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| <b><u>Decision Ref:</u></b>             | 2020-0090   |
| <b><u>Sector:</u></b>                   | Banking   |
| <b><u>Product / Service:</u></b>        | Opening/Closing Accounts  |
| <b><u>Conduct(s) complained of:</u></b> | Miscellaneous<br>Delayed or inadequate communication<br>Dissatisfaction with customer service |
| <b><u>Outcome:</u></b>                  | Partially upheld  |

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

### **Background**

The Provider froze the Complainant's bank account upon her being adjudicated bankrupt. However, the Complainant submits that as she had been adjudicated bankrupt four weeks prior to the Provider taking action in this regard, that it was unreasonable of the Provider to refuse her request for a short grace period in which to make alternative banking arrangements.

The Complainant submits that the conduct of the Provider when she subsequently attended at a branch to withdraw monies was also wrongful and/or unreasonable.

### **The Complainant's Case**

The Complainant submits that on **26 July 2016**, she received correspondence from her local bank branch advising that her current account, ending -996, had been suspended with immediate effect, as a result of her having been adjudicated bankrupt.

The Complainant submits that she had been adjudicated bankrupt four weeks prior to receipt of this correspondence from the Bank regarding her account. The Complainant submits that upon receipt of this letter, she immediately contacted the bank branch and spoke with a bank agent who explained that all activity on her account had been suspended, with effect from the previous day. The Complainant submits that when she enquired about the status of standing orders and direct debits she was advised that all standing order and direct debits on the account had been cancelled and that she "would

*only be allowed to have deposits into the account for a few more days and after that they would be refused.*" The Complainant submits that the only direct transfer which was due into that account was her child benefit payment and she advised the Agent of same.

The Complainant submits that she arranged to attend at a particular branch to withdraw her child benefit money but when she went to do so, submits that she was *"treated in an unacceptable manner and with significant drama"*.

The Complainant submits that when she attended at her local branch, on 02 August 2016 to withdraw a Child Benefit payment from her account, she was informed by the teller that she could not withdraw the monies at that time as there was a *"marker"* on her account, which prevented her from doing so there and then. The teller advised that she would make arrangements so that *"it should be ok by the following day."*

The Complainant submits that she explained to the teller that she was going to [location] the following day and that she needed the money. The Complainant submits that the teller offered to put a *"note on my account with her name etc"*, which would allow the Complainant to withdraw the money from another branch the following day, *"without any fuss"*.

The Complainant submits that when she attended at the second branch she confirmed with the teller that there was a *"special note"* on her account but the Complainant submits that the teller nonetheless insisted on calling a manager. The Complainant submits that the note attached to her account by the staff in her local branch, authorising the withdrawal of a state payment should not have necessitated further oversight and that had she not been given specific assurances by the staff in her local branch that the withdrawal the following day would proceed *"without any hassle"* she would not have agreed to proceed in this way.

The Complainant has submitted that to have been in a situation where she *"was humiliated and embarrassed, not only in my local town branch but then at a second location, was not just unnecessary but also added additional stress to what was already a very difficult period in my life."*

The Complainant submits that her request to the Provider for a short period of time, to make alternative banking arrangements was unreasonably refused. She submits that whilst she does not have an issue with the Provider's policy per se, her complainant is in respect of the manner in which this policy was executed by the Provider.

The Complainant notes that whilst the Bank has stated it was obliged to take the course of action which it did, on account of her having been adjudicated bankrupt, she submits that a delay occurred between the Complainant having been declared bankrupt, on 27 June 2016, and the suspension of her account by the Provider, on 25 July 2016.

The Complainant submits that *"the bank refused point blank to offer me any flexibility and allow time to set up another bank account"* and that it closed her bank account *"without*

*any notice and without providing any opportunity to appeal the decision”, which she submits “denied me due process and left me and my family in a very difficult position”.*

The Complainant acknowledges the Provider’s explanation that the delay in suspending her account arose due to its internal system not having identified her as having been adjudicated bankrupt, at the time of the bankruptcy adjudication. She notes that the Provider’s position is that *“once the bankruptcy team were positioned to identify the account the relevant action had to be taken immediately ...”* The Complainant submits that *“this sentiment underpins my entire grievance – that the panic to implement process and procedure was to the detriment of me, a loyal bank customer.”*

The Complainant submits that, *“the delay on the bank’s part to contact me immediately and the fact that there were no funds in excess of €1,000 in my bank account led me to make the assumption that my bank account would not need to be disrupted and thus the letter and subsequent actions by the bank a month later were a shock.”*

The Complainant disagrees with the Provider’s position that *“there was no detriment to the Complainant as result of the delay...”* She submits that, to the contrary, because of the fact that several weeks had passed since she had been adjudicated bankrupt on 27 June 2016, she was under the false impression that *“everything was okay”* and that her account would continue to operate normally, which she submits, *“caused to exacerbate the shock surrounding the events that followed.”*

The Complainant submits that in circumstances where there was a one month time delay by the Provider in notifying her, that a further week or 10 day time-extension would not *“have made any material difference to the process but would have allowed me the time to make alternative arrangements in a timely manner.”*

The Complaint has submitted that the suspension by the Bank of *“all operations”* on her account did not include the continuing deduction of bank charges from her account throughout 2016 to the present time.

The Complaint has also queried why she wasn’t offered a Foundation Account by the Provider, following the introduction of the EU Payments Account Directive on 19 September 2016.

### **The Provider’s Case**

The Provider acknowledges a delay occurred between the adjudication of the Complainant’s bankruptcy, on 27 June 2016, and when it suspended her account on 25 July 2016. It submits that this delay was due to the manner in which information is provided to it by the Insolvency Service of Ireland and how the Complainant's surname was noted on its records.

The Provider submits that once it became aware that the account it held, matched the Complainant’s details, it had to suspend the operations on the account. The Provider submits that the Complainant was written to on 25 July 2016, and she was in further

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telephone contact with her branch about this matter on 26 July 2016, during which conversation she was advised that she could withdraw the funds in her account but that direct debits and standing orders, if presented, would not be honoured.

The Provider submits that no detriment occurred to the Complainant as a result of the delay between 27 June 2016 and 25 July 2016 in her account being suspended.

The Provider acknowledges that although the Complainant wanted it to allow her further time (before suspending her account) it says that *"it was not possible for either the Bankruptcy Team or the Branch staff to agree to her request for the suspension of the account to be postponed."*

The Provider submits that in responding to the Complainant's complaint on 21 October 2016, it acknowledged and apologised to her regarding the issues she had encountered at a branch, when she attended to withdraw funds from her account (after her account had been suspended). The Provider submits that it *"can understand how the suspension of her account will have been stressful for the Complainant"* but it submits that, *"the Bank were obliged to operate within our policy for dealing with customers who have been declared bankrupt."*

The Provider has furnished the following timeline of events in relation to relation to the specific issues raised in the complaint:

**27 June 2016:** The Complainant was adjudicated bankrupt.

**27 June 2016 -** The Insolvency Service of Ireland ('ISI') provided it with information on bankruptcy adjudications which had occurred that day, which included the Complainant's bankruptcy, but the information provided to the Bank did not result in it matching it to the Complainant within its systems.

**Friday 22 July 2016:** It received an email from the ISI advising that account number -996 had been located as being held by the Provider. The Provider was asked to confirm to it, the amount in the Complainant's account on the date of adjudication (27 June 2016), whether that amount had been off set and if it was a working account.

**Monday 25 July 2016:** It replied by email to the ISI, advising that the Complainant's account balance at the Date of Adjudication was €232.46 and that it appeared to be a working account. The Provider submits that it further advised the ISI that a stop had been placed on the account going forward and that there was no offset or remittance due to the Official Assignee (on the basis that the account balance was less than €1,000).

**Monday 25 July 2016:** Information was sent by the Provider's Bankruptcy Team to the Complainant's branch advising it that a *"no operations marker"* had been placed on the Complainant's account. The Provider submits that the branch was asked to issue a letter to the Complainant advising her of same and to send a copy to the Bankruptcy Team along with confirmation when these actions had been completed. The branch was informed that any funds remaining in the account belonged to the Complainant and that there was no interest from the Official Assignee in the funds (as the total was less than €1,000). The

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Provider submits that the branch was advised that the Complainant could no longer bank with it until she had been discharged from bankruptcy.

**25 July 2016:** Confirmation issued to the Bankruptcy Team from the Complainant's branch, that a letter had been issued to the Complainant.

**26 July 2016:** The Complainant telephoned her branch and was advised that she would be able to withdraw the funds from her account. At that time the balance of her account was €795.37.

The Provider submits that the Officer in question noted in her subsequent email to its Bankruptcy Team that the Complainant had advised her that she would not be withdrawing all the funds in her account, as she wanted to leave funds to meet direct debits and standing orders. Further to advice received from its Bankruptcy Team, the Officer advised the Complainant during a second telephone call on 26 July 2016 that her direct debits and standing orders had been cancelled and that the Provider would not be in a position to honour same, if presented.

**02 August 2016:** The Provider submits that a child benefit payment of €420 was made to the Complainant's account by the Department of Social Welfare. The Provider submits that its policy is to allow a one off credit to a suspended account, due to potential timing issues with applying the no operations marker on an account. The Provider submits that, *"if a customer is due a wage payment or social welfare payment or something that is due to hit a few days after the no operations marker has been applied, we allow this into the account on a one off basis as we understand customers may not have had sufficient time to move their banking elsewhere in that short space of time."*

**03 August 2016:** The Complainant withdrew €420.00 in cash at a branch. The Provider submits that as a *"no operations"* marker had been applied to the Complainant's account, it was necessary for the staff member who was dealing with the Complainant, to get authorisation from a more senior member of staff, to process the transaction.

**11 October 2016:** Complaint letter received by the Provider from the Complainant.

The Provider submits that under the Bankruptcy process, bankrupt individuals may nominate an account to use through the petition period, but that prior to September 2016 it was up to each bank whether or not they allow an un-discharged bankrupt to bank with them or not. This changed in September 2016 with the introduction of the EU Payments Account Directive.

In response to the Complainant's complaint as to why she was not offered a Foundation Account, post introduction of the EU Payments Account Directive in September 2016, the Provider submits that there was no onus upon it to retrospectively offer the Complainant (or any other un-discharged bankrupt customers) a foundation account post introduction of the EU Payments Directive. The Provider submits that if the Complainant did not have any other banking facility at that time, she was free to apply to it for a Foundation Account.

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The Provider acknowledges that although the Complainant's "*account has a no-operations marker on it since July 2016 a monthly €4 account maintenance charge will continue to accrue as the account is still open and we are unable to suppress same.*"

The Provider submits that having considered the Complainant's comments about her embarrassment when she visited its branch to withdraw her child welfare benefit, it has offered the Complainant a goodwill gesture of €250 which remains open to the Complainant to accept.

### **The Complaint for Adjudication**

The Complainant's complaint is that in circumstances where she clearly outlined to the Provider, in July 2016 that she and her family had no other bank account and that she required additional time to make alternative arrangements, the Provider's refusal to delay the suspension of account operations, was wrongful and/or unreasonable in circumstances where there had been an initial delay in its freezing of her account.

A further aspect of the Complainant's complaint is that as a result not having been able to withdraw monies on 02 August 2016, at her local branch, she had to attend at a different branch on 03 August 2016 when a manager became involved, which caused her unnecessary stress and embarrassment.

### **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 on 28 February 2020, 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.

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

The Provider has submitted that when the Complainant was adjudicated bankrupt, and as soon as it became aware of same, it was required to apply a "Stop" to her account and that *"we must adhere to the requirements under the Bankruptcy adjudication and our own policy at that time for dealing with customers who have been declared bankrupt."*

As regards the *"requirements under the Bankruptcy adjudication"* to which it referred, the Provider explained, as follows:

*"In June 2016 when the Complainant was adjudicated bankrupt, the Bank was required to apply a stop to her account in order to protect the creditors under the bankruptcy process. The process we adhere to is "Official Assignee in Bankruptcy led" as all assets vest with the Official Assignee from the date of Bankruptcy adjudication. In order for us to comply with his rules, we must stop the use of all bank accounts on day 1 of the Bankruptcy and ensure any appropriate funds are remitted to The Official Assignee. Basically, all property which was owned by the Bankrupt person is then the property of the Official Assignee. There are limits as to how much a Bankrupt person can have in their account at the date of Bankruptcy adjudication - €1000.00 for a working current account and €200.00 for any non working account such as savings account etc."*

The Provider enclosed with its response, a copy of a booklet issued by the Insolvency Service of Ireland, and drew attention, to the following:

*"in particular to the section 'In Court' which states... From the day of your court hearing your bank accounts will be frozen with the exception of one current account which you are entitled to keep. You can maintain a balance of up to €1,000 for general living expenses in that account. The ISI will notify all financial institutions and inform them that you have been made bankrupt..."*

The Provider further stated that *"under the Bankruptcy process, bankrupt individuals may nominate an account to use during the petition period, however prior to September 2016 it was up to each bank whether or not they allowed an un-discharged bankrupt to bank with them or not. This changed in September 2016 (after the Complainant had been declared bankrupt) with the introduction of the EU Payments Account Directive."*

The Provider furnished a copy of its policy in place at the relevant time, for dealing with customers who had been declared bankrupt, containing the following details:

***Bankruptcies and Individual Voluntary Arrangements***

*Bankruptcies are issued by the ROI Official Assignee's Office/NI Civil Service through the Courts to inform banks that a customer is bankrupt. Accounts are usually "frozen" and balances notified to the Official Assignee/Official Receiver. Any assets are shared amongst creditors in a prescribed manner by way of dividend.*

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*A “No Operations Marker” must be placed on all accounts on same day as receipt of Notice of Bankruptcy.*

The Provider referred to the ISI booklet which had been furnished by it to this Office, in support of its position, and in particular the following passage:

*“From the day of your court hearing your bank accounts will be frozen **with the exception** of one current account that you are entitled to keep. You can maintain a balance of up to €1000 for general living expenses in that account. The ISI will notify all financial institutions and inform them that you have been made bankrupt.”*

The Provider was asked to respond to the contention that the extract furnished appeared to contradict its submission that it was obliged by the relevant rules to freeze any/all Bank accounts held.

The Provider’s response to this query, was as follows:

*“Bankrupt individuals may nominate an account to use through the petition period, however prior to 2016 it was up to each bank whether or not they allow an undischarged bankrupt to bank with them. Up [sic] the EU Payments Accounts Directive in September 2016, [the Provider] did not have to provide a working account for undischarged bankrupts. The Bank does not get any documentation or notification from the Insolvency Service of Ireland to confirm what a bankrupt individual’s nominated account is with regard to the adjudicated bankrupt’s working account.”*

The Complainant has submitted that as she had no other bank account at the time, the Provider’s actions placed her in a very difficult position and that, as *“a mother of a family of 5 and this was the only bank account operating for my entire family at this time. Closing my bank account with no notice and no opportunity to appeal the decision denied me due process and left me and my family in a very difficult position”*. She submits she had requested the Provider to allow her some time to set up an alternative bank account but that this was denied.

I appreciate that the Complainant found herself in placed in a difficult positon however I also acknowledge that it was necessary for the Provider to freeze the account when it came on notice of her having been adjudicated bankrupt, whilst it considered the position of remitting monies to the Official Assignee.

The Complainant has submitted that since her adjudication of bankruptcy and the freezing of her account, she has received *“no account statements and certainly no offer to re-facilitate my account”* and to date the Complainant has found herself in somewhat of a limbo, unable to access her account but still incurring annual fees and charges on same.

The Complainant submits that *“a no operations marker remained on the account on 10th August 2017, I was discharged from bankruptcy on 28th June 2017, therefore the no-*

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*operations marker should have been removed.” She submits that she has “been prohibited from accessing” her account since July 2016 as a result.*

The Provider’s position is that *“customers like the Complainant can request to have their accounts made active again following exit from Bankruptcy. We have found no evidence that the Complainant has requested same...”*

I consider that as the decision to suspend operations on the account during the period of the Complainant’s bankruptcy was a decision which was made and executed by the Provider, that as a matter of good practice, upon the expiry of the bankruptcy period it could reasonably have taken action to either lift the no operations marker from the account because the circumstances for its imposition no longer prevailed or, if it required the Complainant to expressly request this, the Provider could have communicated this to her at the relevant time.

In any event, I consider that it would have been good practice on its part to have communicated with the Complainant once the period of bankruptcy had expired to identify the wishes of the Complainant as regards the operation of the account, going forward rather than placing the onus to initiate communications with it upon the Complainant in this regard. I consider that this would have been more in keeping with the general principle enunciated under the Consumer Protection Code 2012 to act *“with due skill, care and diligence in the best interests of its customers.”*

I do not consider that the level of communication on the part of the Provider has been satisfactory in this regard or that the Provider has conducted itself in line with the standards of service which could reasonably have been expected of it by the Complainant.

#### *Application of charges to the Complainant’s Account*

The Provider has submitted that as the Complainant’s account remains open, a monthly €4 account maintenance charge was being applied by the Provider and that it is *“unable to suppress same”*. The Provider has offered to refund any charges which has accrued on the account, in this way.

The Provider has also submitted that the Complainant could have withdrawn the balance in the account at any stage, and it submits that this has been the case since July 2016.

The Complainant has submitted that she was not aware of the remaining money in the account or that she was entitled to withdraw it and submits that she has not received any correspondence directly from the Provider since July 2016.

The Provider has referred to a phone call between the Complainant and a customer service officer at her local branch on 26 July 2016 and that during this call the Complainant informed her that she would not be withdrawing all of the funds in her account as she wanted to leave funds to meet direct debits and standing orders that were due.

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However, I understand that the Complainant was subsequently informed that the Provider would not allow Direct Debits and Standing Orders to operate on the account going forward.

I have had regard to the internal email thread of the Bank dated **25 and 26 July 2016**:  
On **25 July 2016** the Complainant's local branch emailed the Provider's Bankruptcy Division:

*I have just advised [the Complainant] that she will be able to withdraw funds from her account today. She will be calling to the branch later. She is not taking all the funds as she wants to leave money in her account to pay for her DD and SO.*

*She has said she will start the process to open a new account but it may take a few weeks and to get all her Direct Debits and Standing Orders set up on the new account. She would like for any payments that hit her account to be honoured, will this be possible?*

However, by email dated **26 July 2016**, the Bankruptcy Division responded that:

*We can't allow debits, only a one off credit and I have cancelled any live DD's or SO's on the account.*

*We can allow credits on a one off basis so you can allow the very next credit only please. If she is due payment over the next week from more than one source then this is allowable however anything later than this we cannot allow.*

The Complainant has submitted that she subsequently attended to withdraw any remaining monies from her account and that she understood all available monies in the account had been withdrawn.

The Complainant has submitted that:

*I attended the [Provider] in [branch] on 29th July 2016 to withdraw the remainder of the funds in my account there as I had been informed that all DD's and SO's had been cancelled. I requested the remainder of the funds and was given €372.89 as the total remaining funds in the account. As previously outlined I then re-visited the [branch] a couple of days to withdraw my child benefit payment which was not made available to me on the due date so I then attend [another] Branch by arrangement to withdraw the funds from my account. I effectively made three personal branch visits to empty my account as it had been made perfectly clear, on several occasions, that I would not be able to access this account. I assumed that all funds had been returned as requested.*

She further submitted that it was not until she received documentation furnished by the Provider as part of the investigatory process, in August 2017, "which contained some bank statements from this period. It was then that I observed the remaining funds in the account and the continuous application of bank charges".

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The Complainant further submitted that *"I would like to point out that I have not received any correspondence directly from [the Provider] since July 2016; no details of charges, no account statements and certainly no offer to re-facilitate my account. So the remaining money in the account and the deduction of the charges was without my knowledge. It was my understanding that all funds had been removed from the account in July/August 2016"*

The Provider's response was that *"In investigating this complaint with your Office the Bank has never indicated anything other than that there were funds remaining in the Complainant's account and that those funds are available to the Complainant. That is why we have offered to refund all the charges that have applied on the account (to put the account back into the monetary position it would have been in at that time.)"*

If this is the position, I do not consider that this was clearly communicated to the Complainant. I accept that the Complainant understood that she had requested withdrawal of the funds available, when she could, on the basis of the communications from the Provider that it would not be allowing debits be made going forward and that she had understood the balance of monies in the account to have been withdrawn.

In circumstances where the account has been suspended since 2016 and no correspondence including statements of account, have been issuing to the Complainant, she was not made aware of the balance in the account.

Having had regard to the evidence available to me, I do not consider that the Provider has acted in accordance with the standards of service which could reasonably have been expected of it.

#### No Operations Marker

The Complainant has submitted that she was caused additional stress by not being able to withdraw a child benefit payment on **02 August 2016** at her local branch, as a result of the operations marker on her account, which resulted in payment being delayed. When it was available the following day, the Complainant attended at another branch to effect the withdrawal. The Complainant has submitted that she had been *"repeatedly assured that there would be no problem in withdrawing the child benefit payment the following day"*. The Complainant contends, however, that although she confirmed to the teller, about the *"special note"* which had been put on her account by her branch, he insisted on calling a manager.

The Complainant has submitted that she would not have attended at this branch had she not been given specific assurances that the withdrawal would proceed *"without any hassle"*. The Complainant has submitted that the Provider's own policy for the withdrawal of funds states that a teller should *"Obtain the authority of the Controlling Office if required"*, and she contends that, *"surely the note attached by the staff in [local branch] authorising the withdrawal of a state payment should not have necessitated further oversight."*

The Provider has responded that where there is a “no-operations” marker on an account, transactions such as the withdrawal the Complainant wished to make are required to be authorised on its system within the branch by a more senior member of staff and that while the Complainant may have been assured that this could be facilitated ‘without any hassle’, this does not preclude its staff members from adhering to its policy for withdrawal of funds from the account.

It has submitted that that its, “Branch Teller System” procedures contained the following directions as regards account warnings and secondary authorisation:

| SECONDARY AUTHORISATION                       |  |
|---|--|
| <b>Account Warnings-<br/>Account Referred</b> | <ul style="list-style-type: none"><li>• <b>For encashment and lodgement transactions:</b><br/>➔ <b>Obtain the authority of the Controlling Office if required.</b></li></ul> |

In examining this complaint, I am aware of the fact that the Complainant was upset and embarrassed at the way in which attention was drawn to the issue surrounding the withdrawal of monies from her account, through the manager being called. However, whilst I sympathise with the Complainant for any embarrassment which she felt, I am of the view that the teller in question did not act unreasonably in referring the matter to a more senior member of staff, due to the marker on the account, and the internal procedures of the Provider in this regard.

I do not therefore consider that the staff members of the Provider acted wrongfully or unreasonably in proceeding in the manner in which they did, and I do not find that there are any grounds upon which it would be appropriate to uphold this aspect of the Complainant’s complaint.

#### Foundation Account

The Complainant has queried why she wasn’t offered a Foundation Account by the Provider, following the introduction of the EU Payments Account Directive on 19 September 2016.

The Provider has submitted that there was no onus upon it to retrospectively offer the Complainant, or any other undischarged bankrupt customer, a foundation account post introduction of the Directive in September 2016. The Provider has submitted that if the Complainant did not have any other banking facility at that time, she was free to apply to it for a Foundation Account subject to the terms and conditions of same.

I accept that it was open to the Complainant if she wished to apply for such an account and do not consider that the Provider has acted wrongfully or incorrectly in this regard.

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In responding to the Complainant's complaint, I note that the Provider, having considered the Complainant's comments about her embarrassment when she visited its branch on 03 August 2016, has offered the Complainant a goodwill gesture of €250.

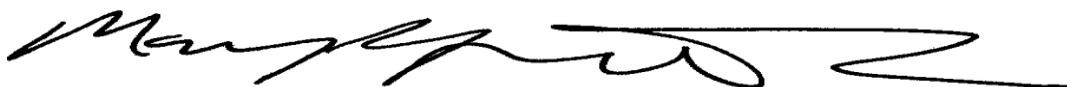
However, taking into account the failures in service of the Provider in respect of how it has operated the Complainant's account since she was discharged from bankruptcy, as identified above, with particular regard to the poor levels of communication on the part of the Provider, I consider it appropriate to direct the Provider to make a more satisfactory compensatory payment to the Complainant in the sum of €1,500 (to include the sum of €250.00 already offered) in reflection of these shortcomings.

I further note that that the Provider has indicated that it will refund to the Complainant those fees which have been charged to the Complainant's account, since July 2016, and I consider it appropriate to direct that it do so. I would also suggest to the parties that they liaise in short course, in order to arrange to either close the account (and return the remaining funds to the Complainant) or alternatively, to lift the no-operations marker and permit the usual services on the account to the Complainant.

### **Conclusion**

- My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is partially upheld, on the grounds prescribed in **60(2) (b) and (g)**.
- Pursuant to **Section 60(4) and Section 60(6)** of the **Financial Services and Pensions Ombudsman Act 2017**, I direct the Respondent Provider to make a compensatory payment to the Complainant in the sum of €1,500.00, to an account of the Complainant's choosing, within a period of 35 days of the nomination of account details by the Complainant to the Provider. I also direct that interest is to be paid by the Provider on the said compensatory payment, at the rate referred to in **Section 22** of the **Courts Act 1981**, if the amount is not paid to the said account, within that period.
- The Provider is also required to comply with **Section 60(8)(b)** of the **Financial Services and Pensions Ombudsman Act 2017**.

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

24 March 2020

**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.**

