



An tOmbudsman Seirbhísí  
Airgeadais agus Pinsean

Financial Services and  
Pensions Ombudsman

## **Financial Services and Pensions Ombudsman publishes tracker mortgage decisions**

*25 legally binding decisions relating to tracker mortgage complaints published*

**27 February 2020** The Financial Services and Pensions Ombudsman (FSPO) has today published 25 legally binding decisions relating to tracker mortgage complaints that were issued between January 2019 and January 2020. Of the 25 legally binding decisions that are being published today, eight were either fully, substantially or partially upheld and 17 were not upheld.

Since it was established in January 2018, the FSPO has dealt with over 1,800 complainants and their providers in relation to tracker mortgage complaints. This work was undertaken while at the same time managing over 10,000 additional complaints that do not relate to tracker mortgages during those two years. At the end of 2019, the FSPO had 1,152 tracker mortgage complaints on hand.

In 2019, 516 complaints relating to tracker mortgage interest rates were closed by the FSPO. Of those complaints, 264 were closed after they were resolved through the FSPO's informal mediation process. 174 complaints were closed during the investigation, adjudication or legal services process.

The decisions fully, substantially or partially upheld include the following:

- Three complaints where the banks had restored the correct tracker rate from the correct date. However, the complainants were unhappy with the level of compensation offered by the bank. The Ombudsman found that the compensation offered was insufficient given the very specific personal circumstances of the complainants concerned and he directed compensation of €52,500 in one complaint, €4,500 in another and €45,000 in another. In one of those complaints the complainant objected to the manner in which the sum overcharged by the bank was to be refunded and this aspect of the complaint was not upheld.
- In relation to a complaint where the complainants were seeking to have their tracker mortgage restored, the Ombudsman directed the bank to restore the tracker interest rate on the complainants' mortgage from 2010, repay the interest overpaid by the complainants and pay €2,500 compensation. The loan had been sold by the bank to a third party financial service provider and the bank was directed to make arrangements with the purchaser of the loan to ensure the complainant continued to benefit from the correct tracker interest rate for the remainder of the mortgage.
- Of the complaints partially upheld, the Ombudsman found, in one complaint, that the bank had delayed in offering the complainant a tracker portability mortgage, and directed €3,000 in compensation. In two complaints, the Ombudsman found that while the complainants were not entitled to a tracker interest rate on their mortgages, the quality of the information given to the complainants was lacking and directed the bank to pay €2,500 in compensation in one complaint and €3,000 in another. In the fourth complaint that was partially upheld, the Ombudsman found that the complainants were not entitled to a tracker

interest rate on their mortgage. However, he found that the bank did not appear to be aware of its obligations under the Central Bank's Consumer Protection Code in relation to the retention of records and he directed the Bank to review and change its practice in relation to maintaining consumer records to ensure that it acts in accordance with the Consumer Protection Code.

The Ombudsman has also published a Digest of Legally Binding Decisions, which summarises 16 decisions relating to tracker mortgage complaints.

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

*“The decisions published today represent a considerable body of work that has been undertaken by my Office in relation to tracker mortgage interest rate complaints. Their publication today is an important step. Following the completion of the Examination directed by the Central Bank, my Office has been progressing a large volume of complaints relating to tracker mortgages”*

*“Many complaints relating to tracker mortgage interest rates are particularly complex and can often concern very difficult circumstances for the complainants. In some cases, complainants believe that they have an entitlement to a tracker mortgage interest rate, others who have had tracker interest rates restored believe the compensation offered to them by their bank is inadequate. Other complaints concern the margin applied to their interest rate or the date from which a tracker interest rate was applied. The decisions published today give a sense of the breadth and complexity of the issues.”*

*“Of the decisions being published today, 17 complaints were not upheld. I hope that by publishing these decisions it will highlight that although many people would like to have a tracker mortgage, in order for a person to have an entitlement to a tracker interest rate, there must be an obligation on the bank, contractual or otherwise, that entitles the mortgage holder to a tracker interest rate. I hope that these decisions will be of assistance to consumers, their advocates and financial services providers in resolving remaining tracker interest rate complaints.”*

*“I am very grateful to all my colleagues for their hard work and commitment in progressing these complaints and providing a fair, impartial, independent and transparent service. I also want to thank complainants and providers for their cooperation with our various processes.”*

Separately on 13 February 2020 the FSPO published 394 legally binding decisions which related to matters other than tracker mortgages, issued throughout 2019. The FSPO used informal mediation to successfully resolve most of the complaints closed in 2019. Of the 439 complaints closed by way of formal investigation which resulted in a legally binding decision, 201 were either fully, substantially or partially upheld, while 238 were not upheld.

Decisions can be accessed through the Digest of Decisions, available at <https://www.fspo.ie/decisions/>

**Ends**

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## Notes to Editor

- Decisions can be accessed through the Digest of Decisions available at <https://www.fspo.ie/decisions/>
- 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, the FSPO 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 was established by the ***Financial Services and Pensions Ombudsman Act 2017*** and opened for business on 1 January 2018.
- 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. Of the 439 decisions issued in 2019, five were appealed by the parties to the High Court.