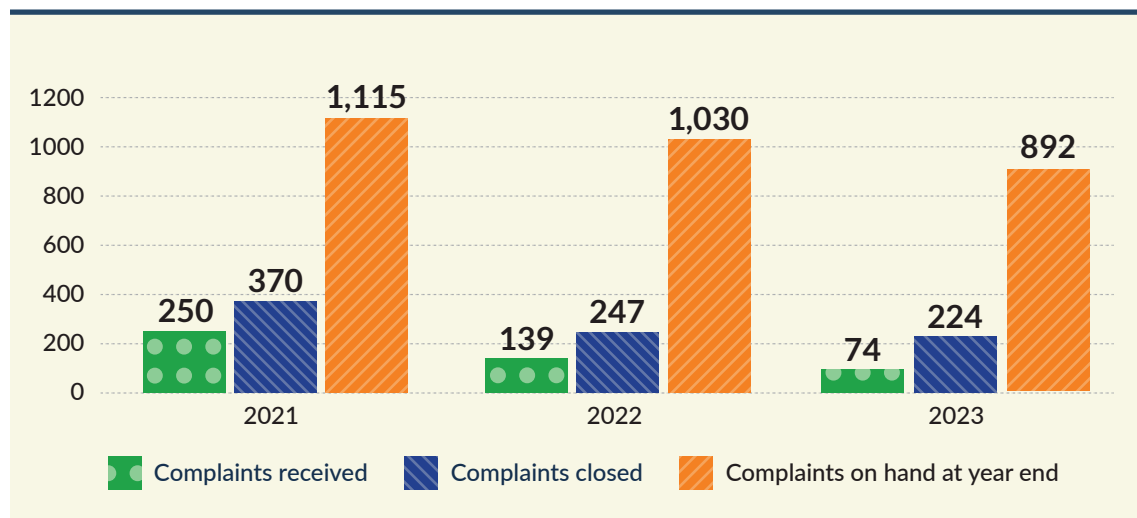


Tracker Mortgage Complaints 2023

The FSPO received 74 tracker mortgage related complaints in 2023. As can be seen from figure 5.13, the number of tracker mortgage complaints received each year continues to decline.

At the end of 2023 we had closed 224 tracker mortgage complaints and had 892 on hand.

Fig. 5.13 – Tracker mortgage interest rate related complaints 2021-2023



The Ombudsman issued 107 tracker mortgage interest rate related legally binding decisions in 2023. Three of these decisions were partially upheld, with a total value of €28,000 directed to be paid to the complainants. One complaint was substantially upheld, and the Ombudsman directed an amount of €10,000 to be paid in compensation in this instance.

The remaining 103 complaints where a legally binding decision was issued, were not upheld.

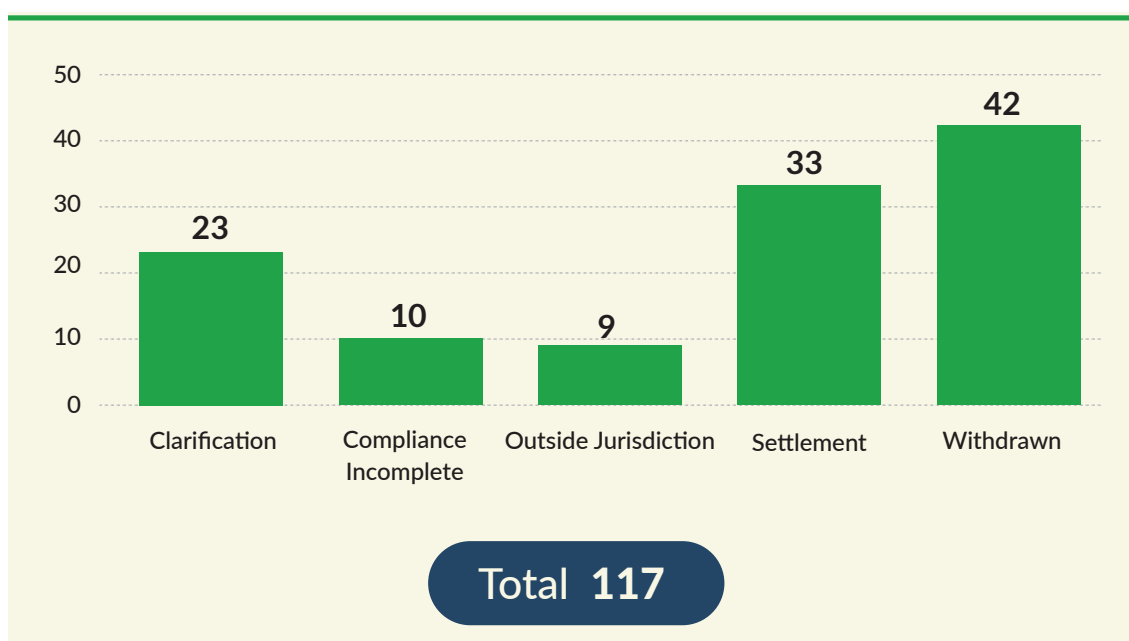


Fig 5.14 – Tracker mortgage interest rate decisions issued in 2023

Decision outcome	Number of decisions	Overall value of directions issued in tracker decisions
Upheld	0	€0
Partially Upheld	3	€28,000
Substantially Upheld	1	€10,000
Not Upheld	103	€0
Total	107	€38,000

An additional 117 tracker mortgage complaints were closed for a variety of reasons, without a legally binding decision being issued. In 23 complaints a clarification was issued, allowing the complaint to close. 10 complaints closed where information had not been provided by the complainant in order to progress the complaint. In 9 complaints, the FSPO determined the complaints were outside its jurisdiction. 33 complaints closed on the basis of a settlement agreement between the complainant and the provider, and 42 complaints were withdrawn.

Fig 5.15 Tracker mortgage complaints closed without a legally binding decision in 2023





It is evident from the outcomes of the tracker mortgage decisions issued, that we continue to receive a considerable number of complaints from people whose complaint about a tracker mortgage rate is not upheld, following an investigation of the complaint. Many people remain of the belief that they are entitled to a tracker mortgage interest rate, either from the time when they took out the mortgage loan or from a date during the life of the mortgage loan, even though they have no contractual or other entitlement to such a rate.

The following case studies of certain decisions issued by the FSPO in 2023, offer an insight into some of the arguments raised in tracker mortgage complaints made to the FSPO. The details below include links to the individual decisions which are published on the FSPO website. Each decision addresses the individual complaint made in its individual circumstances, as a result of which the complaints below were not upheld:

Case Study 1

Eloise and Jean drew down a mortgage loan with the bank in 2004 and took out a separate top-up loan with the bank in 2008. The bank offered them a variable interest rate in respect of both loans, and they were advised by the bank that a variable interest rate was the best option at the time.

As time passed, Eloise and Jean realised that the bank never discussed tracker interest rates with them when they applied for their mortgage loan finance. They believed they were entitled to a tracker interest rate in respect of both mortgage loans, because they felt that they were not properly advised by the bank in relation to their interest rate options, and they believed that they were misled by the bank into accepting the variable interest rate that was offered to them. ([Decision 2023-0236](#))

Case Study 2

Fabio and Mia took out a mortgage loan with the bank in 2005 which operated on a tracker interest rate of ECB + 1.1%. They approached the bank for additional borrowings in 2008 as they decided to sell their existing home and purchase a new home. Fabio and Mia had to fully redeem their existing mortgage loan when selling their existing mortgaged property and the bank offered them a new mortgage loan commencing on a one-year discount loan-to-value variable interest rate.



Case Study 2

One of the special conditions in the mortgage loan agreement for Fabio and Mia's new mortgage loan provided that at the end of the discount interest rate period, was that they could choose an interest rate which was then being offered by the bank and in the absence of any selection by them, a variable interest rate would apply "which may be a tracker variable rate". When the discount variable interest rate expired, the bank only offered them a range of fixed interest rates and an LTV (loan-to-value) variable interest rate. Fabio and Mia selected the LTV variable interest rate at the time.

They believed they had an entitlement to a tracker interest because the reference to a tracker interest rate in the special conditions of the mortgage loan agreement guaranteed that they had a contractual entitlement to a tracker interest rate on the expiry of the discounted variable interest rate period. ([Decision 2023-0135](#))

Case Study 3

Evelyn and Finn drew down a mortgage loan with the bank in 2006 when they bought their home. This mortgage loan operated on a tracker interest rate. In 2013, their property was in negative equity, and they decided to sell the house and purchase a new property. In doing so, they had to redeem their original mortgage loan, which was subject to a tracker interest rate, and they then drew down a new mortgage loan on a variable interest rate. At this time, in 2013, the bank did not allow them to transfer the tracker interest rate on the original mortgage loan, to their new mortgage loan.

After drawing down the new mortgage loan in 2013, Evelyn and Finn learned that the bank intended to launch a new tracker portability product in the first quarter of 2014. This tracker portability product allowed customers to move home and keep the existing tracker interest rate that applied to their primary mortgage, plus an additional 1%.

Evelyn and Finn felt they were entitled to a tracker interest rate, because if the bank had notified them that it intended to introduce a tracker portability product, they would have waited to sell their home and they could have retained the tracker interest rate that applied to their original mortgage loan. ([Decision 2023-0188](#))



Case Study 4

Maedhbh's mortgage loan account was considered by the bank as part of the Central Bank of Ireland directed Tracker Mortgage Examination (the "Examination"). The bank identified that a failure had occurred on her account because, on the basis of the terms and conditions of her mortgage loan agreement, she may have had an expectation that she would be given the option to avail of the bank's then prevailing tracker interest rate, when the fixed interest rate period on her mortgage loan account expired. Maedhbh's mortgage loan account was deemed to be impacted under that Examination.

The bank offered Maedhbh compensation, but she was not happy with the amount offered because she considered it inadequate, so she appealed this to the bank's Independent Appeals Panel, but her appeal was unsuccessful.

Because Maedhbh was not satisfied with the decision of the Independent Appeals Panel and she felt that a tracker interest rate should have been applied to her mortgage loan account, she decided to make a complaint to the FSPO. Maedhbh's complaint was subsequently placed on hold for a number of months. This was because of an investigation by the FSPO in respect of another complaint against the same bank, which dealt with similar issues to those arising in Maedhbh's complaint. When the legally binding decision issued in relation to that other complaint (see [decision 2020-0103](#)), the bank indicated that it accepted that legally binding decision in full and that it intended to apply the FSPO's approach and compensatory direction to other mortgage loan account holders who were also affected by that particular conduct of the bank. Maedhbh was one of these mortgage account holders.

As a result, the bank offered Maedhbh further redress and compensation to include applying a 12% reduction to her mortgage balance and an interest refund based on the interest charged on the 12% balance reduction, from the date her fixed rate period ended.

After engaging the services of a third-party representative, Maedhbh informed the FSPO that she was no longer seeking a tracker interest rate to be applied to her mortgage loan account and was satisfied that a 12% reduction had been applied to the mortgage balance. However, Maedhbh was not satisfied with the interest refund offered by the bank. In this regard, she was of the view that she was entitled to an increased interest refund, because the bank incorrectly calculated the interest refund on a simple interest basis, instead of on a compound interest basis. ([Decision 2023-0268](#))



Case Study 5

Senan was employed by the bank and was therefore able to avail of a staff preferential interest rate in respect of a certain portion of his overall borrowings. To facilitate this, Senan drew down two mortgage loans with the bank in 2008. He availed of a staff preferential interest rate in respect of the first mortgage loan, and he opted for a tracker interest rate in respect of the second mortgage loan. The staff preferential interest rate was more beneficial to Senan at the time, because it was lower than the available tracker interest rate.

In 2009, the bank moved Senan's first mortgage loan to its standard variable interest rate when the staff preferential interest rate became less advantageous. The bank gave Senan the option to opt out of this "switch" by choosing to remain on the staff preferential interest rate, or by choosing to switch to one of the fixed interest rates on offer from the bank at the time. Senan was not offered a tracker interest rate at this time. He did not opt out of the "switch" and therefore his mortgage loan was moved to the standard variable interest rate.

The terms and conditions of Senan's mortgage loan agreement that related to fixed interest rate loans, stated that he would be given the option to avail of the bank's then prevailing tracker interest rate when his mortgage loan account came off a fixed interest rate period. Senan was of the view that the bank should have offered him a tracker interest rate when the staff preferential interest rate was removed from his mortgage loan account because he understood that the staff preferential interest rate was a fixed interest rate, rather than a variable interest rate. ([Decision 2023-0111](#))



Case Study 6

Lenka previously had a mortgage loan with the bank which she held jointly with her former spouse, secured on their home. This mortgage loan account was on a tracker interest rate. After their relationship broke down, Lenka took over the monthly mortgage loan repayments. She requested the bank to transfer the mortgage loan into her sole name, but the bank refused to do this. Instead, Lenka had to fully pay off the jointly held mortgage loan and make a new application for a loan in her sole name. The bank informed her at the time that it had to carry out an assessment of her affordability, before offering her a loan facility in her own name. At the time when Lenka applied for the new mortgage loan, tracker interest rates had been withdrawn from the market, and were no longer available as part of the bank's product offering. As a result, Lenka was offered a mortgage loan commencing on a three-year fixed interest rate which she accepted.

Lenka felt she should have been allowed to keep the tracker interest rate when she applied to have the joint mortgage loan put into her sole name, because she did not want to change any other details of the mortgage loan or apply for any further borrowings. Lenka simply wanted to remove the name of the other borrower from the mortgage loan. ([Decision 2023-0070](#))