



<b><u>Decision Ref:</u></b>	2019-0176
<b><u>Sector:</u></b>	Banking
<b><u>Product / Service:</u></b>	Banking Online Facility
<b><u>Conduct(s) complained of:</u></b>	Dissatisfaction with customer service
<b><u>Outcome:</u></b>	Rejected

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

**Background**

The complaint relates to the Provider's withdrawal of online banking services.

**The Complainant's Case**

The Complainant holds a mortgage account with the Provider. This account has been the subject of an investigation by the Financial Services Ombudsman, which led to the issue of a Legally Binding Finding in June 2016 in relation to a separate matter.

The Complainant states that he is a frequent user of the Provider's online banking facility (supplied via the Provider's asset servicing company) employing the service to carry out banking business and transactions on his account. The Complainant states that by letter dated 15 January 2018 the Provider wrote to him to inform him that its online banking service was being withdrawn, effective from 17 February 2018.

The Complainant is most aggrieved at the Provider's decision to withdraw its online banking facility. He submits that the withdrawal of this facility will cause him significant inconvenience and will require him to spend time and incur expense engaging with the Provider in other ways (e.g. by telephone and/or post). To illustrate this point, the Complainant refers to a telephone call to the Provider's assets servicing company on 4 May 2018, during the course of which he was simply enquiring about his account balance, which

telephone call lasted in excess of 5 minutes (quite possibly over 15 minutes when 'on hold' time is accounted for).

The Complainant points out that access to an online banking service was the subject of a complaint by him to the Provider into 2017. This earlier complaint was ultimately resolved, according to the Complainant, "*with the expectation that the online banking facility would continue indefinitely*".

On his Complaint Form dated 10 February 2018, when asked how he would like the complaint to be resolved, the Complainant stated the following: -

*Either*

- *the restoration of the online search for the lifetime of my mortgage; or*
- *compensation of €5000 in respect of the extra time I will have to spend to operate my account.*

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

The Provider maintains that it was entitled to withdraw the online service. The Provider disputes that any commitments were given to the Complainant regarding the ongoing provision of the service.

### **The Complaint for Adjudication**

The complaint is that the Provider wrongfully and/or unfairly withdrew its online banking facility, causing the Complainant significant inconvenience and expense, and which will continue to cause inconvenience and expense going forward.

### **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.

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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 20 May 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.

### **Analysis**

The Complainant is aggrieved at the Provider's withdrawal of its online banking service which he states has and will cause him inconvenience and expense. I have no difficulty in accepting that the withdrawal of this facility will cause inconvenience and expense. We are increasingly reliant on online services which are much more efficient than traditional means of transactions with financial service Providers. The Complainant's phone call to the Provider of 4 May 2018, the content of which I have considered, and indeed various other calls, exemplify this point. I note the Complainant's point that 'on hold' times are "truncated" from the audio files and the Provider's acceptance of this.

The fact however that something is inconvenient or likely to cause expense does not, in and of itself, represent sufficient grounds for me to uphold a complaint of a complainant. Frequently, a customer will express their dissatisfaction by simply taking their business elsewhere. In terms of the withdrawal of a service, and in order for me to uphold a complaint, it is necessary to point to some obligation on the Provider, whether by reference to the terms and conditions of the account, whether by reference to statutory provision or obligations imposed by codes of conduct or whether arising from some other source, which has been breached or where the conduct of the Provider has been unreasonable or discriminatory.

In this complaint, the Provider is not obliged by terms or conditions of the account or on any statutory or regulatory frameworks to provide online services. The sole matter relied upon by the Complainant is a letter from the Provider furnished to him in response to a previous complaint. That letter, dated 30 June 2017, relates to a complaint regarding the Complainant's inability to access his banking records on a website hosted by the Provider's 'asset servicing' company. This is the same company which has now withdrawn the online services entirely. The Complainant describes the letter of 30 June 2017 as legitimately giving rise to "the expectation that the online banking facility would continue indefinitely".

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The letter of 30 June 2017 addresses a technical issue wherein the Complainant's details alone (as opposed to customers generally) were inaccessible on the system. The letter states as follows:

*We can confirm that you should have access to the account summary screen on [name of asset servicing company redacted] from 9am on Mondays through to 11pm on Saturdays excluding bank holidays.*

The foregoing sentence is the only sentence I can identify which could give rise to the Complainant's view that the Provider had provided a commitment to continue its online service indefinitely. I cannot accept that this correspondence represents any sort of indefinite commitment. The Provider's response seems to be an effort to address a discrete issue effecting an individual customer. It is not a binding commitment on the part of the Provider to continue the provision of a service indefinitely.

In subsequent correspondence with this Office, the Complainant amplified his position by stating:

*"In terms of the Bank indicating that the online access would continue indefinitely, my memory is that this was communicated to me verbally by [employee name and contact details redacted] in June 2017, and also the account balance messages I used to receive from the bank said "You will continue to receive messages from Account Balance Service until you terminate your subscription".*

The employee referenced had two phone conversations with the Complainant in 2017 relating to the previous 2017 complaint. The Provider has provided a copy of the call notes relating to each call which omit any reference to any commitment regarding the online service. Furthermore, the Provider claims that it has contacted the individual who "states that she did not and would not advise that any service would continue indefinitely".

The Provider has also provided a response in relation to the messages from the Account Balance Service referenced by the Complainant. The Provider states that this was a separate service which was, in fact, withdrawn in 2014 and which is not the subject of the complaint.

I accept that the withdrawal of online services can cause considerable inconvenience for customers. I would be concerned if the Provider were to withdraw the service in some sort of arbitrary manner for the Complainant. However, it is in my view, a different matter where a provider decides on some commercial grounds to withdraw a service from its customers generally.

Because the service has been withdrawn from customers generally, it follows that the Complainant is not being discriminated against.

While I find it regrettable that such a service is withdrawn, I will not interfere with the Provider's commercial discretion to do so.

Therefore, for the reasons set out above, this complaint is not upheld.

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**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.**

**GER DEERING  
FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

17 June 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.**