



<u>Decision Ref:</u>	2021-0051
<u>Sector:</u>	Banking
<u>Product / Service:</u>	Cheques
<u>Conduct(s) complained of:</u>	Dissatisfaction with customer service
<u>Outcome:</u>	Partially upheld

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The Complainant holds a bank account with the Provider. On **5 July 2019**, the Complainant attended one of the Provider's branches to make a lodgement. To carry out the lodgement, the Complainant inserted his bank card into the card terminal. During the transaction, the Teller removed the Complainant's card from the terminal to check the name on the card. The Complainant is dissatisfied that the Teller removed his card from the terminal.

The Complainant's Case

The Complainant describes the conduct giving rise to his complaint as follows:

"I went to the bank to lodge a cheque and 50euro in cash.

The teller took my card out of the box where you put your PIN number.

I was doing nothing wrong on that day.

I have never committed any offence or broke any law."

The Provider's Case

The Provider explains that it is standard procedure when a cheque is being lodged to an account, for the teller to check the name on the card to ensure it matches the name of the payee on the cheque. In this instance, on **5 July 2019**, the Provider states that the teller took the Complainant's card out of the pin pad terminal to cross reference the name on the card and the payee on the cheque, to ensure they both matched.

The Provider advises that all cheques presented in branch must be visually inspected and verified by the teller prior to processing. The Provider says the teller checked the name on the card to ensure it was being credited to the correct account.

The Provider says the teller explained to the Complainant that when lodging a cheque, she was required to ensure the payee name on the cheque matched the name on the account and this was standard procedure. The Provider says the teller further explained she was a new staff member and did not know the Complainant by name.

The Provider states that it was never insinuated that the Complainant committed an offence or broke any law.

The Provider explains that the staff member at its Customer Service desk asked the Complainant if he wished to log a complaint. The Provider states that the Complainant did not respond and walked away. The Provider advises that following a telephone conversation between the branch manager and the Complainant later that month, on **23 July 2019**, a formal complaint was logged. The Provider says the complaint was acknowledged by letter dated **29 July 2019**, the Complainant was updated as to the status of his complaint on **8 August 2019** and a Final Response letter issued on **29 August 2019**.

The Complaint for Adjudication

The complaint is that the Provider failed to provide an appropriate level of customer service to the Complainant.

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.

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A Preliminary Decision was issued to the parties on **1 February 2021**, 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.

Statements of Branch Staff

The Provider has provided statements of the staff members who dealt with or were present in the branch on **5 July 2019**.

The Teller approached by the Complainant to carry out his lodgements has provided the following statement:

“On 5th July 2019, the Complainant approached me at the cash desk and handed me a cheque. I asked if he wanted to lodge it. He didn’t respond and put his card in the reader. I asked if I could see his card and he did not respond. When cheques are presented at the Teller point, it is procedure to check the name on the cheque matches the name on the card and this is what I did on the day. I took his card out of the reader and checked to see that the name matched the name on the cheque, as the cheque was crossed. I then put his card back in the reader. The Complainant said to me “I’ve never had that before.”

I said to him that with cheques, we have to make sure that we are lodging them in the named person’s account. He said he had lodged them before at my branch without issue. I explained that I was new, that the others in the Branch probably knew him, and that I would remember who he was the next time. He said “I’ll bring it elsewhere”. I handed him back the cheque and said “Have a nice day” as he was walking away. The Complainant turned back and in a raised voice, said “What did you say to me?”. I said that I wished him a nice day. Upon hearing this. He approached one of my colleagues at the customer desk and I continued serving other customers.”

The staff member manning the branch’s Customer Service desk has provided the following statement:

“On 05th July 2019, after the Complainant had the altercation with the Teller at the Cash desk, he approached me at Customer Service.

The customer was very aggressive towards me, after a bit of back and forth I asked the Complainant what outcome would he like and does he want to log a complaint to which he just walked away.

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On the 23rd July 2019, the Complainant entered the Branch, looked to see who was on the Cash desk which was the Teller he had an issue with on 05th July 2019. He approached me at the customer service desk and asked was there anyone else on cash, to which I replied no that the Teller was the only cashier available. He didn't reply but just walked out of the branch."

The assistant branch manager has supplied the following statement:

"Following the Complainant's interaction on the morning of 5th July 2019, he visited the Branch on the afternoon of the 5th July 2019. I was dealing with another customer on the banking hall floor. As I was opening the security door, he tapped me on the shoulder to get my attention. He was extremely aggressive and irate. I apologised that he felt on the previous occasion that he was dealt with in an inappropriate manner. I explained that no offence was intended. I offered again to lodge the cheque and he refused. He spoke about the Bank performance on a wider level and I felt that he was extremely aggressive in his manner and did not allow me to speak. He then left abruptly."

The branch manager has provided the following statement:

"Following the interaction in question on 5th July 2019, the complainant had called to the branch and entered an office I was sitting in and proceeded to go through the issue as raised previously.

The customer was very upset and while I tried to apologise to the complainant I was unable to get the opportunity as the complainant was quite aggressive in his manner.

Following this I received a call from [the Provider's Head Office] on July 23rd 2019 where the complainant had presented and was demanding an update on their complaint. [The Provider's agent] confirmed that the complainant was asked whether they wanted the issue logged as an expression of dissatisfaction on the day it happened but the complainant declined to comment and left the branch abruptly.

I advised the staff member in [the Head Office] by phone on the 23rd July that I would be happy to meet the complainant but at that stage I was advised that they had left the reception.

I phoned the complainant on the afternoon of the 23rd July 2019 to again offer an apology for any upset caused but again was unable to discuss as the complainant was quite aggressive on the phone.

On foot of the interactions on the 23rd the complainant (sic) was logged and transferred to [Customer Care]."

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Complainant's description of Events

I note that a number of telephone conversations took place between the Complainant and the Provider's Customer Care department in **August 2019**, in respect of his complaint. During these conversations, the Complainant described what occurred in the Provider's branch on **5 July 2019**.

On **20 August 2019**, the Complainant told the Provider's agent that

"... the staff in the bank were trying to make a show of me"

When the Teller removed his card from the terminal, the Complainant explained he asked her what she was doing, to which she responded that she was checking the Complainant's identity. The Complainant then told the Provider's agent that no one else was put under this type of scrutiny. The Complainant believed he was treated

"... absolutely despicably by the staff behind the counter."

The Complainant told the Provider's agent that he was doing nothing wrong when he was in the branch, but

"... the woman behind the counter was implying I was doing something wrong."

Towards the end to the telephone call, the Complainant explained that when the Teller removed the card, he asked her what she was doing, telling her that she was not entitled to remove the card as it was his property and asked that she return it to him.

In the course of a telephone conversation on **29 August 2019**, the Complainant expressed the view that the Teller's action in removing his card from the terminal meant he was doing something wrong. The Complainant also remarked that his card was never removed by any of the Provider's tellers, on previous occasions.

Indeed, in his recent submission in February 2021, the Complainant has explained that he has more recently been dealt with at the branch, by a young man "*without any trouble*" even though he had never seen him before.

Further Submissions

The Complainant contacted this Office on a number of occasions following the submission of his complaint. In particular, I note a telephone conversation, which took place on **19 February 2020**. The file note in respect of this conversation indicates that the Complainant made the point that he was mistreated by the Teller because of the way he looked when he entered the branch.

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In a letter to this Office dated **7 July 2020**, the Complainant explained that he attended the same branch that very day, and dealt with the same teller and in July 2019, and lodged a cheque. The Complainant appears to make the point that his card was not removed from the terminal on this occasion and asks what the difference was between this lodgement and the one which has given rise to this complaint.

Analysis

The Complainant attended the Provider's branch on **5 July 2019**, to lodge a cheque and to also make a cash lodgement. The Complainant presented the cheque and the cash to the Teller and inserted his card into the terminal. The Teller appears to have asked the Complainant if he wished to lodge the cheque, but the Complainant did not respond. The Teller then proceeded to remove the card from the terminal to verify that the name on the card matched the name on the cheque.

The Provider and the Teller explain that the Teller removed the card from the terminal as part of its standard procedure and that all cheques presented in branch must be visually inspected and verified by tellers prior to processing.

However, having considered the evidence, it is not entirely clear why the Teller needed to see the name on the physical card in order to ensure it matched the name on the cheque or to ensure that it was lodged to the correct account. It is not clear why the relevant information would not have been evident once the Complainant inserted his card and entered/verified his PIN, without the need to remove the card from the terminal for inspection.

Even if the Teller did need to see the Complainant's card, it does not appear that the Teller explained to the Complainant that she needed to see the card or the reason for this, prior to removing the card from the terminal. It appears from the evidence that the explanation for removing the card came after it had already been removed.

Furthermore, it does not appear that the Teller advised the Complainant that she was going to remove the card before doing so. In my opinion, if the Teller needed to see the card, it would have been reasonable for her to have firstly explained this to the Complainant, and the reason it was necessary. I believe this would have afforded the Complainant the opportunity to give the card to the Teller without her having to retrieve it herself. Additionally, it is also reasonable to expect the Teller to have advised the Complainant that she was going to remove his card, before proceeding to do so.

That being said, I do not accept the Complainant's position that the Teller or any of its branch staff members were trying to embarrass him. Neither do I accept that the Teller's conduct in any way implied that the Complainant had done something wrong. While the Complainant makes the point that his card was not removed from the terminal on previous occasions, it seems that this is a case where the Complainant was a person who the particular Teller was unfamiliar with and wished to follow the Provider's required verification procedure. Having said that, I am also conscious of the Complainant's recent submission, indicating that the

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young man at the branch, dealing with him more recently, did not need to do the same thing, even though the Complainant had never met him before.

Accordingly, in the circumstances of this complaint, I am not satisfied that the Teller's conduct in removing the card from the terminal, or the manner in which it was removed was reasonable or appropriate. I take the view that the Provider's conduct in that regard was unreasonable in its application to the Complainant, within the meaning of **Section 60(2)(b)** of the **Financial Services and Pensions Ombudsman Act 2017**,

However, I am satisfied that the Teller and the Provider's branch staff members otherwise behaved in a professional and courteous manner towards the Complainant and I do not accept that any wrongdoing whatsoever by the Complainant, was implied.

Therefore, I consider it appropriate to partially uphold this complaint and to direct the Provider to make a compensatory payment to the Complainant in the sum of €75, in order to conclude. Whilst the Complainant has indicated in his recent submission that he does not want the bank's money, it is of course open to him to decline to request the compensatory payment directed below.

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 **Section 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 €75, to an account of the Complainant's choosing, within a period of 35 days of the nomination of account details by the Complainant directly 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
DEPUTY FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

1 March 2021

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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.

