



<u>Decision Ref:</u>	2020-0475
<u>Sector:</u>	Banking
<u>Product / Service:</u>	Credit Cards
<u>Conduct(s) complained of:</u>	Maladministration Dissatisfaction with customer service
<u>Outcome:</u>	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The Complainant held a credit card account with the Bank that was closed in **April 2013**. Some 6 years later, the Bank sent the Complainant a letter dated 29 March 2019 in relation to this account that was addressed to her previous identity, notwithstanding that, on foot on a previous complaint the Bank had assured the Complainant in **January 2016** that her profile had been updated on its systems to reflect her revised personal details.

The Complainant's Case

The Complainant received a letter from the Bank dated 29 March 2019 addressed to her previous identity. This letter was in relation to credit card account *****5590 that she had previously held with the Bank and that had been closed in **April 2013**.

The Complainant's Representative telephoned the Bank to complain that its letter of **29 March 2019** had been addressed to the Complainant's previous identity, notwithstanding that on foot on a previous complaint the Bank had assured the Complainant in **January 2016** that her profile had been updated on its systems to reflect her revised personal details.

In her email to this Office on **18 July 2020**, the Complainant's Representative advised as follows:

"...information that [the Complainant's Representative] received [from the Bank] during a phone call regarding the initial complaint where it was stated that the update did not apply to the Credit Card Centre as the Credit Card is held on a different system and the systems do not talk to each other ..."

While we understand that errors can occur and we are tolerant of causes such as human error, in this case, it would appear that it was a systemic fault that caused this issue...We also wish to advise that while [the Complainant's Representative] was dealing with the complaint, she pointed out the technical issue of systems not speaking to each other so that a service improvement could be made was met with a dismissive response from the [Bank's] advisor".

A few days after her Representative raising her complaint with the Bank, the Complainant received from the Bank, by post, a cheque in the amount of €100, with no cover letter enclosed offering an explanation and/or apology.

In this regard, the Complainant sets out her complaint in the Complaint Form she completed, as follows:

"Having previously complained about being unable to change my information in [the Bank], [my Representative] aided me in progressing a complaint to the Ombudsman as [the Bank's] treatment of [me] had left me with such anxiety and distress that I was unable to go in alone. The advisor in [the Bank's branch at location] assured me that my customer profile had been updated to reflect my revised information and although a significant complaint had been raised, [the Bank] had compensated me sufficiently to allow me to continue with them.

I received the letter addressed to my previous identity and it left me reeling. Any dealings with my financial institution generally result in my spiralling into mental distress but to have received the letter addressed incorrectly when I had considered the matter completed years ago has left me suffering once again from anxiety and a significant depression. Not to mention, given my circumstances, that letter outed me to the local community and potentially put my personal welfare at risk.

A few days after the initial complaint was raised with [the Bank], I received a cheque in the post in the amount of €100. There was no cover letter or apology – just a cheque. Two days after that, I received what [the Bank] deem to be an apology letter. To say that I am offended by this situation is an understatement. [The Bank's] attempt at an apology is laughable. I have not lodged the cheque to my account. [The Bank's] paltry attempt to appease me has just offended me even more".

In addition, in her email to this Office on **18 July 2020**, the Complainant's Representative submitted as follows:

"While we accept that there was no deliberate intention to cause such upset and distress to [the Complainant], we would like to point to statistics surrounding transphobic attacks and hate crimes. Although unintentional, the fact of the matter is that the Bank's negligence in ensuring that ALL systems were updated when the instruction was given to [Customer Advisor Mr N. on 15 January 2016], has resulted in effectively outing [the Complainant] to her local community which has caused significant anxiety and distress to [the Complainant]".

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In order to resolve this matter, the Complainant advised in her Complaint Form, as follows:

“I will of course accept whatever the Ombudsman deems a fair settlement however, given that this matter was supposedly resolved years ago and as I continue to be unable to go to a local branch alone to deal with my financial affairs, I think a significant settlement would be fair. If [the Bank] wish for me to settle without having the Ombudsman adjudicate on the case, a minimum of €12,000 would be the figure I would be looking for”.

In this regard, in her email to this Office on **18 July 2020**, the Complainant’s Representative submits, *inter alia*, as follows:

“We understand that the figure of €12,000 compensation is a significant amount to request, however, this figure was carefully considered and allowed for a year’s worth of biweekly therapy sessions (€10,400), fortnight doctors’ appointments (€1,440) and cost of medications for anxiety (€120) for the Complainant”.

The Provider’s Case

Bank records indicate that as at July 2020, the Complainant holds current account ****2482 with the Bank, domiciled at its branch on [location 1]. The Complainant’s information for this account was updated following her instruction on 15 January 2016.

The Complainant previously held another current account ****8519 with the Bank, which was domiciled at its branch in [location 2]. That account was closed on 26 September 2016 with the Complainant’s agreement, following the write-off by the Bank, with the Complainant’s agreement, of the outstanding debit balance of €795.87 at that time. The Complainant’s information for this account had been updated following her instruction on 15 January 2016. The Complainant’s details on the closing statement for this account dated 26 September 2017 confirms that her information had been updated prior to its closure, in line with her revised personal information.

The Complainant previously held a credit card account *****5590 with the Bank. The Bank notes that it is that credit card account which is the subject of this complaint. The credit card account was closed on 8 April 2013 with an outstanding balance on it. As part of a resolution offered to and accepted by the Complainant in respect of a previous complaint in January 2016 to the then Financial Services Ombudsman (complaint reference number 15/xxxx), the Bank arranged to write-off the outstanding debit balance on that credit card at that time of €432.09.

The Complainant’s personal information in respect of this credit card account was updated by the Bank’s Credit Card Centre on 11 April 2019, following contact from the Complainant in April 2019. The Bank notes that this was confirmed to the Complainant in the complaint response letter its Credit Card Customer Care Team sent to her on 11 April 2019.

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The Provider notes that the correspondence of **29 March 2019** from its Retail Products Team which forms the basis of this dispute was issued as part of a remediation exercise undertaken by the Bank in 2017 on a closed credit card. In this regard, an internal review had identified that government stamp duty of €30 had been incorrectly charged on the Complainant's closed credit card account for the period 2013/2014. The Bank initially sent this letter on 1 November 2017 and the letter of 29 March 2019 was a follow-up letter, stating

“we previously wrote to you on 01 November 2017 to inform you that an internal review identified that we incorrectly charged you Government Stamp Duty on your...Credit Card for the tax year 2013/2014.”

In this regard, the Bank confirms that the letter of 1 November 2017 was also addressed to the Complainant's previous personal details. Whilst it has found no evidence that she brought any concerns about this previous letter in November 2017 to its attention, the Bank sincerely apologises to the Complainant for any concern the issuing of both letters has caused her.

In addition, the Provider apologises that the complaint response letter that its Credit Card Customer Care Team sent on 11 April 2019 did not fully clarify and explain the background to this matter for the Complainant and this may have compounded matters and caused her further concern. The credit card account in question had been closed in April 2013 and consequently was not included in the update that was requested by the Complainant when she met with Customer Adviser Mr N. on 15 January 2016 to update her personal information details.

By way of additional background, when the Bank confirmed in its letter to the Complainant dated 13 January 2016 the write-off of the outstanding €432.09 debt on credit card account *****5590, it also arranged for the Complainant to visit its [location 3] branch to have her personal details amended following which she met with Customer Adviser Mr N. on 15 January 2016. The Complainant's instructions on 15 January 2016 in respect of the amendment to her personal details was, however, only made in respect of her current accounts ****2482 and ****8519.

The Bank sincerely apologises to the Complainant for the distress this matter has caused her. It can understand how the receipt of the letter in March 2019 will have been upsetting and concerning for her, particularly when she considered that the matter of her amended personal details had been completed some years ago. As explained, the letter of 29 March 2019 was a follow-up letter by the Bank to ensure that it could refund the payment of the sum of €30 plus interest due in respect of the government stamp duty erroneously charged to the credit card account for the period 2013/2014.

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The Bank does not in any way wish to dismiss the Complainant's concerns about this matter, however it does also wish to respectfully submit that there was no deliberate intention on its part to cause the Complainant any distress. A remediation exercise was undertaken in 2017 in respect of the overpayment of government stamp duty from 2013 on a closed credit card account and the correspondence in respect of this matter was issued to the name and address pertaining to that account from that time. The Bank apologises that this was not made clearer in its complaint response letter to the Complainant of 11 April 2019.

The Bank notes that in April 2019, its Credit Card Complaints Team sent the Complainant a cheque for €100 by way of resolution of this complaint. In this regard, the Bank offers the Complainant its sincere apologies that this redress payment was issued to her without any agreement by her to this, as a resolution to her complaint. The Bank notes that the Complainant contacted its Credit Card Customer Card Team on 18 April 2019 in respect of the receipt of the cheque in question and a response regarding same was issued to her on 24 April 2019.

The best practice and its standard way of dealing with complaints is that a proposed resolution and redress offer should first be discussed with or offered to a complainant prior to making a redress payment. The Bank fully accepts that it will have been very frustrating and annoying for the Complainant to have been issued with a cheque for €100 by way of a redress payment for her complaint raised when she had not agreed to same. From her communications on file with its Credit Card Centre in April 2019, the Bank acknowledges that the handling of her complaint at that time appears to have compounded matters and caused the Complainant further annoyance and distress.

The Bank notes the Complainant's Representative's comment in her email to the Financial Services and Pensions Ombudsman on **18 July 2020** that the Bank's actions had "*resulted in effectively outing [the Complainant] to her local community*". In this regard, the Bank confirms that the correspondence sent to the Complainant on 29 March 2019 which forms the subject matter of this dispute was, as is all its postal communications, sent in a sealed envelope marked "*PRIVATE*" with a return address in the event of undelivered or misdirected post.

The Bank notes that the Complainant states in her Complaint Form, "*If [the Bank] wish for me to settle without having the Ombudsman adjudicate on this case, a minimum of €12,000 would be the figure I would be looking for*". In this regard, whilst the Bank is mindful of the her comments regarding the distress this matter has caused her, it must respectfully advise that it is unable to agree to the redress sum of €12,000 that the Complainant has requested in settlement of this matter. The Bank does not in any way wish to take away from the Complainant's comments about the effect this matter has caused her, however it does not believe that a €12,000 compensation payment is a fair and reasonable resolution to this matter, considering all the facts of this case. However, as a tangible token of apology for the distress this matter has caused the Complainant and for the fact that its previous complaint response letter of 11 April 2019 did not clarify matters fully for her, the Bank wishes to make a redress offer of €750. The Bank also wishes to pay the Complainant the €34.44 remediation sum that is due in respect of the closed credit card account *****5590.

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The Bank also wishes to address and seek to assist the Complainant regarding her comment, *"I continue to be unable to go to a local branch alone to deal with my financial affairs"*. The Bank is very sorry to hear that one of its customers is unable to go to her local branch alone to deal with financial affairs. It does, however, respect the Complainant's position in that regard, as it is her right not to attend her local branch alone if she does not wish to. However, the Bank also recognises that it may be helpful for the Complainant to be made aware that it has many other banking options available to assist its customers who for one reason or another do not want to or cannot attend a branch.

In this regard, the Bank notes that the Complainant is registered for its Direct Banking service which consists of an online banking service and a telephone banking service. These services offer its customers many benefits which the Complainant may find helpful in attending to her banking needs.

Additionally, whilst the Complainant's bank account is domiciled in its [location 1] the Bank notes from her address that the nearest branch to her home would be [location 3] or [location 4] branches. The Bank also has many other branches in the Complainant's city should the Complainant prefer to attend one of those, with any future banking requirements. In January 2016, to assist with the resolution of the previous complaint, the Provider arranged for the Complainant to meet with a staff member in its [location 3] branch. The Bank would be happy to assist the Complainant in a similar manner going forward, if she requires any further assistance in this regard.

In conclusion, the Bank wishes to assure the Complainant that it takes its customer service and complaint handling obligations very seriously and it is very sorry that the subject matter of this complaint has caused the Complainant distress and dissatisfaction. The Bank's redress offer of €784.44 to the Complainant remains open and in place for acceptance by her at any stage.

The Complaint for Adjudication

The complaint is that the Provider in **March 2019**, wrongfully sent the Complainant a letter, addressed to her previous identity, despite the Bank having previously assured her that her profile had been updated on its systems to reflect her revised personal details.

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 on **26 November 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.

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

I note that the Complainant received a letter from the Bank dated **29 March 2019** addressed to her previous identity. This letter was in relation to an overcharge the Bank had made to credit card account *****5590 that the Complainant had previously held with the Bank and that had been closed some 6 years previously, on **8 April 2013**.

The Complainant's Representative telephoned the Bank to complain that its letter of 29 March 2019 had been addressed to the Complainant's previous identity, notwithstanding that on foot of a previous complaint, the Bank had assured the Complainant in January 2016 that her profile had been updated on its systems to reflect her revised personal details. A few days after, the Complainant received a cheque in the amount of €100 from the Bank by post, with no cover letter enclosed offering an explanation and/or apology.

I note that as part of the resolution to the difficulties that she had experienced previously in having her personal details changed with the Bank, the Complainant met with Customer Adviser Mr N. at the [location 3] branch on 15 January 2016 to update her personal information details. I note from the documentary evidence before me that the Complainant and Mr N. signed a completed Change of Personal Details form on that date and I note that the 'Change of name and/or change of title' section of this form, in which the Complainant appropriately detailed her new personal information, clearly stated:

"This amendment will take effect on ALL of your accounts".

I note that the '[Bank] credit card numbers(s)' section of this form is left blank, where it would have been appropriate for the Complainant to have inserted her credit card account number. It is, however, understandable that the Complainant did not do so, given that her credit card account *****5590 with the Bank had been closed in April 2013 and she would not reasonably have anticipated any further communication from the Bank in relation to this closed account.

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It is regrettable that the Bank, when actioning the instructed change to the Complainant's personal information details, did not identify the Complainant's closed credit card account *****5590 and update this record to reflect her revised personal details at that time, though in my opinion, this is also understandable, given that the form completed, failed to identify a credit card account.

I am of the opinion that it would be better practice and more effective for the Bank and its customers alike, if the Bank amended its Change of Personal Details form to ask the customer to list all of the account numbers that the customer currently holds with the Bank, including credit card numbers, and separately to list all accounts held with the Bank previously. Alternatively, it would be helpful for that form to be completed to identify any such closed accounts by the type of account and the branch where it was held, in circumstances where the closed account number is no longer readily available to the customer.

I note that the Complainant's Representative telephoned the Bank to complain that its letter of 29 March 2019 had been addressed to the Complainant's previous identity. I note the Complainant says that a few days later, she received from the Bank, by post, a cheque in the amount of €100, with no cover letter enclosed offering an explanation and/or apology.

In this regard, I note from the documentary evidence before me that the Bank wrote to the Complainant on 11 April 2019, as follows:

"Thank you for contacting us and letting you know that you are unhappy with the service you have received. I'm sorry that you are unhappy with the service we provided, but thank you for bringing this matter to our attention.

My understanding of your complaint is:

- *You are unhappy you have received a letter addressed to [the Complainant's previous identity] in error.*

I have looked into this for you and found the following:

- *You have updated your name to [the Complainant] on your bank account however the details have not been shared with the Credit Card Centre. As a result the recent correspondence was issued in the name of [the Complainant's previous identity]. I apologise this is the case as I appreciate this matter is causing you extreme anxiety.*

Having reviewed your complaint...I am sincerely sorry for the distress you have been caused as this was not our intention.

As explained previously, your [Bank] account has been changed from [the Complainant's previous identity] to [the Complainant] however the information was not shared with the credit card centre and as a result your credit card ending 5590 is still showing [the Complainant's previous identity].

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Having reviewed your credit card, I confirm the account was closed on 8 April 2013 and there has been no activity on the account for a number of years. I have been unable to find a record of a letter we sent to you recently however I do not doubt that a letter was issued to you in the incorrect name.

To confirm, I have updated the name on your credit card account with immediate effect to prevent any further mail being issued to you with an incorrect name however the account remains closed and is longer a data sharing credit card ...

In recognition of the distress this matter has caused you, I have awarded €100 compensation and this will be received by cheque under separate cover. While we cannot redeem the service you have received I hope we have restored your faith in [the Bank] and will remain a valued customer.

I hope you have found my response helpful however if you have any questions or feel I have missed something please let me know”.

The Complainant says that she did not receive this letter but instead received from the Bank, by post, a cheque in the amount of €100, with no cover letter enclosed offering an explanation and/or apology. This is indeed disappointing, as the letter clearly explained the reason the cheque had been issued to her.

Having raised this matter with the Bank, I note that the Bank wrote to the Complainant on 24 April 2019, as follows:

“Thank you for contacting us and I am sorry that you remain unhappy with my previous response. I have detailed the findings of my investigations along with my proposed resolution below for your consideration. This response should be read in conjunction with my previous letter dated 11 April 2019 ...

Having reviewed the details of the previous complaint I can see that a letter was sent you on 11 April 2019 detailing my investigation and resolution. While I do not doubt you did not receive my response, I am satisfied that a letter was sent to you fully addressing your complaint. I am sincerely sorry my letter did not arrive.

I have enclosed a copy of my initial letter to you and I hope you will find the contents helpful. My response explains that a cheque for €100 was issued under separate cover and this is why there was no covering letter.

As requested I have sent a copy of both responses to [the Complainant’s Representative] and I trust your complaint is fully resolved”.

I note that the Bank acknowledges how the receipt of a letter addressed to her previous identity in March 2019, will have been upsetting and concerning for the Complainant, particularly when she considered the matter had been completed some years ago. It has apologised to the Complainant for the distress that this matter has caused her.

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In addition, I also note that the Bank fully accepts that it was very frustrating and annoying for the Complainant to have been issued with a cheque for €100 by way of a redress payment for her complaint raised in relation to the letter sent in March 2019, when such a resolution had not been discussed with her.

In this regard, I note that the Bank, as a tangible token of its apology for the distress this matter has caused the Complainant and for the fact that its previous complaint response letter of 11 April 2019 did not clarify matters fully for her, has more recently offered the Complainant a compensatory payment of €750. In addition, I note that the Bank seeks to also pay the Complainant the €34.44 remediation sum that is due in respect of the closed credit card account *****5590.

Whilst I am conscious of how upsetting the receipt of the letter addressed to her previous identity, in March 2019, will have been for the Complainant, particularly given that she understood that her profile had been previously updated on the Bank's systems in January 2016 to reflect her revised information, I am also mindful that the correspondence in question was sent in a sealed envelope marked "PRIVATE" with a return address, in the event of undelivered or misdirected post.


Having reviewed the evidence available, I am conscious that the Bank very quickly responded to the Complainant's complaint to explain how the situation had occurred. I am also of the opinion that the Bank's offer of a compensatory payment of €750 is a fair and reasonable offer in the circumstances outlined.

I note that since the Preliminary Decision of this Office was issued, the Complainant has indicated an acceptance of the opinion of this Office and has indicated that she will await reparations from the Provider on that basis. The Provider has indicated that it will arrange for payment of the total of €784.44, directly to the Complainant. On this basis, it is my Decision therefore on the evidence before me, that it is not necessary or 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
DEPUTY FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

18 December 2020

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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.

