

Presentation to the Joint Committee on Public Petitions

By Ger Deering

Financial Services and Pensions Ombudsman

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Background

Good afternoon Chairman, Deputies and Senators. I am pleased to have the opportunity, together with my colleague Ms MaryRose McGovern, Deputy Financial Services and Pensions Ombudsman, to engage with you today in relation to the work of my office.

The Office of the Financial Services and Pensions Ombudsman (FSPO) was established on the 1st of January 2018 by the ***Financial Services and Pensions Ombudsman Act 2017 (the Act)***. The establishment of the FSPO involved the merger of the former offices of the Financial Services Ombudsman and the Pensions Ombudsman.

We provide an independent, fair, impartial, confidential and free service to resolve complaints through either informal mediation, leading to a potential settlement agreed between the parties, or formal investigation and adjudication, leading to a legally binding decision.

When any consumer, whether an individual, a small business, or an organisation, is unable to resolve a complaint or dispute with a financial service provider or a pension provider, they can refer their complaint to us.

We deal with complaints informally at first, by listening to both parties and engaging with them to facilitate a resolution that is acceptable to both parties. Much of this informal engagement takes place by telephone.

Where these early interventions do not resolve the dispute, we formally investigate the complaint and issue a decision. That decision is legally binding on both parties, subject only to an appeal to the High Court.

Complaints against Financial Service Providers

The Oireachtas has given me wide-ranging powers to deal with complaints against financial service providers. I can look beyond the contractual terms and consider the fairness and reasonableness of the conduct complained of. I can direct compensation of up to **€500,000** and I can also direct a provider to rectify the conduct that is the subject of the complaint. There is no limit to the value of the rectification I can direct. This could, for example, involve directing a financial service provider:

- to reinstate a tracker mortgage interest rate and recalculate the mortgage account balance
- to admit and assess an insurance claim for payment of benefit
- to reinstate an insurance policy that was wrongfully voided, and correct the record of that policy cancellation.

I can publish anonymised decisions and I can also publish the names of any financial service provider that has had at least three complaints against it upheld, substantially upheld, or partially upheld during a year.

Complaints against Pension Providers

In terms of dealing with complaints against pension providers I can direct rectification. However, this cannot exceed any actual loss of benefit under the pension scheme concerned. For pension complaints I can publish case studies.

Dealing with Complaints

We are aware that certain aspects of our work, in particular the statutory time limits for making a complaint, can be complex for both consumers and providers. If there is a time limit issue or any other aspect that raises a question of eligibility for our services, we bring these matters to the parties' attention as soon as possible, and we offer guidance where appropriate.

We inherited 3,178 complaints from our predecessor bodies and in the three years to the end of December 2020, we received a further 16,362 complaints.

We closed a total of 15,205 complaints in those three years. In 2020, I am happy to report that, despite the challenges of the pandemic and remote working, we closed 6,193 complaints, an increase of 35% on 2019.

Mediation, by telephone and email and through meetings, is the first and preferred option for resolving complaints. By engaging with the parties directly, we facilitate them in exploring the possibilities of designing a resolution which they can both agree. Where these early interventions do not resolve the dispute, we use our extensive powers to formally investigate in a fair and impartial manner.

Full details of how we managed complaints in any particular year are set out in our *Overview of Complaints* for that year. These documents include an analysis of all complaints made, a review of trends and patterns in the making of complaints and a breakdown of the method by which all complaints were dealt with, during that year. These Overviews are available on our website for 2018, 2019 and 2020.

The beneficial impact of my Office stretches beyond the complaints that we deal directly with. The mediations and investigations that we conduct produce fair, impartial and beneficial outcomes for the parties directly involved in the complaints we deal with. However, this is only part of the story.

There are many consumers who never make a complaint to my Office, who nevertheless benefit from our interventions and our work. This was particularly evident in 2020 when more than 7,000 consumers received rectification or compensation on foot of a small number of my decisions. This was because some financial service providers applied the directions from a number of my decisions, in relation to tracker mortgage complaints, to other customers in similar circumstances. This is a practice I particularly welcome. It has been publicly recorded that the value of the redress applied to such consumers exceeded €300 Million.

Of those who did bring complaints to my Office, I am pleased to report that many had their complaints successfully resolved at various stages throughout the process. For example, in 2020 a total of 1,867 complainants received compensation and/or redress, or a settlement through our services. This is an increase of 468 on 2019. During 2020, the total sum of compensation or settlements that complainants benefitted from, through the various stages of our services in mediation, formal investigation and on the record offers made by providers, amounted to €6,340,000.

This does not include the very significant but unquantifiable benefits, in terms of redress by rectification, secured by complainants.

Since the Oireachtas provided me with the power to publish my legally binding decisions, I have done so on five occasions. Our online Database of Decisions now contains more than 1,000 legally binding decisions that have issued since the Office was established in January 2018. I believe that publication 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.

I have also published five Digests of Decisions. These digests contain short summaries or case studies of a selection of legally binding decisions. Each of the digests and all published decisions are available on our website.

Covid-19 Related Complaints

In March 2020, we began to receive the first complaints arising from the circumstances surrounding the Covid-19 pandemic. To date, we have received 784 complaints where the complainant identified Covid-19 as an element of their complaint, 536 of which have already been concluded, mainly through mediated settlements and the issuing of legally binding decisions.

We implemented measures from the outset of the Covid-19 pandemic, in anticipation of additional complaints that would be received. These measures included:

- Early identification and analysis of complaints with a Covid-19 element
- Engagement with complainants at an early stage to provide clarity on steps required to process complaints quickly
- Allocation of temporary resources to clear existing complaints in preparation for a potential surge
- Executive oversight of complaint trends

In the context of the broader consumer landscape, we have had, and we continue to have, considerable engagement and information sharing with the Central Bank of Ireland in relation to Covid-19 related complaints.

Business Interruption

We prioritised the progression of complaints concerning business interruption insurance claims, in recognition of the importance to policyholders of achieving a swift understanding as to whether or not they were entitled to benefit under their policy of insurance. This included early engagement with providers to obtain Final Responses. We also use specialist teams. To date, since March 2020, within the figures previously mentioned, we have received 162 complaints concerning business interruption.

I am happy to advise the Members that 89 of these business interruption complaints have already been concluded, 24 of which were closed with a legally binding decision. I am also pleased to report that some insurers have accepted our approach to these business interruption complaints, and have chosen to apply that approach and directions made in our legally binding decisions, to other similar complaints, thereby facilitating a significant number of settlements.

As the Members may be aware, in **August 2020**, FBD Insurance plc brought a challenge to the High Court seeking to prevent me from progressing the investigation of a business interruption insurance complaint. I want to make clear that I will strenuously oppose any attempt by a financial service provider or a pension provider, to restrain me in the exercise of my statutory powers, to investigate a complaint pursuant to the provisions of the ***Financial Services and Pensions Ombudsman Act 2017***. For that reason, we vigorously opposed this court action and in February 2021, FBD withdrew the challenge and the High Court struck out the proceedings, noting the agreement of FBD to discharge certain legal costs.

Tracker Mortgage Related Complaints

Complaints identified as tracker mortgage interest rate related complaints, continue to comprise a considerable element of the work of my Office. We inherited more than 600 tracker related complaints from the Financial Services Ombudsman in January 2018 and we received a further 1,700 tracker mortgage complaints between 2018 and 2020. In addition, a number of tracker mortgage complaint files were reopened.

Since 2018 we have closed more than 1,200 tracker mortgage complaints. Again, these were mainly closed through mediated settlements and the issuing of legally binding decisions, following formal investigation.

The Tracker Mortgage Examination directed by the Central Bank of Ireland has resolved a large number of tracker mortgage complaints. For those whose complaints were not resolved through the Examination, it is important to understand that my work is an entirely different process which involves the scrutiny and consideration of individual mortgage arrangements, to assess the merits of a complaint on the basis of its own individual circumstances.

A number of my decisions have resulted in borrowers having tracker mortgage interest rates restored. In addition, as I have already mentioned, some of my decisions in relation to tracker mortgage complaints were applied to other customers, including customers who had not made a complaint to my Office, resulting in a benefit to over 7,000 mortgage holders.

One bank appealed to the High Court, seeking to strike-down a tracker mortgage decision I issued in April 2020. In that decision, in addition to the payment of compensation, I directed the bank to reinstate the complainants' tracker mortgage interest rate, and to arrange for the recalculation of the mortgage account balance, to take account of the different rate which should have applied over the relevant period. The High Court delivered its judgment in February 2021. The bank was refused the reliefs it had sought and was unsuccessful in all arguments. Therefore, my legally binding decision stands and the bank is required to implement the steps I had directed.

As we continue to receive tracker mortgage complaints, such complaints will continue to comprise a considerable element of the work of this Office, for some time to come. We currently have more than 1,200 tracker mortgage complaints on hand. In February 2020, I published a Digest of Decisions dealing specifically with tracker mortgage decisions. This is available on our website.

As with Covid-19 related complaints, we are working in close co-operation with the Central Bank to ensure that any consumers who have been wrongly denied tracker mortgage rates, have them returned in the most efficient and effective way possible.

Our co-operation with the Central Bank stretches beyond specific topics and, more generally, we have been pleased to share our views and unique perspective with the Central Bank, in the context of its project to review the *Consumer Protection Code*. Our relationship with the Pensions Authority is similarly marked by close co-operation, and positive interaction, recognising our individual roles in what is an evolving pension landscape.

Conclusion

The Office of the Financial Services and Pensions Ombudsman plays a key role in the consumer protection framework of the country. We are committed to fulfilling this role by providing a robust, independent and fair service to resolve disputes. We are committed to constantly improving the quality of our service.

During 2020, we achieved considerable improvements in terms of the number of complaints dealt with and also with the quality of our service. To their great credit, our staff proved to be agile and committed in responding to the circumstances brought about by the COVID – 19 Pandemic. Productivity was maintained, and in some instances, enhanced.

We remain committed to playing our part in keeping our staff and customers safe and contributing to the overall aim of suppressing the virus, while at the same time ensuring the provision of a high-quality customer service.

I want to assure the Members that, together with the Deputy Ombudsman, my Management Team, and all my staff, I will continue to use the powers the Oireachtas has given me, in an impartial manner, to ensure a fair outcome in respect of complaints made to my office and we will continue to play our part to deliver in the broader consumer protection landscape.

Thank you for the opportunity to engage with you here today. The Deputy Ombudsman and I are happy now to deal with any questions you have.

Ger Deering,

Financial Services and Pensions Ombudsman

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