



<u>Decision Ref:</u>	2021-0460
<u>Sector:</u>	Banking
<u>Product / Service:</u>	Banking Online Facility
<u>Conduct(s) complained of:</u>	Disputed transactions Complaint handling (Consumer Protection Code) Dissatisfaction with customer service
<u>Outcome:</u>	Rejected

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

This complaint relates to the asserted disappearance of funds on the Complainant's account statements.

The Complainant's Case

The Complainant holds a current account with the Provider. He submitted that when money is periodically credited to his account, a portion of the funds disappear.

In his Complaint Form of **29 January 2020**, the Complainant stated:

"[W]hen my payment comes through every Tuesday night around midnight the money goes missing but when I do my calculations the balance reads correctly but I know that money to value €80-€100 is gone and not accountable for."

The Complainant asserts that this type of occurrence had happened with another account he held with the Provider. He submitted that, after complaining to the Provider, this conduct was corrected.

In an email to this office of **2 April 2020**, the Complainant further explained:

“For example, last night my available balance showed roughly €257. I only work off available funds. I made two purchases this morning, totalling approximately €63. This would have implied that my available funds would now be €194 and the two purchases would be held up on pending until the retailer applied for their funds. However, my available funds now only show €170 and not €194

*This is what I believe is happening,
When the pending transactions that have already been deducted from my available funds are applied for by the retailer, the amount is taken from my available funds a second time and then move out of pending and onto the transactions balance. So when I go to calculate the balance it all adds up and no money appears to be missing but that isn't the case as I haven't spent that amount money (sic).”*

The Complainant submitted that this does not happen on all transactions on to his account, but that it has become more frequent since the start of **2020**.

The Provider's Case

The Provider states that the Complainant's account is paperless. As such, the Complainant can view his balance and electronic statements by logging into his online account, or by using the Provider's phone application.

The Provider states that it was difficult to collate a detailed timeline of the events in question, as the Complainant did not dispute any specific transactions. However, it did note that the Complainant attended at its branch on **2 April 2020** to discuss the balance on his current account. A formal complaint was logged, and then closed, as the Complainant accepted the Provider's explanation that pending debit card transactions would decrease the available balance.

The Provider submits that it has reviewed the Complainant's account in full and *“can find no evidence of any incorrect balance calculations”*. It states that it explained to the Complainant that it would fully investigate any miscalculations if the Complainant provided further details to the Provider. It states that the Complainant has not provided these requested details.

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In response to the Complainant's assertion that on **2 April 2020** his balance should have read €194 (one hundred and ninety-four Euro), and not €170 (one hundred and seventy Euro), the Provider states:

"The Bank refutes the Complainant's assertion..."

As noted below, as of the 2 April 2020, the Complainant's actual account balance was €257.00 however the available balance was €165.52 due to the 5 pending transactions on the account. It is noted however that had the Complainant checked his available balance prior to 21:47 on 2 April 2020, the available balance would have been €170.42.

...

The Complainant states in his submission that he recalls authorising two transactions on 2 April 2020 totalling €63. Based on his comments, the Bank assumes that the Complainant recalls authorising an amount of €41.99 to [Merchant] and an amount of €21.40 to [Merchant] (€41.99+€21.40=€63.39) on 2 April 2020. The Complainant is correct in saying that these two transactions were placed on hold on his account pending payment to the merchants. However, the Complainant's authorised transactions of €4.00 on 31 March 2020 to [Merchant], €19.19 on 1 April 2020 to [Merchant] and €4.90 on 2 April 2020 to [Merchant] would also have been placed on hold on the Complainant's account pending payment to the merchants. As a result, these five transaction amounts totalling €91.48 would have been deducted from the Complainant's Available Balance amount on his online banking statement, and appeared as pending transactions on his account. Therefore while the Complainant's Actual Balance was noted as €257.00, his Available Balance was €165.52 at end of day on 2 April 2020 (and €170.42 prior to 21:47 on 2 April 2020)."

The Provider submits that it is satisfied that the calculations of the Complainant's account balance are correct, and that there is no evidence to suggest that there are any funds missing from the account.

In relation to the Complainant's submission that this issue was previously corrected by the Provider for a similar issue on his other account, the Provider rejects this assertion. It states that it did not amend the Complainant's account or take any action in the way suggested by the Complainant.

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This office asked the Provider if it was satisfied that it had complied with its obligations under the **Consumer Protection Code 2012** (CPC), General Provision 4.1. The Provider responded that, as there was no evidence of any discrepancy on the Complainant's account, it was difficult to confirm what information would have been required. However, it states that it is satisfied that its **Terms and Conditions** and its product brochures fully outlined the features of the Complainant's account.

The Provider states that the length of time that transactions remain 'pending' for, may differ with the type of transaction made. A Point of Sale transaction may appear immediately as a pending transaction on the Complainant's account, whereas a Contactless transaction may not appear for a number of hours. The Provider was not able to confirm if this is what happened, as no specific disputed transaction was highlighted by the Complainant.

The Complaint for Adjudication

The complaint is that the Provider is incorrectly administering the Complainant's account statements, wherein it appears that money is disappearing from the account on random various occasions.

The Complainant wants the Provider to resolve the issue to ensure that it doesn't happen again.

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 8 November 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.

Evidence

On pages 35 to 36 of the Provider's **Terms and Conditions** booklet, dated **4 December 2019**, the following is stated:

"8 ACCOUNT BALANCE INFORMATION

(a) While we currently operate a real-time on-line system, which enables immediate updates to Accounts, the time necessary to complete the processing of instructions and requests may vary depending on whether they can be immediately processed and the nature of the instruction or request. Accordingly, the User acknowledges that account balance information given through the [online service] is as up-to-date as our systems permit at the time of the User's enquiry but it may not reflect transactions that are in hand but which still have to be processed or verified. For example, it may take account of a cheque which has been lodged to the Account but which has not yet cleared, if that cheque is returned unpaid we will debit the Account with the amount of the cheque. We will not be liable for any loss suffered by reason of any Account balance information not being accurate or up-to-date."

The following is an extract from the **Transaction History Log** of the Complainant's account:

Selectic	Date	Re	Description	Withdraw	Depos	Balance
15	02/04/20	000000	[REDACTED] F 31/03 1	14 00		280 0
16	02/04/20	000000	[REDACTED] 29/03 16 18 7	23 00		257 00

Selectic	Date	Re	Description	Withdraw	Depos	Balance
1	03/04/20		[REDACTED]		156 00	413 00
2	03/04/20	000000	[REDACTED] 01/04 1	19 19		393 81
3	06/04/20	000000	[REDACTED] 02/04 0	41 99		351 82
4	06/04/20	000000	[REDACTED] 31/03 11 05 3	4 00		347 82
5	06/04/20	000000	[REDACTED] 02/04 2	4 90		342 92

Analysis

The Complainant contends that funds are regularly disappearing from his account. He speculates that the funds are mistakenly calculated and taken from his account twice.

However, the Complainant has not disputed any of the charges shown above in the **Transaction History Log** and accepts that *"it all adds up"*.

Notably, the Complainant is not seeking the return of funds from the Provider. The complaint is that his account statements incorrectly depicted funds disappearing from his account. He wants the Provider to resolve the issue so that it does not reoccur.

The Provider's position is that when the Complainant checked his Available Balance, it did not yet show the previous transactions pending on his account. As such, the updated balance shown after the credit of funds to the account was less than the Complainant had anticipated. It could not identify any miscalculations with the account.

I accept that the Provider has given a satisfactory explanation of why the Complainant's account appeared to show a lesser Available Balance on the account. In circumstances where the Complainant has not pointed out which transactions he disputes and has not identified the particular funds that appear to be missing from his account, I do not believe that the Complainant has provided this office with sufficient evidence to show the maladministration of his account. In particular, I note that the example given of the transactions on **2 April 2020** can be cross-checked against the Complainant's **Transaction History Log**. This does not appear to show any double-calculation or loss of funds.

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In relation to the assertion that the Provider's statements incorrectly showed funds to be missing from the account, I note that the Provider outlined in its **Terms and Conditions** that account balance information may not be up-to-date, as pending transactions may not be reflected on the system. As such, I believe that the Provider has complied with General Provision 4.1 of the CPC in this regard.

Having considered all of the evidence and submissions, I do not accept that the Provider incorrectly administered the Complainant's account statements. Therefore, I do not uphold the 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

1 December 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.