



<b><u>Decision Ref:</u></b>	2021-0305
<b><u>Sector:</u></b>	Banking
<b><u>Product / Service:</u></b>	Current Account
<b><u>Conduct(s) complained of:</u></b>	Dissatisfaction with customer service Failure to provide product/service information Failure to process instructions
<b><u>Outcome:</u></b>	Rejected

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

The Complainant opened two current accounts with the Provider in **March 2014**. The first account was opened on an individual basis and in the Complainant's own name. The second account was opened jointly by the Complainant and her husband. This complaint concerns the Complainant's individual current account.

**The Complainant's Case**

In her Complaint Form, the Complainant describes her complaint under three points, as follows:

1. The Provider broke its commitment to provide free banking for life.
2. The Provider insisted on the Complainant personally calling to Branch A to close her account. The Complainant says this was a serious inconvenience for her and that she had to take time off work, stating "*there is a cost here for me*". The Complainant states that the Provider should act on their customer's written instructions to close an account.

3. The Provider insisted on the Complainant providing identification documents when closing her account. The Complainant says she gave the Provider a copy of her identification documents when she opened the account and provided them a second time at a later point when requested to do so by letter.

The Complainant says she provided identification documentation a third time quite recently, which the Complainant thinks was during **March 2019**, when asking the Provider to cancel unused cheques as part of her preparations to close her account with the Provider.

The Complainant submits that the Provider should honour its commitment to provide free banking for life, stating that this was widely advertised over a prolonged period when she opened her account with the Provider. The Complainant contends that the Provider should not be permitted to just change its mind at will. In the absence of this, the Complainant states that the Provider should compensate her appropriately. The Complainant says she also believes that the Provider should be forced to accept her written instructions to close her accounts. The Complainant states that if the Provider insists on her attending its branch to close her account, she should be compensated for having to take time off work.

The Complainant states she believes that the Provider should not be permitted to keep asking her for identification documents. The Complainant says the Provider has been provided with her documentation on three previous occasions (including in the months prior to her complaint to this Office). The Complainant submits that the Provider has a duty of care to mind her information, but clearly the Provider is failing to do so if its needs to keep asking for documentation. The Complainant states it is particularly frustrating that the Provider forced her to produce her documentation in person yet again, when she closed her account.

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

On the evening of **29 March 2019**, the Provider says the Complainant rang its customer service line to make a formal complaint. The Provider says the first complaint related to her joint account and the second complaint related to her sole account.

The Provider says it rejects that there was an advance commitment to free banking for life without the adherence to fee exemption criteria. The Provider says the quarterly maintenance fee applicable on the Complainant's account from the time the account was opened in **March 2014** to **September 2017** was €12.00 per quarter but the Complainant availed of the exemption criteria from **March 2014** and therefore did not pay the quarterly fee.

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The Provider says it is satisfied that all advertising was clear with regard to the exemption criteria applicable to the current account to enable a customer to avail of 'free banking'. The Provider refers to a copy of the brochure that was available at the time of account opening; in particular, page 2, which states:

*"Terms & Conditions apply. The [Provider] Current Account is not available to business customers. Quarterly Account Maintenance fee of €12.00 applies. You will be exempt from paying the Account Maintenance fee by lodging at least €1,500 to your account each month (allowance is not made for cheques, drafts or other credits lodged until value has been received).*

*This criteria may change in the future."*

The Provider says the Complainant opened her account on **26 March 2014** having switched from another financial services provider. The Provider says its current account terms and conditions and personal charges brochure outlining fees and charges applicable on the account at the time were provided to the Complainant.

The Provider says the account incurred a quarterly maintenance fee of €12.00. The Provider says the Complainant was advised that the quarterly maintenance fee would be waived if the exemption criteria were met. The Provider says the exemption criteria at that time was that €1,500 per month or more be lodged to the account.

As part of the account opening process, the Provider says the Complainant was notified clearly of the terms and conditions applying to the account at the time of opening. The Provider says the account opening process requires the completion of a 'Personal Current Account Application Form' and that the Complainant signed this form and the 'Account Switch Form' on **26 March 2014**. With her signature, the Provider says the Complainant confirmed that she had:

- received the Provider's 'Terms of Business' Letter and the current booklet, 'Terms & Conditions and Personal & Business Banking charges';
- read and had an opportunity to become acquainted with, understood and agreed to be bound by the Terms & Conditions and Personal & Business Banking charges in relation to the account and that the terms and conditions may be amended from time to time.

The Provider has also set out a number of terms and conditions in respect of the Complainant's account relating to its entitlement to vary the terms and conditions, and relating to fees and charges. The Provider also refers to pages 44 and 45 of the Personal Charges Brochure.

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In **July 2017**, the Provider says it undertook a review of its charging structure and decided to standardise and simplify its legacy accounts. The Provider says it wanted to ensure that its product offerings could remain competitive within the then current marketplace. As part of this review, the Provider says it made a commercial decision to increase maintenance fees and remove individual transaction fees and charges on other current account types in an effort to simplify its portfolio, to increase transparency and to cover the cost of providing a full suite of current account products to customers. The Provider contends that it is entitled to make such a decision as a commercial business.

The Provider advises that the Complainant's account was reviewed as part of this process and, as outlined in the Terms and Condition accepted by the Complainant on **26 March 2014**, the Provider notified the Complainant in writing on **19 July 2017** of its intention to increase the maintenance fee on her account. The Provider refers to certain aspects of this letter and states that the letter also outlined the options available to the Complainant together with the exemptions available to her.

The Provider says it completed a further review of its charges in **January 2019** and wrote to the Complainant on **24 January 2019** to advise of the impending changes/amendments. The Provider says this included the amendment to the quarterly maintenance fee exemption criteria relating to the account effective from **1 April 2019**.

The Provider says that it notified the Complainant two months prior to introducing a change to its terms and conditions and outlined the key information in its correspondence dated **19 July 2017** and **24 January 2019**.

In respect of the Complainant's written instructions, the Provider says that during the telephone call on **29 March 2019**, the Complainant stated that there had been a complaint contained within the letter of authorisation and instruction and this was the one/same letter that she and her husband had co-signed. On her visit to Branch A on **29 March 2019**, the Provider says the Complainant presented written instructions which were signed by both the Complainant and her husband authorising the closure of their joint account. The Provider says the Complainant also requested that the Customer Service Advisor close her sole account.

The Provider refers to section 4 of the Terms and Conditions in respect of certain identification requirements. In line with the Terms and Conditions and its policy and procedure, the Provider says its Customer Service Advisor was required to satisfy herself as to the identity of both customers (verifying that the request was from both parties) before closing the accounts.

The Provider says the Complainant completed the relevant documentation as requested by the Customer Service Advisor, who then proceeded to close the account, as instructed. The Provider says it is satisfied that it carried out the Complainant's instruction to close her account properly and promptly.

With regard to the written instruction to close the two other accounts (including the Complainant's joint account), the Provider says its Customer Service Advisor asked the Complainant if she had identification documentation for her husband for verification purposes to enable the Customer Service Advisor carry out the relevant instructions. The Provider says the Complainant informed the Customer Service Advisor that she did not bring identification documentation for her husband that day. The Provider says the Customer Service Advisor informed the Complainant that her husband would need to be present or his current valid identification documentation would need to be presented for verification to enable the Customer Service Provider to proceed with the written instructions.

As the Customer Service Advisor was unable to carry out the written instructions (without verifying valid identification for both parties to the account), the Provider says the Advisor offered the correspondence back to the Complainant who accepted it. The Provider says this was on the understanding that this letter of authorisation may have been required by either or both the Complainant or her husband once they produced current valid identification on their return to the branch at their convenience when proceeding to close the accounts.

The Provider says the Customer Service Advisor did not retain a copy of this letter and was unaware that the letter of authorisation also contained a letter of complaint. The Provider says the letter of instruction/complaint was not resubmitted.

The Provider says it is satisfied that it could not carry out the instruction in the letter properly and promptly at that time and that the instruction was returned to the Complainant to facilitate a prompt and proper execution of the instruction once valid identification documentation was provided at a later stage.

The Provider says that up-to-date identification was received previously from the Complainant at the time of account opening, which had been verified and retained by the Provider. As stated above, the Provider says, the Customer Service Advisor had to be satisfied in accordance with the terms and conditions of the account and in accordance with the Provider's policy and procedure, as to the identity of the customer before closing her accounts. The Provider says the Complainant provided identification documentation for herself and that it proceeded to verify this.

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The Provider again refers to section 4 of the Terms and Conditions. The Provider says the Final Response Letter which issued on **29 April 2019** correctly informed the Complainant that identification was required in order to process the written request.

The Provider says it never intended to frustrate the Complainant by requesting current valid identification and assures that it implements its policy to meet its obligations and protect the customer. The Provider says it did not inform the Complainant or imply that it did not have identification documentation on file or recorded on its system, as required.

In terms of the requirement for the Complainant to attend the Provider's branch to close her account(s), the Provider says its policy is that customers attend a branch in person as it can carry out due diligence and that it continually aims to reduce the potential for fraud being perpetrated against customers.

On closing a current account, the Provider says its procedure includes the completion of a 'Request to Close Current Account' form which allows the customer the opportunity to review the account features which will be lost on account closure and make an informed decision. The Provider says the Complainant completed this at the time of the closure of her sole account. The Provider refers to the account closure form in its Complaint Response.

The Provider cites the following parts of section 20 of the Terms and Conditions, stating that a customer can close their account:

*"c. by written instruction to your branch*

*d. If your account is a joint account all joint account holders must agree to the closing of the account. At our discretion and in exceptional circumstances we reserve the right to close a joint account on the instruction of only one of the joint account holders."*

As per section 4, the Provider says section 20 of the Terms and Conditions and the Provider's policy and procedure, the Customer Service Advisor was required to satisfy herself as to the identity of both parties to the joint account before carrying out the instruction to close the account. The Provider says the Customer Service Advisor was unable to verify that the request was from the Complainant's husband at this time as his identification documentation was not presented with the letter of instruction and authorisation.

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The Provider says it would have complied with the letter of instruction and authorisation when presented to the branch on **29 March 2019** if identification documentation had been provided for both parties at the time.

In the Final Response Letter, the Provider says it confirmed to the Complainant that it had communicated with her husband on the matter. The Provider says it was its intention to assist the Complainant and her husband promptly and speedily when they returned to the branch. The Provider says it was never its intention to cause upset or inconvenience for the Complainant and her husband by asking them to attend the branch.

In respect of the manner in which it addressed the Complainant's complaint, the Provider says that in her telephone conversation on **29 March 2019**, the Complainant raised two specific issues with regard to her sole account, as follows:

1. The Complainant was dissatisfied that the Provider was imposing charges on her account that she stated was advertised as free banking for life.
2. The Complainant stated that when she called to Branch A that day, she was asked for an €18.00 fee to close the account. The Provider says the Complainant said that the letter regarding the notification of charges that issued in **January 2019** had stated that the fees were being introduced from **1 April 2019** so she should not be charged the €18.00 fee. The Provider says the Complainant stated that she did not have the letter with her so she paid the fee and requested a refund of this fee.

The Provider says the Final Response letter issued to the Complainant dealt with both the sole and joint accounts. The Provider says the Final Response letter contained a 'typing error' (incorrect date of the Complainant's visit to the branch, stated as being **23 March 2019**). The Provider has apologised for this oversight.

The Provider says it is satisfied that the Final Response letter addressed the aspects of the complaint but a more detailed explanation and two separate responses may have been helpful. In light of this, the Provider says it would like to offer the Complainant a gesture of goodwill in the amount of €500.00.

The Provider says the Letter of Notification of changes to account dated **24 January 2019**, issued to the Complainant, clearly outlined that there would be no increase in the maintenance charge of €18.00 following the change on **1 April 2019** but the exemption criteria to avoid the fee would change.

The Provider says the charge of €18.00 applied to the Complainant's sole account on closure was applicable for the previous quarter as the existing criteria (pre-**1 April 2019**) for the exemption were not met (€1,500.00 was not lodged in the **March 2019** – quarter ending **31 March 2019**).

The Provider says its letter of **24 January 2019** outlined the exemptions available to the Complainant were, as follows:

<b>Existing Provider account (in effect until 31 March 2019)</b>	<b>Provider Current Account 4 (New Account) – Effective from 01 April 2019</b>
<b>Exemptions available</b>  Lodge at least €1,500 each month. Cheques, drafts or other credits must be cleared funds within the month.	<b>Exemptions available</b>  The following will result in an exemption from the €18 quarterly fee for the maintaining the account: Maintain a minimum cleared credit balance of €2,500 in your account every day.

The Provider says the letter advised that the charging quarters were **1 January, 1 April, 1 July** and **1 October** and there was no change to this.

In accordance with its notification to the Complainant on **19 July 2017** (effective from **1 October 2017**), the Provider says the quarterly maintenance fee of €18.00 was applicable and due. The Provider further says that the Request to Close Current Account form stated that the exemptions would be lost on account closure.

The Provider cites the following passage from its letter of **24 January 2019**:

*“Please be aware that if you choose to close your accounts all parties on the account must provide authorisation to close and you must repay any money and charges due on the account including any interest due on this up to the date of repayment in line with your terms and conditions. If you choose not to close your account within 2 months, you are deemed to have accepted the changes by continuing to use the account from the effective date of the notified charges.”*

In the Final Response Letter, the Provider says it informed the Complainant that it had refunded the quarterly maintenance fee of €18.00 and enclosed a bank draft for this amount.

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In respect of the request for compensation for not adhering to a commitment for free banking for life, the Provider says it is satisfied that the Terms and Conditions were provided to the Complainant from the outset regarding fees and exemptions on the account. The Provider says, within its rights, it deemed it necessary to review its account offerings, simplify and standardise its legacy accounts, and has detailed its reasons for doing so. The Provider says it regrets that it cannot offer compensation to the Complainant for the changes in its charging structure on the account.

### **The Complaints for Adjudication**

The complaints are that the Provider:

Broke its commitment to provide free banking for life;

Insisted that the Complainant personally attend Branch A in order to close her account;

Refused to accept a hand delivered instruction to close the Complainant's account;

Requested that the Complainant provide identification documentation despite such documentation having been previously provided; and

Failed to address all of the issues raised as part of the Complainant's complaint.

Before proceeding further, it is important to highlight at this juncture that when describing her complaint in respect of the Provider's conduct in her Complaint Form, the Complainant does not appear to have complained about the Provider's conduct in respect of its response to her formal complaint. However, in the Summary of Complaint, it is stated that one of the aspects of the complaint relates to the Provider's response to the Complainant's formal complaint.

In this respect, I note that the Provider has not objected to this Office investigating this aspect of the complaint and has set out its response to this aspect of the complaint in its Complaint Response.

### **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.

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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 13 August 2021, outlining my preliminary determination 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, within the period permitted, I set out below my final determination.

The Provider has furnished a copy of its current account brochure for **February/March 2014**. In the first panel of this brochure, it states, as follows:

*"We want to make banking better. So we developed the new [Provider] Current Account. It gives you everything you'd expect from a regular current account and a whole lot more.*

*Here are just some of our great new Current Account features.*

***No more senseless fees***

*We know how senseless fees annoy people. So if you lodge €1,500 every month into a new [Provider] Current Account you pay no quarterly fees or any other day to day transaction fees!*

[...]

*There are some other charges e.g. if an item is returned unpaid on your account or if you use your [...] card for a non-euro currency transaction outside of the EU.*

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*And if you don't lodge €1,500 every month, you'll have to pay €12 a quarter. See our Terms and conditions. [...]."*

In the third panel, it states, as follows:

***"Terms and conditions***

*Terms and conditions apply to the current account and the services we've outlined.*

*[...] Please see the Terms and conditions, Personal & business banking charges booklet for more information."*

Overleaf, it states in the first panel that:

*"Terms & Conditions apply. [...] Quarterly Account Maintenance fee of €12.00 applies. You will be exempt from paying the Account Maintenance fee by lodging at least €1,500 to your account each month (allowance is not made for cheques, drafts or other credits lodged until value has been received).*

*This criteria may change in the future. [...]."*

The Complainant signed a 'Personal Current Account Application' form dated **26 March 2014**. I note the following parts of this application form:

*"[...] I/We have had the necessary time to consider and query the information provided to me/us in relation to my/our application.*

*[...]*

*I/we have also received the Bank's 'Terms of Business' letter. I/we have also received the Bank's current booklet 'Terms & Conditions and Personal & Business banking charges'. I/we have read and have had an opportunity of becoming acquainted with, have understood and agree to be bound by the above booklet 'Terms & Conditions and Personal & Business banking charges' in relation to the facilities applied for above, which may be amended from time to time. [...]."*

The Provider has also provided a copy of its terms and conditions booklet dated **22 January 2014**.

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In terms of fees and charges, section 9 states at page 10, as follows:

**“9 FEES AND CHARGES:**

- (a) *Details of the fees and charges which are charged by us on Accounts are set out in the Fees Booklet (as published from time to time) which is available on request at any branch of the Bank.*
- (b) *Subject to notifying the relevant regulatory authority where applicable, we may from time to time alter such fees and charges and introduce new fees and charges, giving 30 days notice in accordance with these Conditions. [...]*
- (c) *You may be eligible to apply to have certain fees and charges exempted. The conditions under which fees and charges are discounted and/or exempted are available on request at any branch of the Bank. [...].”*

In terms of variations to the terms and condition, including fees and charges, and account closures, section 20 and section 21 states at page 16, as follows:

**“20 CLOSURE:**

[...]

- (c) *You may close your Account at any time by a written instruction to your branch.*
- (d) *If your Account is closed, you must immediately pay all sums owing on your Account [...]. Interest, fees and charges will be charged up to the date of closure.*

[...]

- (f) *These Conditions shall continue to apply to you until such time as your Account is closed, or we are repaid all amounts owing on your Accounts, whichever is later.*

**21 AMENDMENT OF THESE TERMS AND CONDITIONS (INCLUDING INTEREST, FEES AND CHARGES):**

[...]

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(b) *We may vary these Conditions and the interest and charges applicable on an Account including the interest rate structure from time to time.*

(c) *Unless we are permitted by law to give you shorter notice, we will notify you at least two months in advance of any alteration to these Conditions.*

[...]

(e) *If you receive notice of any alteration to these Conditions, you may close your Account [...].”*

In the ‘Personal & Business Charges’ section of the terms and conditions booklet, it states at page 44 that:

*“This brochure provides full details of account and service fees and charges and explains how these charges may affect you.*

*You may be eligible for any exemption for certain fees and charges. The eligibility criteria for fee and charge exemptions are contained in this brochure. [...].”*

In terms of exemptions, it states further down page 44 that:

*“You may be exempt from paying the account maintenance fee by lodging (See Note 1) at least €1,500 to your account each month.*

*Note 1: allowance is not made for cheques, drafts, or other credits lodged until value has been received.”*

The Provider wrote to the Complainant by letter dated **24 January 2019** to notify her that her account type would change to a new account type from **1 April 2019**. On the second page of this letter, certain options were outlined and amongst these options was the option to close the account. In this respect, the letter stated, as follows:

*“You may choose to close your account or switch providers. If you’d like to switch providers please contact your new bank who can arrange to close your account with [the Provider].*

*Please be aware that if you choose to close your account all parties on the account must provide authorisation to close and you must repay any money or charges due on the account including any interest due on this up to the date of repayment in line with your terms and conditions. If you choose not to close your account within 2 months, you are deemed to have accepted the charges by continuing to use the account from the effective date of the notified charges. [...].”*

The Complainant signed an undated ‘Closure of Current Account’ form in respect of her sole account which, from the evidence, appears to have been completed on **29 March 2019**.

The Complainant telephoned the Provider on **29 March 2019** to make a complaint. The Complainant explained that she wished to make a complaint in relation to the joint account held with her husband.

In respect of the first aspect of her complaint, the Complainant told the Provider’s agent that she attended Branch A that afternoon to deliver a letter signed by both account holders to close the joint account. The Complainant said she was told that the branch would not accept the letter and that both account holders were required to be there. The Complainant explained that the second aspect of the complaint was that the Provider had taken away the free banking for life in respect of the joint account. The third aspect of her complaint, the Complainant explained, was that she was told in order to close the joint account that an €18.00 charge would be applied. The Complainant explained that she received a letter in **January 2019** that the quarterly maintenance fees were only coming into effect on **1 April 2019** and could not understand why she was told that day that the charge would be applied. In respect of the fourth aspect of the complaint, the Complainant explained that a complaint was contained in the letter that she and her husband had signed, which the branch refused to accept.

In respect of her sole account, the Complainant explained that she wished to make a separate complaint in respect of this account. The Complainant explained that there were two aspects to this complaint. The Complainant told the Provider’s agent that the first aspect of her complaint was the imposition of charges on her account which was advertised as free banking for life. In relation to the second aspect of this complaint, the Complainant explained to the Provider’s agent that when closing her account, she was told that she would have to pay, and that she paid, a charge of €18.00 if she wanted to close the account. The Complainant told the Provider’s agent, referring to the letter of **January 2019**, that the €18.00 charge was to commence from **1 April 2019**, and she did not see why she had to pay that fee and that she should be refunded the money.

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In the Provider's 'Complaint Template' dated **29 March 2019**, it records the complaint, as follows:

*"Customer was dropping a letter in to close her joint acc with partner had a letter which both of them signed was refused by branch member*

*She was told that the account would be free for life no charges on the account*

*There was a written complaint in the letter for closure of the account however this was refused by branch also*

*She was told to pay a fee of 18 euro although it said on a letter she received regarding the account close before the first of April to avoid fee however she was told to pay 18 euro to close the account"*

The Provider's system notes dated **30 March 2019** contain the following entry in respect of the Complainant's complaint:

*"Customer unhappy as branch refused her letter to close her joint account and there was a complaint within the letter which was also refused by the branch and she was told to pay a 18euro fine although it said in a letter to close account before the 1st of april to avoid fees."*

It appears from the Provider's system notes that a review of the Complainant's call took place on **2 April 2019**. This entry states, as follows:

*"Customer called to [Branch A] to close joint and Sole accounts.  
First part of complaint relates to joint c/a [...]: 1 – Tired to close joint account in [Branch A] dropped in letter signed by them both – branch would not accept letter to close accounts, 2 – Free banking for the life of account has been taken away, 3 – Was told €18 charge to close the account – customer believed fees not starting until April, 4 – Refusal of staff member to accept complaint – she would not take letter  
Second part relates to sole account [...]: 1 – Imposing charges on account which was advertised as free banking for life, 2 – Charged €18 to close account – letter clearly states changes coming into effect from 1st April – wants refund"*

It appears from the Provider's system notes entry on **5 April 2019**, that one of its agents spoke with the Customer Service Advisor quite soon after the Complainant's attendance at Branch A. The relevant notes states, as follows:

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*“[The Complainant’s] sole account was closed in accordance with her request but [the Customer Service Advisor] was unable to close her husbands or the joint accounts as her husband was not present. [The Customer Service Advisor] gave the letter back to [the Complainant] so that the same letter could be used when her husband was able to attend the branch. [The Customer Service Advisor] was not aware that the letter contained a complaint as [the Customer Service Advisor] asked the customer to complete a closure form.*

*I have asked CRC for guidance on how to respond to the portion regarding the free banking as this is outside the scope of the branch.*

*I will refund the charges of €18 to the customer once I have received suitable wording from CRC.”*

The Provider issued a Final Response letter dated **29 April 2019**. Beginning at the third paragraph, the letter states, as follows:

*“I understand from your complaint that you were unhappy with the service you received in [Branch A] on the 23<sup>rd</sup> March 2019 when you requested to close your account, your joint accounts with [the Complainant’s husband] and [the Complainant’s husband’s] sole accounts. Please note that we are unable to close a joint account or your husband’s sole accounts on the basis of the letter which you presented to the Branch. Identification is required from [the Complainant’s husband] in order to process his request and I have been advised that this has been communicated to him by the Customer Resolution Centre. I have spoken with the staff member whom you dealt with on the day and she has advised me the letter was given back to you to allow [the Complainant’s husband] to use that letter as a closure request when he attended the Branch. The staff member was unaware that there was a complaint in the letter.*

*Please find enclosed a draft for the amount of €18 which you paid on the day to close your account.*

*I appreciate that you had received notification that from 1st April 2019 your account would change and you were frustrated with these changes. Please note the Bank continues to review our charging structure to ensure we remain competitive within the current market place. As a result of this review, we have amended our Terms & Conditions as applicable. This change allows us to cover the cost of providing the services available to you on your accounts as well as allowing us to continue to improve as your Bank provider.*

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[The Provider] rates customer satisfaction very highly and I assure you it would never be our intention to frustrate or appear unhelpful towards any of our customer. [...].”

The Provider has supplied the following statement from the Customer Service Advisor dated **10 August 2020**:

*“From my recollection the events of 29 March 2019 regarding complaint reference [number] were as follows:*

- *I met [the Complainant] at approximately 12:30pm on 29 March 2019*
- *[The Complainant] handed a letter to me stating that she and her husband wanted the accounts closed.*
- *As per Bank policy I was required to verify that the instruction was authorised by both parties before I closed the account.*
- *I told [the Complainant] that her husband would need to be present or that she could present two forms of identification to enable me close the account.*
- *As [the Complainant’s husband] was not in attendance and [the Complainant] did not have his identification documentation with her I handed the letter back to [the Complainant].*
- *I did not know that there was also a letter of complaint and I don’t recall if the customer informed me that there was a letter of complaint there also.*
- *I handed this letter of authorisation back to [the Complainant] as it may have been required at a later stage to close the accounts once the relevant identification documentation was produced when both of them or either of them returned to the branch to close the accounts.*
- *I do not recall if the customer complained about having to provide identification documentation at the time.*
- *I do not recall [the Complainant] stating that it would be inconvenient for them to call to the Branch at a later time to close the account.*

*I apologise to [the Complainant and her husband] for the confusion surrounding the events.”*

### **Analysis**

The Complainant says that the Provider broke its commitment of free banking for life. In her Complaint Form, the Complainant says the Provider’s commitment to free banking was widely advertised for a prolonged period at the time she opened her account.

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The Complainant further says that the Provider should not be permitted to change its mind regarding this commitment.

While the Complainant contends that the Provider committed to free banking for life, I note that the Complainant has not identified, or provided copies of, the specific advertisement(s) where this commitment was made. Significantly, the Complainant has not provided any documentation which would suggest that such a commitment was made.

I note that the Complainant signed an account opening application form dated **26 March 2014**. In respect of the Provider's current account advertising at this time, I note that in the **February/March 2014** brochure referred to above, there is no commitment to free banking for life. This brochure advises that fees are in fact applicable to current accounts but that fees can be avoided if certain exemption criteria are met.

The brochure further identifies the quarterly maintenance fee as €12.00. The reader is also referred to the Provider's terms and conditions and charges booklet. It is also stated on this brochure that the relevant exemption criteria may change in the future.

In terms of the Complainant's application form, I note that there is no reference to free banking or that the account would be subject to free banking. In respect of the declaration signed by the Complainant, I note that specific reference is made to the Provider's "*Terms & Conditions and Personal & Business banking charges*", which would suggest that certain charges were applicable to the account the Complainant was about to open. It is also stated the account terms and conditions could be amended from time to time.

I note that by signing the application form, the Complainant acknowledged that she had:

*"read and have had an opportunity of becoming acquainted with, have understood and agree to be bound by the above booklet 'Terms & Conditions and Personal & Business banking charges' in relation to the facilities applied for".*

In this respect, section 9 of the terms and conditions booklet advises that fees and charges are applicable to Provider accounts, fees and charges may be altered or new ones introduced, and that an account holder may be eligible to apply to have certain fees and charges exempted. At section 21(b), it is stated that the Provider could vary the charges applicable to an account.

The 'Personal & Business Charges' section of the terms and conditions booklet advises that fees and charges are applicable to the Provider's accounts and that an account holder may be exempt from fees and charges.

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This section of the booklet further advises that if at least €1,500.00 is lodged to an account each month, an accountholder may be exempt from the account maintenance fee.

Accordingly, having considered the evidence, I do not accept that the Provider made a commitment to provide free banking for life in respect of the Complainant's current account nor do I accept that the Complainant's current account was subject to free banking on an unqualified or indefinite basis. Rather, the evidence indicates that the Complainant's current account was subject to fees and charges, however, should the Complainant satisfy certain exemption criteria, her account would be exempt from certain fees and charges, such as the account maintenance fee. Further to this, I accept that the Provider was entitled to vary or amend the fees and charges applicable to the Complainant's account and the exemption criteria in respect of account fees and charges.

In terms of the closure of the Complainant's account, the Complainant says in her Complaint Form that the Provider *"insisted on me calling personally to [Branch A] to close my personal account .... They should act on their customers written instruction, to close the account."*

In this respect, I note that the Complainant has not provided any evidence to suggest the Provider insisted that she call to Branch A to close her account in advance of her attendance at this branch on **29 March 2019**. It appears from the evidence that the Complainant attended Branch A of her own choice and with the intention of closing her account, and not on foot of any express request or instruction from the Provider. It also appears from the evidence that the Complainant's request to close her account was facilitated by the Customer Service Advisor on **29 March 2019** and that the Complainant's account was closed.

Further to this, the Complainant has not provided any evidence to show that she furnished a written instruction to the Provider in respect of the account the subject of this complaint, in particular, a written instruction to close her individual current account. I also note that the Complainant has not provided a copy of any such written instruction or details as to when it was furnished to the Provider. It appears from the evidence that when the Complainant attended Branch A, she produced a written instruction relating to her husband's current account and her joint account. However, the Provider's conduct insofar as it concerns these accounts is the subject of separate complaints.

Accordingly, I do not accept that the Provider insisted that the Complainant attend Branch A in order to close her current account nor do I accept that the Provider refused to accept a written instruction from the Complainant, instructing the Provider to close her individual current account.

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The evidence is that when the Complainant attended Branch A on **29 March 2019**, the Customer Service Advisor requested identification documentation from the Complainant. The Complainant is dissatisfied with the Customer Service Advisor's request for identification because she had already provided identification to the Provider on a number of previous occasions. I note that a number of additional submissions were made by the parties in respect of this aspect of the complaint.

I note that section 4, at page 8, of the terms and conditions, states, as follows:

**"4 CUSTOMER INFORMATION:**

- (a) *The Criminal Justice (Money Laundering and Terrorist Financing) Act (2010) (as amended, re-enacted or replaced from time to time) and the EU's Third Anti Money Laundering Directive (Directive 2005/60/EC) as implemented in Ireland require us to satisfy ourselves as to your identity and the identity of any other Customers on an Account before opening an Account, permitting transactions on an Account or providing certain services.*
- (b) *We shall make such enquiries and/or request such information and/or documentation from you as may be required in accordance with statutory and bank regulations.*
- (c) *We shall be under no obligation to comply with any directions in relation to an Account, including without prejudice to the generality of the foregoing, withdrawals or transfers without such forms of identification as we shall deem necessary.*
- (d) *[...]*
- (e) *We will retain and use the information provided by you (whether in the application for the Account or otherwise) [...] for the purposes of processing the application for the Account, managing and administering the Account [...] as well as for any other purpose to which you have consented. [...]*
- (f) *[...]*
- (g) *We may make such enquiries about you as we from time to time consider appropriate [...]."*

The Provider has furnished excerpts from its policy and procedures in respect of withdrawals, lodgements and current account closures.

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In respect of the closure of a current account, it states that:

*“As of the 26/08/2017 when closing any Current Account the ‘Current Account Closure Form’ must be completed and signed by the customer and staff member, to confirm that the customer is aware of the potential loss of features and benefits to their individual current account. Once the form has been signed the account can be closed, subject to all other requirements being fulfilled. [...]”*

In terms of the closure of an account, I note section 20(c) of the term and conditions states that an account may be closed *“at any time by a written instruction to your branch.”* In the event of an alteration to the account terms and conditions, section 21(e) permits an accountholder to close their account. In the Provider’s letter of **24 January 2019**, it states that if the Complainant wished to close her account that she must provide *“authorisation”*.

Having considered the matter in detail, I accept that the Provider is entitled to seek to verify an accountholder’s identity prior to carrying out an account related instruction such as an instruction to close an account. However, if the Provider requires customer identification in respect of an account closure request, it is my opinion that reasonable efforts should be made to communicate this requirement to a customer. In this respect, I note that Provision 2.2 of the **Consumer Protection Code 2012** (“the Code”) requires the Provider to act with due skill, care and diligence in the best interests of its customers; Provision 2.6 requires the Provider to make full disclosure of all relevant material information in a way that seeks to inform the customer; and Provision 4.1 states that all information provided by the Provider is clear, accurate and up to date.

While the Provider relies on section 4 of the terms and conditions to explain why identification was required in respect of the Complainant, on considering the terms and conditions, I note that the terms and conditions do not expressly state that either (i) in the case of an account closure request generally (pursuant to section 20(c)); or (ii) in the specific instance of an account closure request arising from a variation to the terms and conditions (pursuant to section 21(e)), that valid identification must be provided.

The Provider has furnished an excerpt from its policy and procedures, however, I note that no reference is made to the requirement for valid identification in respect of an account closure. While this excerpt refers to *“all other requirements”*, these requirements have not been specifically identified by the Provider. I also note that the Provider has not furnished any evidence to suggest that the relevant policy and procedures were brought to the Complainant’s attention or available to the Complainant prior to her attendance at Branch A on **29 March 2019**.

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In addition to this, it appears from the above excerpt that a Current Account Closure Form is required in order to close an account, which I note, does not appear to be referred to in the terms and conditions or the letter of **24 January 2019**. The Provider has also furnished a copy of the 'Closure of Current Account' form signed by the Complainant, however, this form does not contain any reference to a requirement for valid identification.

In respect of the Provider's letter of **24 January 2019**, this letter simply states that an "authorisation" is required in order to close the Complainant's account. This, in my opinion, reasonably understood, would mean either a verbal authorisation or a written authorisation. I note that nowhere in this letter was the Complainant informed that any "authorisation" she would subsequently give to the Provider to close her account would have to be accompanied by valid identification and an Account Closing form. If valid identification was a required, it is my opinion that the Provider should have communicated this to the Complainant in this letter.

Accordingly, it is my opinion that the information available to the Complainant in respect of the Provider's account closure procedure was misleading, incomplete, inaccurate and not reflective of the actual procedure that would be employed by its Customer Service Advisor.

In circumstances where valid identification was in fact required to be presented in respect of the Complainant's account closure request, it is my opinion that this should have been clearly communicated to the Complainant, for instance, in the Provider's terms and conditions or in its letter of **24 January 2019**, and most definitely in advance any branch attendance. This is especially so in circumstances where the Provider's policy is to request identification in order to carry out an account closure request/instruction. I do not accept it was reasonable to wait until the Complainant attended the branch with the intention of closing her account to only inform her at this point in time of the need for valid identification and a completed Account Closing form. Accordingly, it is my opinion that the Provider did not communicate the requirement for valid identification in order to carry out an account closure instruction in an appropriate manner.

However, as matters transpired, the Complainant had valid identification with her at the time, which fortunately, prevented the inconvenience of having to return to the branch a second time with the required identification to enable the closure of her own account.

In a submission dated **29 September 2020**, the Provider advised that the Complainant's identification documentation was presented at, and retained by, Branch A on **21 February 2019**.

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While the Complainant may have provided identification documentation to the Provider on a number of occasions prior to **29 March 2019** and as recently as **21 February 2019**, I accept that it is reasonable for the Provider to request that the Complainant provide valid and up-to-date identification when seeking to carry out particular transactions in respect of her account, such as the closure of her account.

I also note, in her Complaint Form, the Complainant states that the Provider has a duty of care to safeguard her information and that it is failing to do so if its needs to keep asking for identification documentation. In this respect, I note that the Provider's request for identification on **29 March 2019** does not appear to have arisen from any loss or destruction of the identification documentation previously provided by the Complainant or the need to update its records. As noted above, the Provider's request for identification was in the context of the Complainant's particular instruction to close her account and verify her identity.

Accordingly, while I accept that there were serious shortcomings on the part of the Provider in terms of its account closure process, I am not satisfied that there was anything unreasonable or wrong in the Customer Service Advisor requesting identification in respect of the Complainant.

The Complainant made a formal complaint to the Provider on **29 March 2019**. In respect of the Complainant's sole/individual current account, the complaint related to the imposition of charges on her account which, she believed, was advertised as free banking for life and the requirement to pay an €18.00 charge in order to close her account. On considering the Provider's systems notes and Complaint Template, I accept that the Complainant's complaint was recorded with a reasonable amount of accuracy.

When it comes to the Provider's investigation of and response to a formal complaint, I note that the General Principles at Chapter 2 of the Code require the Provider to act in the Complainant's best interests and to handle complaints speedily, efficiently and fairly. In addition, Provision 10.7 states that the Provider must seek to resolve a complaint with a customer and Provision 10.9(d) states that the Provider must, in part, attempt to investigate and resolve a complaint.

However, when I review the Provider's Final Response letter dated **29 April 2019** ("the FRL"), I am quite disappointed and concerned at the manner in which the Provider responded to the Complainant's complaint. For instance, the Complainant made complaints in respect of two separate accounts: her individual account and her joint account. However, the FRL is incoherent and does not identify the specific complaints being responded to or the account to which each aspect of the response related.

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In light of the fact that the Complainant made separate complaints in respect of separate accounts, it is my opinion that the Provider should have responded to the complaint by reference to each account separately, whether in the same Final Response letter or separate Final Response letters.

Further to this, the Provider does not appear to have responded to the first aspect of the complaint in respect of the Complainant's individual account regarding the provision of free banking. It is not clear why, and the Provider has not offered any explanation as to why this aspect of the complaint was not responded to.

In respect of the Provider's response to the second aspect of the complaint, I am not satisfied that the Provider offered a satisfactory explanation as to why the Complainant was required to pay the €18.00 charge. In the course of the conversation on **29 March 2019**, the Complainant gave the impression that the charge specifically related to her request to close her account, a sentiment which also appears to have been reflected in the Provider's record of this aspect of the complaint. In particular, I note the use of language such as "*fine*" in the system note dated **30 March 2019**. However, on considering the FRL, I am not satisfied that the Provider clarified that this was not an account closure charge, but rather the quarterly maintenance fee. In addition, while the FRL referred to the charging of fees, it did not explain why a fee of €18.00 was applied to the Complainant's account. This is a particularly disappointing response in light of the fact that the Complainant considered that she was entitled to free banking in respect of her account, a matter which the Provider failed to address.

Finally, I note that the FRL incorrectly recorded the date of the Complainant's attendance at Branch A as **23 March 2019**.

Having considered this aspect of the complaint, I am disappointed with the very poor manner in which the Provider responded to the complaint. The Provider failed to properly investigate, address and respond to the Complainant's complaint as it related to her individual current account.

There can be no doubt that the Provider's account closing procedures are confusing as they have been presented in relation to this complaint. Furthermore, its communication of these procedures was seriously lacking.

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### ***Goodwill Gesture***

In its Complaint Response, the Provider states that in light of the manner in which it addressed the Complainant's complaint, it would like to offer a goodwill gesture in the amount of €500.00.

Given that the Complainant did succeed, during her visit to the Provider's Branch, in closing her account, I accept that the Provider's goodwill gesture is reasonable in the circumstances.

For this reason, I do not 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.**



**GER DEERING  
FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

7 September 2021

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,

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**(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.**

