



<u>Decision Ref:</u>	2021-0341
<u>Sector:</u>	Banking
<u>Product / Service:</u>	Current Account
<u>Conduct(s) complained of:</u>	Failure to provide notification /reason for closure
<u>Outcome:</u>	Rejected

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

The Complainant held a current account with the Provider. The Provider wrote to the Complainant on **17 January 2019** notifying him of its intention to close the account in the next 60 days. The account was closed on **8 May 2019**.

The Complainant's Case

The Complainant explains that a former employer opened a personal bank account for him with the Provider in **2001**. The Complainant says he never had any problems with his account and his account balance “... *highly exceeds €10, I used account all the time, never breached the Bank's rules*”

The Complainant says he received an unclear letter from the Provider which contained a vague explanation of the Provider's decision to close his account. The Complainant submits that no clear reasons were given by the Provider for its decision in circumstances where reasons should have been given.

The Provider's Case

The Provider explains that the Complainant's account was opened on **27 July 2001** and was closed on **8 May 2019**.

The Provider states that pursuant to condition 22.2 of the *General Conditions*, it can cease offering current account facilities to a customer. The Provider refers to a letter addressed to the Complainant dated **17 January 2019** as giving notice of the closure of the account.

The Provider says that it is under no obligation to provide reasons for its decision to close an account. However, the Provider advises that “... *further to communication with the Complainant over a recent period prior to notice being given of the intention to close the account, [it] deemed the Complainant to be outside the Provider’s risk appetite.*”

The Provider advises that it wrote to the Complainant on **29 October 2018**, seeking up to date photographic identification and proof of address. The Provider states that it received items from the Complainant which were logged to its system on **18 December 2018**. The Provider advises that it would not seek to close an account immediately if a customer refused to provide up to date information. The Provider also advises that the Complainant’s account was not closed through lack of use or because it was dormant.

The Provider states that it notes its failure in not closing the account until **8 May 2019** despite notifying the Complainant on **17 January 2019** of its intention to close the account within 60 days of the date of the notification.

The Complaints for Adjudication

The complaints are that the Provider:

Wrongfully and/or unreasonably closed the Complainant’s account; and

Failed to provide any explanation or reasons for the closure of the Complainant’s account.

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 2 September 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.

Following the issue of my Preliminary Decision, the Complainant made a submission under cover of his letter to this Office dated 7 September 2021, a copy of which was transmitted to the Provider for its consideration.

The Provider advised this Office under cover of its e-mail dated 14 September 2021 that it had no further submission to make.

Having considered the Complainant's additional submission and all submissions and evidence furnished by both parties to this Office, I set out below my final determination.

Background

The Complainant wrote to the Provider on **11 January 2019** seeking an answer to a question that the Provider's branch staff members were unable to provide:

"... If I get €5 million from non E. U. country, from non Euro zone will I have to pay some tax or taxes or not? If yes, how much, please. Will I also be interrogated by anti-money laundering team of [the Provider] or Garda? Simply spoken I do need to know every single detail about getting big amount of money from non E. U. country which does not use Euro like an official currency. ..."

By letter dated **16 January 2019**, the Provider responded to the Complainant's request advising that the matters raised in his letter were outside of its remit and the Provider had no comment to make.

The Provider wrote to the Complainant on **17 January 2019** in respect of the closure of his account as follows:

"I advise you that with effect from 60 days of the date of this letter, [the Provider] is no longer prepared to offer you current account banking facilities.

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Please arrange to close your account [number] as soon as possible.

This request was made in accordance with the following terms and conditions of your personal current account.

[Clause 22.2]

Please find enclosed a copy of our terms and conditions for your records.

If the account is not closed within 60 days, the Bank will close your account. Any remaining balance due at that time will be forwarded to you. In addition all cards, direct debits and standing order instructions held by the branch (if any), will be cancelled and all cheques, direct debits and other debits on the account will be returned unpaid. ...”

In response to this letter, the Complainant wrote to the Provider on **25 January 2019**, requesting an explanation for the Provider’s decision to close his account.

The Complainant wrote to the Provider’s CEO on **29 January 2019** highlighting the absence of an explanation for the decision to close his account and requested that the Provider review its decision.

The Provider responded to the Complainant on **30 January 2019** as follows:

“... The Bank exercised its right to withdraw its services in accordance with the account terms and conditions. I refer to your Notice to Close letter, as follow:

[Clause 22.2]

The Bank regrets any distress that the Notice to Close letter may have caused you and please be assured that a decision to close a customer’s account(s) is never taken lightly. ...”

Analysis

Clause 22.2 of the account terms and conditions states that:

“We may end these terms and conditions and close your Account by giving you two months’ notice.”

Therefore, the Provider is entitled to close a customer’s account so long as two months’ notice is given. In this instance, the Provider notified the Complainant of its decision to close his account on **17 January 2019** and the account was subsequently closed on **8 May 2019**.

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Clause 22.2 does not require the Provider to give a reason or explanation for its decision to close an account. However, in its Formal Response to this complaint, the Provider advises that it deemed the Complainant's account to be outside of its risk appetite.

Given the nature of the question posed in the Complainant's letter dated **11 January 2019** and timing of the account closure notice, it appears that the Provider's decision to close the account was most likely influenced by this letter. It would appear that at the time of the Complainant's request for an explanation regarding the Provider's decision, there is likely to have been an explanation. However, this explanation was not communicated to the Complainant despite his request.

The Complainant was required to make a complaint to this Office in order to obtain the reason for the closure of his account. This is somewhat unacceptable, and it is disappointing that the Complainant had to go to such lengths to obtain a response to his request. There does not appear to have been any legitimate basis for the Provider withholding the reason for its decision to close the Complainant's account.

If the Provider did not wish to disclose the reason for its decision to close the account or if no reason in fact existed, given the wording of the clause 22.2 (in that it does not expressly state or make clear that reasons do not have to be given) and the language of the Provider's correspondence dated **17 and 30 January 2019**, I think it reasonable to expect the Provider to have clarified that it was not obliged to provide a reason for its decision by reference to clause 22.2, instead of simply citing this clause in its correspondence.

Goodwill Gesture

The Provider states that:

"Whilst the Provider is of the view that the failure to close the Complainant's personal current account would have operated to the benefit of the Complainant, the Provider wishes to offer the sum of €500.00 in full and final settlement of this complaint, in recognition of the delay in closing the current account."

In my Preliminary Decision I indicated that I considered this goodwill gesture to be a reasonable sum of compensation for the customer service failings on the part of the Provider. In a post Preliminary Decision submission, the Complainant states:

"...the figure of €500.00 "could be acceptable ONLY and STRICTLY for a delay to close my bank accounts. This amount is NOT ADEQUATE, SUFFICIENT as a final settlement as this illogical decision caused me troubles. €5,000 [is] required in my official, formal complain is not (super) high. Especially for a bank. It is a very reasonable, very moderate final compensation".

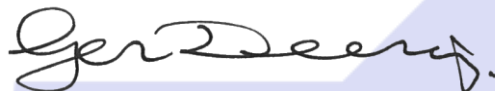
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I remain of the view that €500 is a reasonable sum of compensation for the customer service failings on the part of the Provider. In these circumstances, on the basis that this offer remains available to the Complainant, I do not uphold any aspect of 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**

29 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,**
 - (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.