



<u>Decision Ref:</u>	2022-0336
<u>Sector:</u>	Banking
<u>Product / Service:</u>	Mortgage
<u>Conduct(s) complained of:</u>	Delayed or inadequate communication
<u>Outcome:</u>	Partially upheld

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

This complaint concerns the Provider's suggested maladministration of the Complainant's mortgage loan, and the provision of poor customer service to the Complainant.

This complaint was made by the Complainant in **late 2014** but was formally placed on hold for an extended period, to enable the Complainant to undergo and recuperate from medical treatment. The complaint investigation by this Office was re-commenced in **September 2021**.

The Complainant's Case

The Complainant holds mortgage borrowings with the Provider. The Complainant states that she held a repayment arrangement with the Provider to make interest-only payments on her mortgage loans until **9 September 2012**. The Complainant completed a Standard Financial Statement ('SFS') in **June 2012**, three months before the expiry of her interest-only period, as she was seeking to arrange a new Alternative Repayment Arrangement ('ARA') with the Provider, in advance of the expiry of the then current arrangement.

The Complainant submits that the Provider made an error, and demanded principal and interest repayments in **August 2012**, a month before the expiry of her interest-only period. The Complainant notes that the incorrect date of **August 2012** was included on multiple pieces of the Provider's correspondence.

The Complainant says that the Provider suffered from a significant backlog in processing applications for an ARA. As a result, the Complainant was not provided with an ARA and her account was deemed to fall into arrears from **August 2012**, when full repayments were demanded.

In **November 2012**, the Complainant met with an Agent of the Provider (Agent A). The Complainant states that Agent A was *“angry on the phone”* when she first spoke to him, and she therefore decided to bring her daughter to the meeting. At this point, the Complainant had a disability including joint problems, and she found it difficult to climb the stairs for the meeting with Agent A.

The Complainant states that Agent A insisted that her daughter leave the room during the meeting, and he commented that it was a Provider rule that she should not be present. The Complainant states that she was not comfortable to be left alone in the room with Agent A and that she was intimidated by him. The Complainant states:

“To start with, I was only expecting to talk about the mortgage. [Agent A] informed me that he had dealt with many women in situations like myself who were divorced or separated. He then went on to elaborate at great length what had happened (sic) to these women in the past, including the abuse they had suffered with their partners. I was feeling very uncomfortable, vulnerable and intimidated. He informed me that he had managed to help these women with their mortgage problems and that they had depended on him. He suggested that I would be able to depend on him to look at my mortgage issue.”

The Complainant further submits:

“He also told me that he lived in [locality] and other personal details. I felt it was inappropriate for him to talk to me like this...”

It was really intimidating to be stuck in a room with him, on my own after he had told my daughter to leave and hearing the way he viewed women, in these circumstances.”

The Complainant states that she informed Agent A of income streams that she was setting up. Agent A stated that *“none of them could be used, as I wouldn’t be paid for months.”* The Complainant submits that the information regarding her work, was not communicated to the mortgage team. To support this submission, the Complainant provided this Office with a copy of an unsigned contract with a third party, for the Complainant to begin work as an independent contractor on **10 September 2012**, with a pay rate of €30 (thirty Euro) per hour.

The Complainant states that she gave the Agent a written complaint, to be lodged. She notes that Agent A later called her and stated that he was surprised to see that it was a formal complaint. The Complainant states that *“he again reiterated that I could depend on him to sort out the issues.”* The Complainant states that she was insistent that the formal complaint was to be lodged. She later learned that Agent A did not submit the formal complaint but put it on her file.

The Complainant submits that because no ARA was set up for her account, she began to accrue arrears. As a result, she could not avail of the Mortgage Interest benefit available, otherwise known as Mortgage Interest Supplement (‘MIS’). She states that this benefit equated to €500 (five hundred Euro) per month.

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The Complainant states that she had a serious fall in **December 2012**, and suffered from fractures in her wrists, torn tendons in her wrists and feet, and a spinal injury. She submits that Agent A contacted her to discuss her SFS, and she informed him of her condition. The Complainant asked if Agent A could write to her, or email her instead, but *“he insisted that I came in to meet him”*.

The Complainant submits that she was in a lot of pain, and that her condition was aggravated by having to open the doors of the Provider’s office, and by having to walk on a non-weight-bearing injury. The Complainant notes that Agent A:

“was awful so intimidating that I cried I was so upset. He then told me that a fractured wrist would only take 6 weeks plus physio”

The Complainant notes that it was inappropriate for Agent A to attempt to give her medical advice for an issue she was receiving on-ongoing treatment for. She submits that this entire encounter contravened disability legislation, and that she was in *“agony”* following the meeting. The Complainant had a splint on one wrist prior to the meeting with Agent A and had to return to hospital following the meeting, to have a splint put on her other wrist. This left her *“unable to do anything including opening letters, phoning or emailing.”*

The Complainant submits that the Provider breached section 38 of the **Code of Conduct on Mortgage Arrears** by failing to put a temporary ARA in place. The Complainant submits that Agent A informed her that he could not give her a formal repayment plan, because she wasn’t getting the MIS. The Complainant notes that she had other incoming funds during this period.

The Complainant states that she asked for a repayment arrangement whereby she would repay the interest only on her mortgage loans. She notes that she thought from her meeting in **December 2012**, that this was happening. The Complainant submits that Agent A emailed her to tell her to pay an amount of the interest payment every month. Agent A gave her a paying-in book for the repayments. The Complainant contends that this resulted in arrears compounding on her account, as the Provider was still demanding full repayment figures during this period.

The Complainant states that she understood, as Agent A provided her with a paying-in book, that the informal arrangement with the Provider was a proper method of repayment. She submits that it is against disability legislation for the Provider to require her to make payments in-branch, using a paying-in book, given her limited mobility. The Complainant further states that the Provider should have had a Mortgage Arrears Resolution Process (‘MARP’) in place for her.

The Complainant notes that the Provider was *“3 months late”* in eventually giving her an ARA, and it counted the arrears that had accrued on her account, in the interim. She notes that it is possible that part of the delay was caused due to Agent A attempting to email her on an incorrect email address. She notes that other Agents of the Provider had used her correct email address.

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The Provider's Case

The Provider notes that the Complainant has two mortgage loan accounts with the Provider. It states that the Complainant has a contractual obligation to make repayments on the mortgages, and where there is no ARA in place, full payments may be demanded. The Provider notes that arrears will accrue if these payments are not being made.

The Provider notes that the ***Code of Conduct on Mortgage Arrears 2011*** (this is the **2010** Code, effective from **1 January 2011**, otherwise referred to as 'CCMA') applied to the Complainant's accounts during this period. However, there is no obligation under the CCMA for a financial service provider to provide an ARA. This is not an entitlement, but a decision to be made by the Provider, to determine based on what is appropriate, in the Complainant's circumstances.

The Provider notes that the Complainant has had several ARAs in place with the Provider, and this shows that the Provider has consistently worked with the Complainant. The Provider states that it is the Complainant's contention that the reason for her arrears is due to the disconnect between applications for arrangements in relation to her financial difficulties. However, the Provider submits that the Complainant accrued arrears in **November 2011** on account ending *152, when the interest-only direct debit of **October 2011** was not paid.

The Provider states that the Complainant was on a six-month interest-only arrangement from **June 2011** to December **2011**. The Complainant submitted an SFS on **23 December 2011**, during a period when the Provider was suffering from an "*unprecedented volume*" of applications, and this resulted in an unavoidable delay in processing the SFS. The Provider submits that the Complainant asked to stop the direct debits in **January 2012**, to avoid making full repayments, and confirmed that she would make interest-only payments in line with her earlier ARA. The Provider states that this was an 'informal arrangement' whilst her SFS was being assessed; however, the Complainant did not make interest only payment on both accounts in **January** and **February 2012**. The provider says that this was why arrears accrued.

The Complainant was offered a six-month deferred interest ARA on **1 March 2012** for account ending *152, and a six-month interest-only ARA on account ending *625. However, the Complainant did not set up a direct debit for payment, and she fell into arrears in **March** and **April 2012**. The Complainant was offered an arrangement for the interest-only payments on account ending *152 to be backdated to **January 2012**. However, this was predicated on the condition that she clear her missed deferred-interest payments. This condition was not however met.

The Provider states that, on receipt of the Complainant's SFS on **8 August 2012**, it referred the Complainant to meet with a Network Account Manager, Agent A. The Provider acknowledges the delay in Agent A contacting the Complainant; it states however that the information provided by the Complainant in her SFS, would not have supported an ARA.

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The Provider states that Agent A was not in a position to recommend an ARA as there was no affordability in the Complainant's circumstances. The Provider submits that the Complainant was encouraged to seek independent advice, and to progress an application for MIS. In the interim, the Complainant was advised to pay as much as possible, and that the Provider would defer an assessment of the SFS pending the return of this information.

The Provider says that on **1 May 2013**, it assessed the Complainant's SFS and deemed that it was not appropriate to offer the Complainant an ARA. A temporary arrangement was later made, when the Complainant's circumstances changed, and a split mortgage option was agreed with the Complainant in **2017**. Under this arrangement, the Complainant makes interest-only repayments on part of the mortgage balance, and capital and interest repayment on the balance of the loan. The Provider states that it understood the Complainant's acceptance of this arrangement, to have satisfactorily addressed the element of the complaint relating to arrears on the Complainant's loans.

The Provider acknowledges "*customer service issues*" and delays experienced by the Complainant. It has offered a goodwill gesture of **€1,000** (one thousand Euro) in respect of these service issues. This was not accepted by the Complainant.

The Provider acknowledges that there was an administration error in respect of account ending *152, whereby the full repayment amount was demanded on **15 August 2012**, instead of **September**. It notes that this error was remedied on **27 August 2012** by way of mortgage debit reversal.

The Provider denied the Complainant's submission that her complaint was not properly processed by Agent A. The Provider relies on Agent A's email of **9 May 2013** which sets out the Agent's perspective that there was no need to progress the matter. It further relies on the Complainant's email of **20 March 2013** which was submitted to the Provider as part of the Complainant's formal complaint in **December 2014** (but that it has no record of receiving in **March 2013**). The relevant email states that:

"I gave this complaint to [Agent A] who was handling the case but then agreed to talk through the process with him"

The Provider states that there was no reason for Agent A to pressure the Complainant not to submit the complaint. The Provider is relying on the timing of the Complainant's complaint and the "*inconsistencies in the Complainants (sic) position*".

In response to the Complainant's submission that Agent A insisted that she attend a meeting after her injury, and that this was when she was told of the 'informal repayment', the Provider denies that Agent A insisted on the Complainant's attendance. It states that it was always open to the Complainant not to attend a meeting or to request an alternative venue. The Provider states that the Complainant's submission that Agent A used an incorrect email is not accurate. It submits that the email used by Agent A was previously used by the Complainant in correspondence with the Provider, and was used in the SFS, dated **July 2012**.

The Provider submits that it has complied with its obligations under the CCMA. The Provider additionally submits that it has complied with its obligations under the **Consumer Protection Code 2012** ('CPC').

The Provider noted that the Complainant's accounts were up to date, at the time of its submission to this Office, with no arrears showing at that time.

The Provider included a statement from the now-retired Agent A with its submissions. Agent A states that he recollects his interactions with the Complainant and denies the allegations that he was angry on the phone with the Complainant, and that he made her daughter leave the meeting. Agent A states that the Complainant asked her daughter to leave, and that Agent A was familiar with the process by which her daughter could have been included in the meeting, if this had been required.

Agent A states that the email he originally used for the Complainant was not incorrect, but it was an old email address that the Complainant no longer monitored. Agent A also denies the allegation that he offered the Complainant medical advice. Agent A states that "[a]t no time did [the Complainant] appear upset other than being in such a financial state." He outlines the steps that he would have taken to stop the meeting, if she had been upset.

Agent A states that the Complainant did bring a complaint document to a meeting. However, he understood that she did not wish to register the complaint on the basis that she and Agent A, were working together towards a solution. Agent A submits that the complaint issue was not raised, until after her mortgage was deemed to be unsustainable.

Agent A states that he tried to keep meetings to the Provider's premises, due to confidentiality and security reasons. However, if the Complainant had favoured a meeting elsewhere, that would have been arranged.

Agent A states that the Complainant did mention work opportunities, but he remembers this to have been conditional on her medical situation. He states he would have sent this documentation to the Arrears Support Unit, if the Complainant "*gave me copies or allowed me to copy them.*" Agent A notes that he did email the Complainant in **February 2013** to state that there was no payment arrangement in place.

The Complaint for Adjudication

The complaint is that the Provider maladministered the Complainant's account and provided her with poor customer service. She seeks for the arrears on her account to be removed, and to be compensated for the "*trauma caused*". The Complainant is additionally seeking compensation for the loss of her MIS, which she calculates to be a total loss of **€40,000** (forty-thousand Euro).

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 **5 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.

Following the consideration of additional submissions from the parties, the final determination of this office is set out below.

Evidence

- File note from the Provider's system (CACS date 28 December 2012) concerning meeting with the Complainant:

"Met [Complainant] only income is S/W @ 1131 pr mth exps 914 before mtges @ Std. She has applied for mis and expects to get 560 per month she is still incapacitated and not likely to be available for work until mid February at best. Meeting with GP today re recent fall injuries and is due to have the cast removed from her wrist at end January. On the current figures this looks unsustainable but if she gets the mis she can afford It+ and once she resumes work then move on to C@I. The property is approx. 200K in neg Eq. so have agreed to wait until end Jan to see if mis is granted and then assess the sustainability."

- Email from Agent A to the Complainant dated **8 February 2013**. This email states, in response to the Complainant's request for monthly figures:

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“There is no formal arrangement in place on either account, however the details are;

*[Account ending *625] (monthly payment is 152.92 and interest only is 40.00)
&
[Account ending *152] (monthly payment is 2383.89 and interest only is 575)”*

- Email between the Complainant and Agent A dated **8 May 2013**:

“Dear [Agent A]

Could you please get back to me regarding the complaint letter that I gave to you when we first met up, it has all the details of the problems that I incurred but the huge time delays that the process of Financial reviews takes and the fact that the code from the Central Bank differs from [Provider] ie that it specifies that the process should be fast and efficient. I was assuming that the arrears wouldn't built up when its [Provider's] fault that the process takes so long.

Can you please make sure that my complaint is in the [Provider] mortgage system”

- Email between the parties on **9 May 2013**:

“[Complainant]

At that meeting you gave me the letter for reference and said that as you and I were engaging on your case there was no need to progress the matter.

I can confirm however that the letter was forwarded to the Arrears Support Unit in [Provider] Mortgages for reference.”

AND

“Hi [Agent A]

I need you to inform them that the complaint is relevant to this whole process. I thought that a repayment plan was being set up based on repayment of interest only which is what my daughter has been doing. I have just received a letter to say that it hasn't been set up but with no details of why, I thought that you said it was when the other payment went through. My daughter has been making those repayment amounts monthly of interest only, which is what I thought you said we could do. I just don't understand what is happening here. Can you get back to me”

- An email from the Complainant to Agent A again dated **10 May 2013** states:

“Hi [Agent A]

Can you get back to me...

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I thought you were handling that complaint side with the arrears. Now as you know I then had a serious fall and fractured bones and tore tendons. I actually should not have been weight bearing on my foot the day I came in to you and I couldn't use either wrist, but you had rung (sic) me and said to come in, so I thought that it was going to get sorted. Can you please get back to me as soon as possible."

Analysis

I note that the Complainant's complaint arises from a number of issues of suggested maladministration and poor customer service. The first element is that the Provider incorrectly ended her ARA in **August 2012**, instead of **September 2012**. I note that this is an error that the Provider has acknowledged and that it corrected very swiftly, later in August 2012.

In addition, the Complainant says that the Provider delayed in processing her SFS, which had been submitted in **July 2012**. The Complainant first met with Agent A regarding the SFS, in **November 2012**. Whilst the Provider has noted that it did not make an error in relation to the email address used by the Complainant, it has acknowledged that there was a delay during this period.

The third element raised by the Complainant is that she fell into arrears, due to the Provider demanding full repayments, during the period when there was no formal ARA in place. The Provider has submitted that, because no ARA was in place, it was contractually entitled to demand full repayment figures. The Complainant has submitted that she understood that there was an 'informal arrangement' in place. From her emails to Agent A, it appears to me that she understood that she would have to make interest-only repayments.

I note that the Provider has not made submissions to address the Complainant's contention regarding the informal arrangement. It has stated that it encouraged the Complainant to make whatever payments she could. The Provider has relied on Agent A's email of **8 February 2013**, noting that there was no formal arrangement in place.

However, it is clear from the Complainant's submissions that she did not expect to fall into arrears if she did not meet the full repayments, not because this is something which the Provider had told her, but rather it was an assumption based on her belief that the matter was taking longer than it ought to, because of delays by the Provider. I am conscious that this was the Complainant's previous understanding, when she agreed to make interest-only repayments with the Provider during its assessment of her SFS in early **2012**. I note that when she was offered the ARA in early 2012, this specifically noted amongst other details that

"This alternative repayment arrangement will not have any impact on existing arrears, if any, on your mortgage loan, these will continue to form part of your outstanding balance."

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I accept that, in the absence of a clear communication from the Provider to explain that arrears were being accrued, an informal arrangement of interest-only payments was understood by the Complainant to be in place, in late **2012**, and that it was not unreasonable for her to believe so, given her previous experience. I take the view, in that regard, that the Provider did not comply with its obligations under provision 4.1 CPC insofar as its communications to the Complainant were not clear and accurate.

In relation to the remedy sought by the Complainant for this conduct, the Complainant was seeking to have the arrears on her accounts removed. I am pleased to note that the Provider and the Complainant agreed a restructure of the Complainant's mortgage loans in **2017**, and consequently the Complainant no longer has arrears on her account. In a recent submission, since the preliminary decision of this office was issued, she points out however that

“ ... this restructure means that the arrears were added to the mortgage. So it still affected me as I still owe them, they are on my mortgage and that is all because they didn't give me an ARA, so that although I was paying the informal ARA of interest only, the bank was penalising me by counting the full amount as an arrears, due to the Provider demanding full repayments.”

The Complainant is correct in that regard, in that any arrears that she had been built up, during the period when she was unable to pay the full contractual payments, which were then moved by agreement with the Provider, from arrears status to become part of the capital balance, rather than arrears, will fall to be paid by her in due course. Likewise, however, if an ARA had been agreed sooner, this would have varied the contractual amount falling due to be paid by the Complainant, but such a reduction would of course have had consequences, in the form of a diminished impact on the reduction of the capital balance, than the reduction achievable by paying the full contractual payments originally agreed.

Separate from the arrears' status, I note that the Complainant is additionally seeking compensation, and I accept that the Complainant suffered from significant worry and inconvenience during this period as she did not understand how she was falling into arrears. The Complainant complained in additional submissions that she should have been granted an ARA. She further made reference to the application of MARP and the Provider's suggested failings under the CCMA.

In the first instance, I note that the Complainant has referred to a provision of the CCMA which is not present in the relevant **2010** CCMA (as distinct from the CCMA 2013). I additionally accept the submissions of the Provider that the Complainant does not have any particular entitlement to an ARA of her choice, and that it is a matter for the Provider to assess the suitability of any applicant, at any given time. In this respect, I do not accept that there has been any breach of the CCMA.

Whilst I note the Complainant's submissions that her pending income stream was not recorded by Agent A, or passed onto the appropriate team, I am mindful that the Provider says that this potential income was subject to her being capable of working.

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It is clear from the Provider's notes from December 2012, that there was no realistic prospect of the Complainant being in a position to take up her work opportunities, until at least mid-February 2013. The Complainant says, in a submission to this office since the Preliminary Decision was issued to the parties, that

"In December 12, when I fell, it was actually an injury whilst I was working. So, it was counted as an Industrial injury, I therefore received injury pay from the company. So that when you say any income was dependent on me being fit that is incorrect."

I am conscious in that regard, that the SFS completed in July 2012, gave details of the Illness Benefit, but the figures at that time were much reduced in comparison to the figures that became available when the Complainant was working per the SFS completed the following year in July 2013. In that respect the income stream was understandably reduced by her inability to work, and I don't consider it to have been unreasonable for the Provider to have decided to hold off until February 2013, if there was a prospect of the Complainant returning to work at that time. The recorded note is quite specific that an agreement was made between the Complainant and the Provider to wait until the end of January, in order to establish if MIS had been granted and, at that point, to then assess sustainability.

Agent A has stated that he would have shared the details if the Complainant *"gave me copies or allowed me to copy"* the relevant documentation. I do not consider this a satisfactory response in circumstances where Agent A has not suggested that the Complainant refused to provide copies of the documentation to the Provider. The Complainant is consistent in her submissions that she wished this information to be considered by the Provider. I consider this however to be an issue bearing on the customer service of the Provider, rather than an error in refusing to grant the Complainant an ARA during this period, which was dependent upon the details of the Complainant's financial capacity becoming clearer, once her medical situation was more settled.

The final element of the Complainant's complaint is that the Provider delivered poor customer service. This complaint covers a range of suggested behaviours by the Provider, including the issue referred to above.

The Complainant submits that Agent A insisted that her daughter leave the meeting in **November 2012**. Agent A denies this and states that there are procedures in place for allowing third parties to join meetings. In my opinion, there is insufficient evidence presented to determine whose account of what exactly happened, is more correct. In my opinion, it is possible that both parties poorly communicated their respective positions, or that the Complainant felt that she wanted her daughter to stay for the meeting, but that this was not made sufficiently clear to Agent A, because she felt ill at ease.

The Complainant submits that Agent A pressured her to attend at a meeting in **December 2012**, despite her severe injuries. Agent A refutes this and states that the Complainant could have been accommodated. I consider that, again, this is a situation where there is insufficient evidence to ground the complaint.

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It may be that the Complainant's requirements were not effectively communicated to Agent A given her desire to advance the discussions, so that a resolution could be achieved. Similarly, I do not accept the Complainant's submission that she was mistreated by being given a paying-in book. There is no evidence that Agent A told her that this was the only way that she could make payments, and there would have been other methods of payment available to her.

It is certainly unfortunate that the Complainant felt uncomfortable during the meeting. The meeting was an important one for her, and it is understandable that because of her ongoing medical issues and indeed the financial pressure she was under, she may have felt ill at ease. I accept that if the Complainant's agent had made the sort of comments which are referenced by the Complainant, this would have been entirely inappropriate. Regrettably, there is no independent contemporaneous evidence of what happened or what was communicated precisely during the meeting, but I am conscious that the Complainant's clear contention as to what was said, is matched by the Provider's vehement denial that the sorts of comments suggested by the Complainant, were ever made.

On balance, I take the view that the Complainant was made to feel uncomfortable, perhaps contributed to by her medical issues and the financial pressure she was under, but in my opinion, there is no evidence that the Complainant's agent intended in any way to have her feel uncomfortable or ill at ease.

Finally, the Complainant states that Agent A pressured her into not submitting her complaint and failed to register her complaint. The Provider submits that the Complainant agreed with Agent A that the submission of the complaint was not necessary. I have had regard to the Complainant's submissions, and that she notes that she gave Agent A the complaint, "*but then agreed to talk through the process*" with him. This indicates to me that there may have been an understanding between the parties to not submit the complaint, or that the Complainant's intentions were not made adequately clear to Agent A.

Having regard to the above, I am satisfied that the Provider made an error in relation to the expiry of the **2012** ARA, which was quickly corrected, and that subsequently there were several failings in relation to its communications and customer service to the Complainant.

In my opinion, these failures were unjust to the Complainant within the meaning of **Section 60(2)(b)** of the **Financial Services and Pensions Ombudsman Act 2017**. Accordingly, I consider it appropriate to partially uphold the Complainant's complaint.

I am pleased to note that since this complaint was originally made to this Office, the parties succeeded in **2017** in coming to an arrangement to restructure the mortgage borrowings. This was a particularly welcome development, given the Complainant's history of medical challenges and it is to be hoped that the parties will continue to be able to work together to ensure that the Complainant's mortgage accounts, remain in good order.

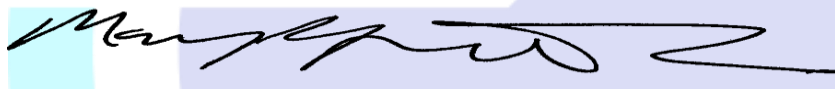
To mark my decision regarding this complaint, I consider it appropriate to direct the Provider to make a compensatory payment to the Complainant, in the amount specified below.

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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)(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 **€2,500**, 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.
- 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)

10 October 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.

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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.

