of time, the application of interest and receipt of payments.*

*This offer is valid until 16/07/2020 at which time it will be revoked.”*

**03 July 2020** – The Representative wrote to the Provider and the letter states:-

*“I refer to previous correspondence in this Case resting with your letter of 17<sup>th</sup> June 2020. Proposal with back up Documentation was submitted to you in early January 2020 seeking Agreement to accept €180K in full and final Settlement of Obligations of circa €183K. Clients are very unhappy at long delay in your decision making.*

*When we finally received your decision, we immediately contacted Local Authority who advised that they were not interested in progressing matters. Asset Disposal has not taken place due to considerable delays on your part. I await hearing from you.”*

/Cont'd...

**14 August 2020** – The Complainants wrote a letter to the Provider expressing their dissatisfaction with the decision-making process. The contents of this letter have been detailed above under the “*Complainants’ Case*” section.

**21 August 2020** – The Provider wrote to the Complainants acknowledging receipt of their complaint letter of **14 August 2020**.

**11 September 2020** – The Provider wrote to the Complainants informing them that the investigation into their complaint was ongoing.

**30 September 2020** – The Provider issued its Final Response Letter. The contents of this letter have been highlighted above under the “*Provider’s Case*” section.

### Audio Evidence

#### Telephone Call on 25 November 2019

**First Complainant:** *I’m looking to discuss the sale of a buy to let property that has been let to the local council for the past 12 years. The local council has made a bid of €180,000. They want me to reply to them by close of business tomorrow with an answer. I am conscious that the outstanding mortgage is around €185,000. My question is would [Provider’s name] accept €180,000 as settlement.*

**Provider:** *You are giving us very little time to respond.*

**First Complainant:** *Yes, but the local council is giving me very little time.*

**Provider:** *Is it possible to see if you can contact them to see if they can give you more time? We need your proposal in writing as you are looking for a write off.*

[my underlining for emphasis]

**First Complainant:** *I think they have funds between now and the end of the year that they want to spend. They want to close the deal by the 8<sup>th</sup> December 2019.*

[...]

**First Complainant:** *I don’t think they will accept these timeframes. They might give me a few extra days.*

**Provider:** *I can see what I can do from my side to see if we can look after this proposal before the 8<sup>th</sup> December.*

/Cont’d...

[...]

**First Complainant:** *They did say that if you don't accept the offer they might not have the funds next year.*

Telephone Call on 26 November 2019 @ 14:35 (call 4)

**Provider:** *An updated Income and Expenditure would have to be provided as the last one we have on file for you is December 2018.*

**First Complainant:** *I will have to let the local council know that I can't meet their timeframe. They were quite clear to me about the timeframe.*

**Provider:** *Do you want us to still go ahead and review the proposal?*

**First Complainant:** *Yes*

**Provider:** *We would also need consent to conduct a valuation on the property?*

**First Complainant:** *OK*

**Provider:** *We will have to send you out a letter detailing our requirements to review your proposal.*

**First Complainant:** *How long will it take to conduct a review?*

**Provider:** *I don't know as we would need a valuation and an updated Income and Expenditure form completed.*

**First Complainant:** *For the purposes of my conversation with the local council I would have to say that I can't get a date for consent.*

**Provider:** *No, if they are looking for a decision by 8<sup>th</sup> December then I would have to say no, we can't meet that timeframe.*

**First Complainant:** *They want to close by the 8<sup>th</sup> December, not a decision. They want a decision today.*

**Provider:** *We can't give you a decision today.*

**First Complainant:** *I imagine the offer will be off the table then.*

[my underlining for emphasis]

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Telephone Call on 26 November 2019 @ 16.59 (call 5)

**First Complainant:** *I spoke with the local council again today and they are adamant that the closing date is 8<sup>th</sup> December.*

[...]

**First Complainant:** *There is no guarantee that they will make the same offer next year. They have told me that they have funds to spend this financial year. They are not allowed carry forward money into next year. The money allocated for next year is to build rather than buy houses.*

Telephone Call on 10 December 2019 @ 17:44 (call 7)

**Provider:** *There is a shortfall in your Income and Expenditure form and we need to know how you propose to cover this?*

**First Complainant:** *The €180,000 offer is an offer for full and final settlement.*

**Provider:** *Have you contacted the local council to see if the offer is still on the table?*

**First Complainant:** *When would you be able to provide me with an answer.*

**Provider:** *The next meeting to discuss full and final settlement offers would be next week and it would take us a while thereafter to come back to you.*

Telephone Call on 20 December 2019 (call 10)

**First Complainant:** *I'm looking to see if you have contacted my advisor?*

**Provider:** *Do you want us to contact him?*

**First Complainant:** *I had understood that you were going to contact him?  
[...]*

**First Complainant:** *The offer on the table is at risk of being removed.*

Telephone Call on 6 January 2020 (call 11)

**Representative:** *I read a letter dated 30 December 2019. The letter said that you contacted me on several occasions. However, you never left any messages. I didn't phone back as I didn't know what case I was being called about. I look very bad with my client.*

/Cont'd...

**Provider:** *There are some queries to go through. The queries relate to the monthly income.*

**Representative:** *But the monthly income is much lower on account of the taxation.*

**Provider:** *Are you saying that the monthly income is actually lower.*

**Representative:** *Yes*

*[...]*

**Provider:** *Do you need a new Income and Expenditure form?*

**Representative:** *Yes, please issue a new form to the client.*

Telephone Call on 23 January 2020 (call 14)

**Provider:** *I need more information to complete your proposal before I can bring the proposal forward to credit committee.*

*[...]*

**Representative:** *Some of those payments are not up to date.*

**Provider:** *I can't put forward a proposal with negative affordability. I need updated information.*

**Representative:** *We could lose the sale the way you are going.*

Telephone Call on 5 February 2020 (call 15)

**Provider:** *I can't guarantee that the proposal will be accepted.*

*[...]*

**Provider:** *There is negative affordability that may not be accepted by my committee, but I will still bring it forward.*

Telephone Call on 27 February 2020 (call 18)

**Provider:** *The proposal was reviewed but because of the negative affordability and a proposed partial debt write off we will need more information.*

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### Analysis

I note that the first Complainant initially contacted the Provider on **25 November 2019** to discuss a proposal to sell the property securing the Provider's mortgage debt. The proposed sale price was **€180,000** and the Complainants owed the Provider circa **€185,000**. The proposal was for a full and final settlement, meaning the proposal was asking for some debt write-off from the Provider, given the proposed sales price was less than the debt owing.

The Provider has explained that when assessing any proposal containing any element of debt write-off, it requires that any such proposal must be put to the Provider's credit committee for approval. I accept that the purpose of this is to assess the capacity of any borrower to pay off any residual debt in circumstances where there may be a shortfall.

I note from correspondence and from a review of the audio calls, the first Complainant made it clear to the Provider the time limitation and constraints of the offer from the local council. It was clear the proposal required urgent attention as the local council wanted confirmation by close of business **26 November 2019**, that its offer was accepted and in addition, it wanted the transaction to close by **08 December 2019**.

The Complainants provided a copy of an e-mail offer from the local council dated **22 November 2019** specifying the conditions of purchase. No explanation was provided as to why the local council's offer insisted on such a tight timeframe, but it was made clear by the Provider, from the outset, that the timeline presented a problem. This indeed is understandable.

I note that the Provider did respond to the Complainants on **26 November 2019** setting out in a letter the information requirements they needed, to assess the proposal. I note also that the Provider accepted in that letter that two of the four requirements were already satisfied. Outstanding was (i) an updated I&E statement and (ii) an updated valuation of the property. I note also that the Provider made it quite clear to the Complainants that it would be unlikely that it could meet the timeframes required by the local council to make a decision and close out on the sale.

The first I&E statement was received by the Provider on **05 December 2019** and the property valuation was received by the Provider on **16 December 2019**. Therefore, as of **16 December 2019** the Provider was in possession of all of the information it had requested of the Complainants on **26 November 2019** to consider the proposal.

I note that on **16 December 2019** an agent of the Provider contacted the first Complainant to discuss certain queries regarding the proposal. The first Complainant asked instead that the Provider speak directly to his nominated Representative (for who he had previously provided written consent to the Provider to deal with directly).

I note that the agent of the Provider called the Representative on **20 December 2019** and again on **23 December 2019** but on each occasion failed to make contact and also failed to leave a voicemail.

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The Provider issued correspondence to the Complainants and the Representative on **30 December 2019** explaining that it had outstanding queries on the proposal and were unable to contact the Representative. Following a call with the Representative on **06 January 2020** when the first I&E statement was discussed, it was agreed that certain items in that I&E statement were overstated, and that a new I&E statement should be sent to the Complainants to fill in. The second I&E statement was sent to the Complainants, and it was completed and then returned by them to the Provider on **13 January 2020**.

The second I&E statement received by the Provider on **13 January 2020** showed negative affordability, or rather that all of the expense and debt repayment obligations of the Complainants exceeded their income. I note that the Provider tried to contact the Representative to discuss the issue of negative affordability on **20 January 2020** (when the Representative was not free to speak) and then again on **21 January 2020**, when the Representative answered the questions posed.

On **22 January 2020** another employee of the Provider tried to contact the Representative to go through some more queries but could not get through and finally the Representative was reached on **23 January 2020** when certain queries were discussed again, but during on this call the Representative did not have the file in front of him and requested that the Provider call back when he did. The Provider rang the Representative again on **28 January 2020**, but the Provider concedes that the employee on this occasion, rang the wrong number.

Another series of calls with the Representative occurred sometime in **February 2020** and the proposal was first brought to the Provider's credit committee on **25 February 2020**, when the proposal was neither accepted nor rejected, but rather it was determined that another review on affordability was required.

A further call took place between the Provider and the Representative on **03 March 2020** and following that call a letter issued from the Provider on **24 March 2020** detailing the changes agreed to the I&E statement, as agreed during the call of **03 March 2020**.

I note that the proposal was ultimately approved on **16 June 2020** by the Provider, and the Complainants were informed of the decision the following day, on **17 June 2020**.

The Provider in its response to this Office on **02 July 2021** conceded certain shortcomings: -

*"The level of customer service offered to the Complainant is disappointing from the perspective of:*

- *The Complainant asked our offices to contact his representative on 16 December 2019 and our associate confirmed a call would be placed later that day, however, no call as attempted until the Complainant contacted our offices again on 20 December 2019 requesting that this be completed.*
- *Our associate failed to leave voicemails on calls placed to the Complainants representative on 20 December and 23 December 2019.*

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- *A call placed to the Complainants' representative on 28 January 2020 was made to an incorrect number.*
- *The delay in providing an outcome to the assessment of the proposal from 3 March 2020 to 16 June 2020.*

...

*Regrettably, the Complainants had not received the level of service expected."*

When asked by this Office to explain the delay in approving the proposal in the period from **03 March 2020** until **16 June 2020** in its response of **02 July 2021** the Provide states:

*"We did not have the information required to complete our review of the Complainants' proposal until 03 March 2020, however the proposal was not passed for review until 24 March 2020 as the associate dealing with the case was unexpectedly out of the office. The proposal submitted was approved by our credit committee on the same date, however we required approval from the Dual Credit Servicer as to whether the proposal was acceptable to them. We can confirm that this was passed to the Dual Credit Servicer for their review on 25 March 2020. An email was sent to their office on 20 April 2020 to request an update, however, no update was provided and due to an administration oversight no further follow up was placed to them.*

*We acknowledge the delay in providing a decision to the Complainants' proposal 03 March 2020 to 16 June 2020, and we accept that this delay inconvenienced the Complainants. We sincerely apologise for the delay ... we can confirm that the delay in accepting the proposal was unintentional. We have not found that the delay ultimately caused the sale of the property to be lost and there is no evidence to suggest this."*

I note that the proposal first put to the Provider on **25 November 2019** was the proposal which was ultimately approved and accepted as presented, with no amendments, on **16 June 2020** (some **7 months** later).

I accept that the timeframe for the Provider to provide its consent, namely the **26 November 2019**, and then to close the transaction, **08 December 2019**, was unrealistic. I don't believe that it was appropriate for the Complainants to expect the Provider, within a matter of a limited number of days, to consider a request for a write-off of the portion of their loan and supply approval within that deadline.

It should be borne in mind that a decision by any financial service provider to write-off a portion of a borrowing which falls due and owing by a customer, is a significant decision requiring assessment and recording in a manner to meet the Provider's governance requirements.

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It is also notable that errors were made in the first I&E statement that was submitted by the Complainants to the Provider on **05 December 2019**. These errors were acknowledged by the Representative during a call with the Provider on **06 January 2020**. It was only when the second I&E statement was received on **13 January 2020**, that the Provider had all the information it required to consider the proposal, as the updated property valuation was also to hand.

It seems from the evidence, including the different calls between certain employees of the Provider and the Representative, that the Provider's employees were unable to understand and breakdown the information supplied by the Complainants and unable to elicit the necessary information from the Representative in a timely and efficient manner. It was not until the call of **03 March 2020** that all queries were settled with the Representative, and still, it took until **24 March 2020** for the Provider to send an amended version of the I&E statement to the Representative demonstrating the previously agreed changes. No reason has been given for this delay.

The Provider has in part explained the delay between **March 2020** and **June 2020** as an "administrative oversight". This is very disappointing in the context of a proposal that was clearly highlighted as being urgent. I am conscious that the email supplied by the Complainant originally to the Provider made clear that the local council required a decision by **26 November 2019**. Further on a call between the first Complainant and the Provider on **25 November 2019** the first Complainant stated:

*"They did say that if you don't accept the offer they may not have the funds next year."*

During a separate call of **27 November 2019**, the first Complainant stated:

*"I spoke with the local council again and they are adamant that the closing date is 8<sup>th</sup> December 2019"*

No further evidence has been put before me that the offer from the local council was ever extended beyond **08 December 2019** and, in any event, it is clear that the Provider's approval had not been given for the transaction, within the required deadline. Nowhere within the correspondence and calls between the first Complainant, the Provider and the Representative, between **January 2020** and **June 2020**, was there any reference made to, or any indication that the offer from the local council had been extended. The first Complainant in all conversations with the Provider throughout **December 2019** was quite certain as to the timeframes the local council had put to him. As all information requested of the Provider to consider the proposal was not received until **13 January 2020**, this will have been too late to meet the local council's requirements.

Having considered all of the evidence made available to this Office, I am satisfied that the Provider was responsible for a lack of expedition in progressing the Complainant's proposal. The delays which are evident from the details made available to this Office are unsatisfactory and very disappointing, bearing in mind the urgency which the Complainants had communicated.

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Be that as it may, I take the view that it was at all times unlikely from the time when the Complainant made initial contact with the Provider, that the Provider would be in a position to meet the very tight timeline suggested. It is also clear however, that the errors in the first Income & Expenditure Statement completed by the Complainants were responsible for the delays which occurred in early December 2019, and which were not resolved until after the Christmas vacation, in January 2020.

In those circumstances, I consider it appropriate to partially uphold this complaint, as I believe the service delivered to the Complainants by the Provider in the context of these events, was unreasonable and unjust, within the meaning of **Section 60(2)(b)** of **the Financial Services and Pensions Ombudsman Act 2017**. To mark that finding, I intend to direct the Provider to make a compensatory payment to the Complainants, 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 partially upheld, on the grounds prescribed in **Section 60(2)(b)**.
- Pursuant to **Section 60(4) 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 Complainants in the sum of **€1,500** (one thousand, five hundred Euros) to an account of the Complainants' choosing, within a period of 35 days of the nomination of account details by the Complainants 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.
- 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)**

7 September 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.