



An tOmbudsman Seirbhísí
Airgeadais agus Pinsean
Financial Services and
Pensions Ombudsman

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

Ombudsman welcomes the application of his decisions, by providers, to groups of consumers

7 August 2020 The Financial Services and Pensions Ombudsman (FSPO) has published 180 legally binding decisions, issued between January and May 2020.

The FSPO deals with a wide range of complaints relating to insurance, banking, credit facilities and investments, as well as pensions. Some examples of directions made by the Ombudsman in the decisions published include:

- Compensation of €10,000 after a lender failed to correct a customer's credit profile, following a credit card being issued in the customer's name without his knowledge or permission.
- A direction to write down 12% of the capital balance on a mortgage, backdated to 2010, following the failure to offer a customer the option to convert to a tracker interest rate mortgage loan in line with the bank's contractual obligations. The bank was also directed to repay the difference between the interest paid and what would have been paid on the reduced balance.
- Compensation of €2,500 after a bank failed to provide an explanation for declining a transaction on a customer's credit card and gave poor customer service.
- Compensation of €22,000 due to particularly difficult circumstances suffered as a result of significant overcharging resulting from the denial of tracker mortgage interest rate.
- Compensation of €8,000 for overcharging where a tracker interest rate was not applied and a mortgage was restructured.
- Compensation of €1,500 for failures in service and poor levels of communication from a bank arising from the freezing of a customer's account following bankruptcy.
- Compensation of €8,000 for poor communication regarding a no claims bonus and subsequent cancellation of a car insurance policy.
- A direction to an insurer to amend its records to reflect the ending of an insurance policy as a voluntary cancellation, rather than a voided policy, to refund a €50 administration fee and to pay a sum of €250 in compensation for poor communication.
- Compensation of €1,000 for poor communications relating to the automatic renewal of a car insurance policy.

Of the legally binding decisions issued between January and May 2020, 72 were either fully, substantially or partially upheld and 127 were not upheld.

In addition to publishing the full decisions, the Ombudsman has also published volume 4 of his *Digest of Legally Binding Decisions*. This publication includes summaries of 20 decisions made in relation to complaints against financial service providers and 2 case studies of decisions made in relation to complaints against pension providers in 2020. By publishing these decisions, the

Ombudsman aims to enhance transparency and understanding of his powers and the services provided by the FSPO.

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

“Increasingly, providers are applying my decisions to groups of customers who are in similar circumstances to those who have received decisions from the FSPO, even if they have not themselves made complaints to the FSPO.

This is particularly evident from decisions I have made in a number of complaints relating to tracker mortgage complaints. It is my understanding that almost 7,000 customers across a number of banks will benefit from the directions I have made in a small number of decisions. There have also been other decisions that have caused providers to apply remedies or change practices to the benefit of a wider group of customers”.

Mr. Deering highlighted the recurring issue of the reporting of credit profiles and particularly, circumstances where inaccurate or incorrect information has been added to a customer’s credit profile. Commenting on these complaints, Mr. Deering stated, *“The incorrect reporting of a person’s credit profile can have serious implications, including the refusal of credit. While errors can occur, it is evident from some of the complaints we have received that such situations have been exacerbated by the failure of the providers to rectify the error. I would ask providers to be careful in their reporting and to remedy mistakes quickly. Consumers should also be aware that such reporting takes place, and inform themselves about what information is held about them on credit databases.”*

Mr. Deering added: *“This is the fourth occasion on which I have published decisions since the statutory power to do so was provided by the Oireachtas. Our online [Database of Decisions](#) now contains over 800 legally binding decisions issued since the FSPO was established in January 2018. Feedback on the publication of these decisions has been positive. Complainants, providers and their representative bodies have informed us that the published decisions assist them in understanding the root causes of complaints and how disputes can best be avoided or resolved.”*

The *Ombudsman’s Digest of Legally Binding Decisions Volume 4*, containing summaries of 20 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 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. Four decisions issued between January and May 2020 were under appeal to the High Court at the time of publication in August 2020. For further details, see page 5 of the Digest of Decisions.
- Decisions are available at www.fspo.ie/decisions