



An tOmbudsman Seirbhísí
Airgeadais agus Pinsean
Financial Services and
Pensions Ombudsman

Financial Services and Pensions Ombudsman publishes legally binding decisions issued in 2020

3 February 2021: The Financial Services and Pensions Ombudsman (FSPO) has published his latest legally binding decisions, issued during the second half of 2020. The FSPO's online database of decisions now contains over 1,000 legally binding decisions that have been issued since the FSPO was established three years ago.

The decisions published today highlight the wide range of issues giving rise to complaints to the FSPO and the outcome of the FSPO's investigations and decisions in relation to those complaints. Some examples of directions made by the Ombudsman in the decisions published include:

- Restitution of €66,000 plus interest to a child's bank account, following a bank's failure to apply appropriate safeguards to the account and permitting withdrawals by the child's parent, contrary to the requirement for the child to become the signatory on the account.
- Compensation of €20,000, €22,000 and €15,000 to three separate tracker mortgage complaints respectively, where the complainants' were of the view that the compensation originally offered by the providers in question was not adequate.
- Compensation of £17,000 following a decision that an investment company failed in its duty of care to its customer who was a compulsive gambler and did not deal with his complaint adequately.
- Compensation of €15,000 following a mortgage provider incorrectly reporting the status of the complainant's mortgage to the Irish Credit Bureau as "pending litigation", following the provider acquiring the mortgage from another lender.
- Compensation of €15,000 to a couple that experienced an unacceptable level of poor service and misinformation from their bank in relation to an Assisted Voluntary Sale (AVS).
- Direction to an insurer to issue a letter confirming that the complainant's policy had been cancelled as a result of its error and to pay compensation of €15,000. This followed the insurer's cancellation of a motor insurance policy based on faulty data from a telematics device.
- A direction to an insurer to pay a claim of €1,311 and compensation of €1,500, following a claim made for dental work arising from a childhood school yard accident.
- Compensation of €3,000 in relation to a complaint against a broker for non-disclosure of fees and commission relating to a pension plan.

In addition to publishing the full decisions on the Database of Decisions on www.fspo.ie, the Ombudsman has also published [Volume 5 of his Digest of Legally Binding Decisions](#). This publication includes summaries of 18 decisions made in relation to complaints against financial service providers and two case studies of decisions made in relation to complaints against pension providers. By publishing these decisions and the *Digest of Decisions*, the Ombudsman aims to enhance transparency and understanding of his powers and the services provided by the FSPO.

Commenting on the decisions published, the Financial Services and Pensions Ombudsman, Mr. Ger Deering, said:

“It will be seen from the summaries and case studies in this Digest and from the full text of my legally binding decisions, the FSPO affords an important avenue of redress, where consumers believe their financial service provider or pension provider has not treated them in a fair, reasonable or proportionate manner.”

“Complaints regarding tracker mortgages continue to comprise a considerable amount of the work of my Office. I have upheld a number of tracker mortgage complaints, where I concluded that the compensation awarded to the complainants was not adequate. It remains that a considerable number of tracker mortgage complaints made to the FSPO are based on unrealistic expectations, with some complainants believing that their desire to have a tracker interest rate provides a basis for requiring their bank to grant them one. There seems to be a lack of understanding that for a person to have an entitlement to a particular tracker interest rate, there must be some contractual or other obligation on their bank entitling them to such a rate.”

Mr. Deering added: *“This is the fifth occasion on which I have published my legally binding decisions since the statutory power to do so was provided by the Oireachtas. Our online [Database of Decisions](#) now contains over 1,000 legally binding decisions issued since the FSPO was established in January 2018. The statutory power to publish these decisions is an important one, as enabling access to the text of my decisions greatly helps to broaden the awareness of the role of this Office and promotes a greater understanding of how we deal with complaints against financial service providers and pension providers.”*

The Ombudsman’s Digest of Legally Binding Decisions Volume 5, containing summaries of 18 decisions made in relation to complaints against financial services providers and 2 case studies of decisions made in relation to complaints against pension providers, is available at <https://www.fspo.ie/publications/>

The full database of decisions can be accessed at <https://www.fspo.ie/decisions/>

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Tá an OSAP ar fáil le hagallaimh a dhéanamh trí mheán na Gaeilge.

Notes to Editor

- The Financial Services and Pensions Ombudsman Act 2017 (the Act) prescribes the manner in which the FSPO shall publish decisions.
- When the FSPO issues a legally binding decision, that decision is subject to a potential statutory appeal to the High Court within 35 calendar days from that date.
- The FSPO does not publish decisions before the elapse of the 35-day period available to the parties to make a statutory appeal to the High Court.

- Decisions which have been appealed to the High Court are not published, pending the outcome of any such Court proceedings.
- Before any legally binding decision is published by the FSPO it undertakes a rigorous and stringent review to ensure that the non-identification requirements of the Act are adhered to in order to protect the confidentiality of the parties.
- The FSPO deals with complaints informally at first, by listening to both parties and engaging with them to facilitate a resolution that is acceptable to both. Informal mediation allows a faster resolution. When these early interventions do not resolve the dispute, the FSPO investigates the complaint and subsequently issues a decision that is legally binding on both parties, subject only to an appeal to the High Court.
- The Ombudsman can direct a financial service provider to pay compensation of up to €500,000 to a complainant and/or to rectify the conduct that is the subject of the complaint. There is no limit on the value of the rectification that can be directed.
- Decisions issued by the Financial Services and Pensions Ombudsman are legally binding on both parties and can only be appealed to the High Court. Decisions are available at www.fspo.ie/decisions