



<b><u>Decision Ref:</u></b>	2019-0068
<b><u>Sector:</u></b>	Banking
<b><u>Product / Service:</u></b>	Personal Loan
<b><u>Conduct(s) complained of:</u></b>	Refusal to grant consumer credit Delayed or inadequate communication Dissatisfaction with customer service
<b><u>Outcome:</u></b>	Rejected

**LEGALLY BINDING DECISION**  
**OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

**Background**

This complaint concerns an application for a loan for €20,000 made by the Complainant to the Provider in October 2016. The Complainant submitted an online loan application on **14 October 2016** and this was followed by a phone call between the Complainant and a representative of the Provider on **17 October 2016** who declined the Complainant's loan application. The Complainant is dissatisfied with the manner in which this loan application was assessed and declined by the Provider.

The Complainant is also dissatisfied with the handling of her complaint in relation to the Provider declining her loan application. The complaint was initially made by the Complainant to the Provider on 18 October 2016 during a phone call. The Provider responded to this complaint in writing on 24 October 2016. The Provider issued further correspondence in relation to the complaint on 22 November 2016, 21 December 2016 and 23 January 2017. This correspondence was responded to by the Complainant on 12 December 2016, 22 December 2016 and 16 February 2017 respectively.

**The Complainant's Case**

The Complainant, in her Complaint Form and subsequent clarification of her grievance sent to this Office, states that she explained at the outset of her application to the Provider that

the loan applied for, was to clear the debt on her credit card following recent home improvements on her family home. The Complainant states that she was informed by the representative of the Provider, after her loan application had been declined over the phone, that the Provider did not grant loans for the purpose of clearing credit card debt.

The Complainant states that this decline decision was made too quickly/without proper consultation by the Provider, that the Provider should have allowed the Complainant to amend her application to include details of her husband's salary & to change the details in the application concerning financial dependents. She also says that the Provider should have withdrawn rather than declined the Complainant's application, given the Provider's stated position that it does not grant loans for the purpose of clearing credit card debt. The Complainant further states that the representative of the Provider assessed the Complainant for a loan in the lesser amount of €10,000 although a loan for that amount had not been requested by the Complainant. The Complainant also states that the declined loan application is noted by the Irish Credit Bureau and she is unhappy in that respect as she states that the unjust declining of her loan application therefore affects her credit history.

### **The Provider's Case**

The Provider states that the purpose of the loan provided and inserted on the online application form completed by the Complainant was a loan for "Home Improvements". The Provider states that it was on that basis, that the phone call between the representative of the Provider and the Complainant took place on 17 October 2016. The Provider states that the loan application was declined by the Provider based on the financial details furnished by the Complainant.

The Provider states that during the phone call on 17 October 2016, before the decision to decline the loan was made, the Complainant informed the Provider that the overall reason for the loan application was home improvements, although some of the work had already been carried out to the Complainant's home and this had been funded through credit card purchases. The Provider acknowledges that this credit card debt is mentioned briefly during this telephone conversation, however, the Provider says that the main purpose of the call was to focus on details concerning home improvements, and the availability of proof of home improvements to be made available by the Complainant.

The Provider states that the Complainant was asked a number of standard questions relating to the details of the loan application and she was asked for confirmation that the Provider had permission to run a credit search on the Complainant, to which the Complainant consented. In correspondence sent from the Provider to the Complainant on 21 December 2016, the Provider apologised if the representative of the Provider did not ask for confirmation of the purpose of the loan at the initial stage of the conversation with the Complainant.

The Provider states that during the phone call of 17 October 2017 the Complainant was put on hold for a period of time and the Provider then reverted to the Complainant with its decision to decline the loan based on the application being outside the Provider's lending

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criteria. The Provider states that it was at this juncture, post the decision to decline the loan, that the Complainant pointed out to the Provider that the purpose of the loan was to clear the debt on the Complainant's credit card. The Provider states that at that time, the representative of the Provider informed the Complainant that the Provider did not provide loans to clear credit card debt. Further, the Provider states that it was at this point of the conversation that the Provider informed the Complainant that perhaps adding a joint applicant could improve the application. The Provider also states that having been informed of the decline, the Complainant requested that the number of 2 financial dependents on her online application, be changed from 2, to zero as the Complainant's husband provides for them. The Provider states that it informed the Complainant that this could not be done.

In respect of the lesser sum of €10,000 also being assessed and declined, the Provider states that in order to assist loan applicants, the Provider makes the applicants aware if it is the case, that a lesser sum than the sum applied for would be approved. In this instance, the Provider states that due to the figures provided by the Complainant, a lower figure was still outside of the Provider's credit criteria for granting a loan.

The Provider also states that it is not in a position to withdraw the loan application (as opposed to recording the application as declined) because a full application was submitted by the Complainant to the Provider and this application was assessed along with an Irish Credit Bureau check, before the decision to decline the application was ultimately made. The Provider states that it did not submit any correspondence to the Irish Credit Bureau in respect of the Complainant, other than to run an Irish Credit Bureau credit search, which was authorised by the Complainant. The Provider states that it contacted the Irish Credit Bureau and can confirm that there is no information for the Complainant recorded against the Provider, as a "footprint" only remains on the record for 12 months. Furthermore, the Provider confirms that it is the Provider's policy to retain application forms and any supporting documentation for six years post receipt in order to adhere to the requirements contained in the Consumer Protection Code 2012.

The Provider also denies that the decision to decline the loan was made too quickly and without proper consideration. It states that the Provider's frontline sale staff are aided by an approval calculator which takes all figures provided and calculates an estimated approved amount. The Provider states that this is used to improve the efficiency of the loan application process and it confirms its position that on the information provided by the Complainant, the decision to decline was correct.

The Provider also states that the Complainant was informed during the call declining her loan, that the Provider could not at that stage amend the Complainant's application to reflect no financial dependents, rather than 2, on the basis that the Complainant's husband provides for them. Furthermore, on **18 October 2016**, the day subsequent to her loan application being declined, the Complainant was informed by the Provider that if she did want to add her husband to the loan application, the application would then be considered as a new joint application and this would require the authority of the Complainant's husband to proceed.

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### The Complaint for Adjudication

The complaint for adjudication is that the loan application of the Complainant was assessed improperly by the Provider, and having made a decision to decline the loan, the Provider wrongfully refused to permit the Complainant to withdraw the application.

### Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint.

Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties 14 February 2019, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter.

In the absence of additional submissions from the parties, the final determination of this office is set out below.

I note that the online application form for the loan, completed by the Complainant on **14 October 2016**, clearly states that the purpose of the loan is for "Home Improvements". I accept that it was on this basis that the phone call took place on **17 October 2016** between the Complainant and the representative of the Provider, during which the loan application was declined. Having considered carefully the contents of a recording of the phone call that took place on **17 October 2016**, I accept that during that call, the Complainant, prior to the decision being made to decline the loan application, represented to the Provider that the overall purpose for the loan application was home improvements. Prior to the Provider declining the loan, the Complainant's credit card was mentioned in passing. I note that the Provider has apologised to the Complainant if its representative did not explicitly ask for the purpose of the loan at this initial stage of the conversation. Notwithstanding this apology

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from the Provider and the fact that it may have been preferable for the Provider to have explicitly asked for the purpose of the loan at the initial stage of the conversation, it is clear that the purpose of the loan was represented to the Provider at this stage of the application as for home improvements, as indeed had been confirmed already in the online application.

The Complainant believes that the decision to decline her loan application was made too quickly. The Provider says that its representative was aided by an "approval calculator" which takes all figures provided and calculates an estimated approved amount. The use of technology such as the approval calculator to assist with loan application requests, means that decisions in relation to loan applications can be made within a relatively short timeframe. I also note that the Provider was aided in the decision-making process by the details in the application form completed by the Complainant and by the information garnered over the telephone, prior to the decision to decline the loan being made.

In those circumstances, I do not accept that the decision made by the Provider was made too quickly and the evidence suggests that it was made after a proper consideration of all the facts and information available to the Provider at that time.

Subsequent to the loan being declined, I note that it became apparent to the Provider that the loan was intended to be used to clear credit card debt and the representative of the Provider indicated to the Complainant that the Provider did not offer loans for that purpose at that time. While I accept that this was not the reason that the Complainant's loan was refused, and that this communication took place after the loan was already declined and so could not lead to the withdrawal of the application, it was proper and correct that this was communicated to the Complainant at that time and there was nothing inappropriate in the Provider clarifying that position to the Complainant.

The Complainant was also unhappy that the Provider assessed her for a loan in the lesser sum of €10,000. The Provider has explained that it has a policy of making applicants aware if a lesser sum than the sum applied for, would be approved. I note that there is no evidence of any prejudice suffered or damage incurred by the Complainant due to this additional assessment made by the Provider, in an effort to assist the Complainant.

The Complainant is also unhappy the Provider refused to amend the loan application on her request. I note that these requests took place after the loan application had been declined. I accept that the Provider acted properly in informing the Complainant that should she wish to add her husband to the loan application, this would necessitate a new joint application and would further require the authority of the Complainant's husband to proceed. Further, I note that subsequent to the loan application being declined, the Complainant also requested an amendment to the details of her dependents listed on the loan application; the Provider refused to accede to this request given that the loan application had already been considered and declined, and I take the view that this was appropriate.

I accept that the Provider's retention of the Complainant's application form for a period of six years post receipt, is just and proper and this records retention protocol is one which adheres to the requirements contained in section 11.6 of the Consumer Protection Code 2012 which states that:

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*“11.6 A regulated entity must retain details of individual transactions for six years after the date on which the particular transaction is discontinued or completed. A regulated entity must retain all other records for six years from the date on which the regulated entity ceased to provide any product or service to the consumer concerned.”*

I further note that a record of credit checks are retained by the Irish Credit Bureau for a period of 12 months only, after a credit check has occurred. The Provider has advised that in this instance the Irish Credit Bureau has confirmed to the Provider that it does not currently retain any information relating to credit check conducted by the Provider at the time of this loan application in October 2016. Therefore, I do not accept the Complainant's suggestion that her credit rating is affected by her failed loan application to the Provider and in particular by the credit check conducted by the Provider. Prior to the elapse of that 12 month period, the ICB "footprint" would merely have indicated that a credit check had occurred, as distinct from the outcome of any credit application. This was why the Provider sought the Complainant's permission, before that credit check was actioned in October 2016.

Having considered the evidence available, I take the view that the Provider, at all material times, acted appropriately and its actions were in no way improper. The Complainant made a sole online application for a loan for the stated purpose of home improvements, she consented to an Irish Credit Bureau credit check and a decision was made by the Provider to decline her application as it fell outside the Provider's credit criteria. Subsequently, when the intention to clear the credit card debt with the proposed loan funds, was made clear to the representative of the Provider, it was confirmed to the Complainant that the Provider did not provide loans of this nature. Subsequent to this declination, the Complainant was correctly and properly advised that if she wished to add her husband to the application, this would constitute a new joint application. At this stage, the Complainant was also informed that the details of the dependents on her, now declined, application, could not be changed.

I note that when the Complainant initially made the complaint to the Provider it informed the Complainant that the record of the call that took place on 17 October 2017 could not be located, although it was subsequently located and reviewed by the Provider. I am of the view that this is disappointing. However, overall I am of the view that the complaint raised by the Complainant was handled by the Provider in compliance with Chapter 10 of the Consumer Protection Code 2012, in particular for the following reasons; the Provider sought to resolve the complaint with the Complainant (section 10.7), it offered the Complainant the opportunity to have the complaint handled in accordance with the Provider's complaints process (section 10.8) and it maintained an up to date and comprehensive record of the complaint received by the Complainant (section 10.11). I take the view that there is no evidence that the Provider failed to act honestly, fairly and professionally in the best interests of the Complainant in this matter pursuant to clause 2.1 of the Consumer Protection Code 2012 and I am satisfied that it also handled the complaint of the Complainant speedily, efficiently and fairly pursuant to section 2.8 of the Consumer Protection Code.

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In light of the entirety of the foregoing, and in the absence of evidence of wrongdoing by the Provider or conduct within the terms of **Section 60(2)** of the **Financial Services and Pensions Ombudsman Act 2017** that could ground a finding in favour of the Complainant, I do not consider it appropriate to uphold this complaint.

### **Conclusion**

My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is rejected.

**The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.**

**MARYROSE MCGOVERN  
DIRECTOR OF INVESTIGATION, ADJUDICATION AND LEGAL SERVICES**

8 March 2019

Pursuant to **Section 62** of the **Financial Services and Pensions Ombudsman Act 2017**, the Financial Services and Pensions Ombudsman will publish legally binding decisions in relation to complaints concerning financial service providers in such a manner that—

**(a) ensures that—**

- (i) a complainant shall not be identified by name, address or otherwise,**
- (ii) a provider shall not be identified by name or address,**

**and**

**(b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.**