

## Cases Settled - prior to formal investigation taking place:

### Case Study 1

#### Bank Account Issue

##### Complaint with Bureau for 3 months

This complaint related to the Bank's handling of a presented cheque. The cheque was presented, but declined as the Bank was not satisfied with signature on cheque. The Complainant stated he was embarrassed as his supplier contacted him for an explanation about the non-payment. Mediation was offered by the Bureau and at that stage, the Bank confirmed it was not happy with its initial handling of the complaint. The Bank agreed to refund the unpaid charges and donated a sum, as requested by the Complainant, to a charity of his choice. The Complainant confirmed he was satisfied with the outcome.

correspondence with both parties and once the Complainant confirmed the matter had been resolved amicably, the case was closed.

### Case Study 3

#### Mortgage Issue – Reinstatement of Tracker Rate

##### Complaint with Bureau for 3 months

The Complainants had an issue with their mortgage and the Bank's subsequent response to their initial query. The Complainants argued that the Bank erred in not re-instating a tracker rate on the said mortgage after a fixed period had ended. Initial documents were exchanged between both parties and formal mediation was offered by the Bureau. Following this, the Bank contacted this office and proposed a settlement offer, which the Complainants duly accepted.

offer and awaited payment of same. After a period of two months, the Complainant had not received any payment. The Complainant contacted the Provider, expressing her dissatisfaction with the handling of the matter. The Provider's response to the complaint was that it was entitled to make payments in "stages, on evidence of work being carried out" (in line with the policy's Terms & Conditions). The Complainant submitted a complaint to the Bureau. In response to our enquiries, the Provider acknowledged that its customer service had lapsed and agreed to pay the four figure sum (as agreed with Loss Assessor) and make a donation of €500 to the Complainant's charity of choice, for the delays in dealing with the issue. The Complainant confirmed she was satisfied with the outcome and the file was closed.

### Case Study 2

#### Insurance Issue

##### Complaint with Bureau for 4 months

This complaint related to the Provider's handling of a claim for fire damage to the Complainant's property. The Complainant was unhappy with the Provider's decision to decline the claim and its subsequent handling of the matter. The Bureau, on receipt of the complaint, asked the Provider to address the matter in more detail. From there, both parties engaged. The matter was resolved with the claim being paid. The complaint was actioned within the Bureau over a four month period. During that time the FSOB was in extensive

### Case Study 4

#### Insurance Claim Payment Issue

##### Complaint with Bureau for 1 month

The Complainant's property was damaged by a burst water pipe and as a result she submitted a claim to the underwriter (through her broker). The Complainant was unhappy with the initial lack of contact from the Provider or its representatives. The Provider's Loss Assessor agreed to settle the matter for a four figure sum to cover the cost of repairs. The Complainant accepted this

## Cases Settled - during the course of formal investigation:

### Case Study 1

#### **Investment Complaint – Mis-selling**

**Formal investigation closed  
after 11 months – Resolved  
after formal mediation**

The Complainant invested €275,000 with the Provider in 2007, split 70%/30% between two types of Funds. The Complainant made the complaint in May 2013, advising she had sustained a loss of 33%. She took the view that the investment had been mis-sold to her as she had been wrongly categorised as a progressive investor when she was in fact a very conservative or a low risk investor.

In addition, the Complainant pointed out that she was suffering ill-health at the time and the Provider had failed to adequately take into account her decision-making capabilities being compromised, as a result of the medical treatment she was undergoing in 2007. Similarly, the Complainant maintained that the Provider failed to take into account the source of the funds available for investment, which were as a result of litigation which had recently been settled arising from her medical issues. In addition, the Complainant maintained that no adequate assessment of her risk profile had been undertaken by the Provider prior to the investment being sold.

Following the commencement of the formal investigation of the complaint, the Provider responded in detail to the issues raised and the parties exchanged a number of additional submissions. In the course of the adjudication of the complaint a communication was received from the Provider suggesting a late

mediation and the Financial Services Ombudsman agreed to facilitate the parties. Thereafter, the parties and their respective representatives attended our offices for a formal mediation which continued for a full working day and which ultimately achieved a resolution of the dispute between the parties. The file was closed noting that the complaint had been settled between the parties.

### Case Study 2

#### **Household Insurance Complaint – Pay out on policy declined**

**Formal investigation closed  
after 2 months**

Following gale force winds in late December 2013, a household policyholder complained to the Financial Services Ombudsman in relation to a claim, which had been declined by her insurers, for the cost of storm damage sustained to a domestic shed, when the roof blew away. Her claim had been declined, on the basis that the shed was of non-standard construction. However, the Complainant maintained that the roof had consisted of heavy duty insulated cladding bolted to wall plates and purlins. She contended that these were appropriate materials in the circumstances, which had served their purpose well for 25 years, before the damage occurred.

The formal investigation was commenced by this office in June 2014, raising certain queries with the Provider, in respect of the policy documentation, the contractual definitions and the assessments of the structure, and calling for the production of all contemporaneous

documentation. Four weeks later, the Financial Services Ombudsman was notified that discussions were in train between the parties. We were advised that the dispute was resolved and the file was closed.

### Case Study 3

#### **Mortgage Complaint – Restructure request declined**

**Formal investigation closed  
after 4 months**

In 2009, the Complainant separated from her husband and secured a loan from the Bank in order to purchase her ex-husband's share of the family home. The loan fell into arrears in late 2013 and at the time of the complaint, there were arrears. The Complainant at that point, was unemployed and in receipt of a disability pension, but was anticipating drawdown of pension benefits in late 2015. In those circumstances she proposed to the Bank that she utilise her pension lump sum as the basis for a mortgage re-structure but the Bank, although originally enthusiastic, ultimately refused the Complainant's proposal. The Complainant, who was represented by MABS, complained that the Bank's response was unreasonable, unjust, oppressive or improperly discriminatory within the meaning of the provisions of the Central Bank and Financial Services Authority of Ireland Act 2004.

The formal investigation of the complaint commenced in June 2014 and a number of questions were put to the Bank in relation to the issues arising. The following month, the Financial Services Ombudsman was notified by the Bank that it wished

to re-engage with the Complainant with a view to exploring the possibilities of resolving the dispute. Communications continued and ultimately the issues were settled between both parties in October 2014.

## Case Study 4

### Investment Complaint – Mis-selling

**Oral hearing cancelled due to settlement – Formal investigation closed after 20 months**

In 2007, the Complainant who was in her 40s, invested €28,000 into a high risk property fund via the Provider's pension policy. At the time of the complaint in 2013, the investment had fallen to nil.

The Complainant maintained that the investment had not been suitable for her and had been mis-sold given her status as self-employed, her limited financial resources, in addition to certain reading difficulties which required her to secure assistance in reading and understanding written documents. The Complainant maintained that she had a very low level of financial knowledge.

The Complainant's pension had been of modest size and up to that point had been managed conservatively. Following a meeting with the Provider's tied agent, the investment proceeded and at the time of the complaint in 2013, the Complainant maintained that she had been pressured into transferring her pension into the investment on the basis that it was risk-free, whereas it was, in fact, a geared property fund categorised as high risk/aggressive. The Complainant disputed the contents of the financial fact find and statement of suitability and maintained that she did not in fact understand the word "gearing".

The formal investigation of the complaint commenced in late 2013

and the parties' submissions and observations in relation to the issues arising, continued until April 2014. In the course of the adjudication of the complaint, the Financial Services Ombudsman determined that the evidence disclosed conflicts of fact which required the taking of oral evidence, for the purpose of the fair adjudication of the complaint. The parties were therefore notified that the Ombudsman intended to schedule an Oral Hearing for the purpose of taking testimony on oath.

The parties were given two months notice of the scheduled date for the Oral Hearing. Four days prior to the Hearing scheduled, this office was notified by the parties that the matter had been settled directly between the parties. The file of the Financial Services Ombudsman was closed on this basis.

## Case Study 5

### Household Insurance Complaint – Settlement of insurance claim not sufficient

**Formal investigation closed after 7 months**

A gentleman complained to the Financial Services Ombudsman that his holiday home had suffered extensive damage from a fire, maliciously set.

Although the Provider accepted liability for the loss, the settlement figure offered was unacceptable to the Complainant. The dispute centred on the Provider's suggestion that the property had been under-insured and the Complainant maintained that the Provider had wrongly included insurance on certain outbuildings in its calculations, thereby reducing the settlement sum. The Complainant maintained that when the premises had been insured, no mention whatsoever had been made of outbuildings and such outbuildings

were never intended to be covered.

The formal investigation commenced in December 2013 and following receipt of the Provider's formal response in January 2014, the parties' submissions continued thereafter until the end of March 2014. The Financial Services Ombudsman commenced the adjudication of the complaint, but in doing so, he noted a number of conflicts in the evidence.

As a result, in May 2014, a number of additional queries were raised with the Provider in relation to various policy definitions and in respect of certain outstanding details concerning assessments and visits to the property by representatives of the Provider.

By way of response, two weeks later, the Provider confirmed that insurers had conducted a full and in-depth review of the file and were now willing to settle the claim directly with the Complainant. Thereafter, the Complainant's representative confirmed settlement of the dispute directly as between the parties and the file of the Financial Services Ombudsman was closed on the basis that the matter had been resolved.

## Case Study 6

### Three Investment Complaints – all linked – Mis-selling

**Formal investigation closed after 11 months**

In 2010, the Complainant invested a sum of €50,000 in a 10 year Bond, attracting a specified annual interest rate. The Complainant maintained that, unknown to him, the Bond carried a high level of risk and he complained that the sale of the investment to him had been totally unsuitable.

In 2011, subsequent to the enactment of the Credit Institutions

(Stabilisation) Act 2010, the Complainant became obliged to sell the Bond back to the Provider at a 75% discount, leading to a loss of €37,500.

The Complainant made complaints to the Financial Services Ombudsman against three individual Financial Service Providers as follows:-

- The Complainant maintained a complaint against the insurance intermediary which sold the product to him in 2010 on the basis that the investment was unsuitable for him and no adequate assessment of his suitability had taken place.
- The Complainant maintained a complaint against another financial service provider (which had facilitated the transfer of funds to and from the Complainant's ARF, by co-signing the fund transfer request instruction) on the basis that the Provider ought to have questioned the suitability of that type of investment for his pension fund when all other investments in his pension fund were capital guaranteed.
- The Complainant maintained a complaint against a third financial service provider which had marketed the Bond, on the basis that this Provider had failed to carry out any assessment of the Complainant's suitability for an investment which was too long term and that the Provider had wrongfully categorised the Complainant as a "retail" client. The Complainant sought to rely on the provisions of the MiFID Directive as implemented by SI No. 60/2007 (European Communities [Market in Financial Instruments] Regulations 2007).

Three separate investigation files were opened and the three individual complaint investigations formally commenced in February 2014. Thereafter, the parties' responses and ongoing submissions and

observations continued at length for a number of months.

On completion of the exchange of documentation, the adjudications commenced. The Financial Services Ombudsman was notified in November 2014 that the Complainant's three individual grievances were being withdrawn, in circumstances where these matters had been resolved directly between the parties.

## Case Study 7

### Farm Insurance Complaint

**Formal investigation closed after 6 months**

A gentleman complained in relation to a policy of farm insurance taken out in 2009 via the Provider who was an insurance intermediary. He explained that the intermediary had completed the proposal form on his instructions but, contrary to his confirmation, the intermediary had entered the address of his farm, as his residential address, albeit that the farm was twenty miles from where the Complainant lived. When the Complainant subsequently made a claim on the policy he discovered that the policy did not cover the farmland and he was unable to claim for the loss sustained of €50,000.

The formal commencement of the Complainant's grievance against the Provider was commenced by the Financial Services Ombudsman in February 2014. Following receipt of the Provider's formal response in March 2014, the parties' respective submissions continued over a period of three months.

In the course of the adjudication by the Financial Services Ombudsman, a number of conflicts were noted in the documentary evidence received. In particular, queries arose and were put to the Provider in July 2014 in relation to a farm safety

questionnaire, which was missing from the file and in respect of a handling fee referred to in the contemporaneous documentation. In addition, the Financial Services Ombudsman raised certain queries in relation to the Provider's adherence to the Central Bank's Consumer Protection Code with particular reference to the issue of "suitability" and in respect of the notification of certain key features of the policy. Additional queries were also raised in relation to missing/ outstanding audio records of telephone calls between the parties dating from 2009.

Subsequently, ten days later this office was notified by the Complainant that the matter had been resolved directly as between the parties. The file of the Financial Services Ombudsman was therefore closed noting that the matter had been settled.