



<b><u>Decision Ref:</u></b>	2022-0049
<b><u>Sector:</u></b>	Banking
<b><u>Product / Service:</u></b>	Switching Accounts
<b><u>Conduct(s) complained of:</u></b>	Maladministration Dissatisfaction with customer service
<b><u>Outcome:</u></b>	Rejected

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

This complaint concerns the current account which was held by the Complainant with the Respondent Bank ('the Provider') which he closed in **April 2019**, as part of the process of switching his payment account to another bank ('the new Bank').

#### **The Complainant's Case**

The Complainant states that, until April 2019, he held a current account at a branch of the Provider and, having decided to switch to it to another bank, he opened an account with the new Bank. He explains also that "[he] *filled in a form in the [new Bank branch] to switch [his] direct debits over from [the Provider] to [the new Bank]*". He says that he closed his current account with the Provider on **11 April 2019**.

The Complainant then says that he received a telephone call from the new Bank, on **17 April 2019**, to inform him that the Provider had returned the form that had been completed to permit the transfer of the direct debits from the account with the Provider to the new account. It was stated that this was because the Complainant's signature on that form, did not match the signature held by the Provider on its files.

The Complainant submits that, as his account with the Provider was then closed, and because the direct debits on that account had not migrated to his new account, one of his utility bills was returned unpaid (although the relevant provider agreed to waive the charge that thereby arose). He says that he was fortunate in that his mortgage direct debit was not returned unpaid, but this was only because he took time off work and delivered a new mandate to the new Bank in time to prevent an unpaid situation arising.

The Complainant also sets out details of his contacts with the Provider following his first telephone call to the Provider on 17<sup>th</sup> April 2019. He explains that he asked the Provider to supply him with a copy of his signature that it held on its files, because the reason for the Provider having declined to furnish the new Bank with the direct debit information, was because of non-matching signatures.

The Complainant states that the Provider's customer service agent said that he "*would check it out and come back to [him]*" and that after a number of further telephone calls, he received the first of the Providers Final Response Letters, dated **10<sup>th</sup> May 2019**. While the Provider made an offer of a goodwill gesture, the Complainant did not accept this and says that he wrote to the Provider to again ask for a copy of his signature that it held on its files.

The Complainant states that there followed a series of telephone contacts, including on the following dates, 27<sup>th</sup> May 2019; 5<sup>th</sup>, 12<sup>th</sup>, 14<sup>th</sup>, 20<sup>th</sup>, 24<sup>th</sup>, 27<sup>th</sup> and 28<sup>th</sup> June 2019; 3<sup>rd</sup> and 5<sup>th</sup> July 2019 and 6<sup>th</sup> and 7<sup>th</sup> August 2019. He explains that during this time, he received the Provider's second Final Response Letter, dated **12<sup>th</sup> June 2019** which contained an offer of an increased goodwill gesture. He asserts that he has not, as yet, been given a copy of his signature that the Provider holds on its files.

In his complaint form, the Complainant argued that the Provider did not raise any query regarding his signature, when he attended at his branch on 11<sup>th</sup> April 2019 for the purpose of closing his account, at which point he says, if any issue had arisen, it could have been resolved. The Complainant says that the Provider closed the account as requested and transferred the balance of funds into his account in the new Bank.

The Complainant has indicated that he submitted a Subject Access Request to the Provider and, at the time he made his complaint to this Office, he had not received the Provider's response. He has since submitted a copy of correspondence from the Provider regarding the delay which arose in dealing with the Subject Access Request.

In his Complaint Form, when asked how he would like the complaint to be resolved, the Complainant stated as follows:

*"Cost involved couldn't put a figure as it took up a lot of time and resources and still counting."*

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

The Provider has set out its response to the Complainant's complaint in two Final Response Letters, the first dated 10<sup>th</sup> May 2019 and the second dated 12<sup>th</sup> June 2019. In both letters, the Provider maintains that, "*no bank error*" occurred. In the first of those letters the Provider did not uphold the complaint made by the Complainant and offered him €25.00 "*as a gesture of goodwill*" and "*to cover any costs incurred in light of the issue*".

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In the second letter, the Provider re-affirmed its decision not to uphold the complaint made by the Complainant. It offered to increase the amount of the goodwill gesture to €125.00, to take into account that the Complainant *“had to contact all [his] direct debit originators manually to provide [his] new account details”*.

The Provider, in its response to this office, offered increased compensation in the amount of €1,500 *“as an apology for any lapse in customer service”* and *“in recognition of the service shortcomings”*. The offer was subsequently increased again to €2,500 in an email of 10 June 2021.

### **The Complaint for Adjudication**

It should be noted that matters pertaining to a Subject Access Request, or a complaint relating to a breach of data protection legislation and regulations, are outside the jurisdiction of this Office and are properly matters to be addressed to the Data Protection Commission. Therefore, while information has been received regarding the provision of information to the Complainant, this investigation addresses this aspect of the complaint only from the perspectives of financial service regulation and customer service.

The complaint is that the Provider wrongfully failed to accept and properly process the request from the Complainant’s new bank, to facilitate the switching of direct debits associated with the Complainant’s current account, in accordance with the requirements of the Regulations and associated Code of Conduct.

The Complainant says that in his dealings with the Provider concerning the transfer of the direct debits associated with his account (which the Complainant was closing) and his subsequent request to be given a copy of his signature held on the Provider’s file, the Provider wrongfully failed to provide him with an appropriate and acceptable standard of customer service.

### **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 **17 January 2022**, 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.

As part of the documentation submitted to this Office, the Provider supplied a copy of the signed 'Account Switching' form and a copy of the signature of the Complainant it had saved in its records (referred to below as the 'sample signature'). On foot a query raised by the Complainant, the Provider clarified that the copy of the Complainant's sample signature that it had saved in its records was drawn from the account 'Opening Form' which was completed by the Complainant in **July 1996** when the account was opened. The signature saved by the Provider as the sample signature is a precise copy of the Complainant's name as entered after the word "*signed*" on this account 'Opening Form'.

It is apparent that the signature on the 'Account Switching' form and the sample signature are different, most obviously insofar as the signature on the 'Account Switching' form is in cursive (joined) writing, whereas the sample signature held by the Provider is in block script. In such circumstances, it appears to me to have been reasonable for the Provider to decline to execute the account switching request prior to the provision of further detail. It is nonetheless clearly regrettable that these documents were not supplied to the Complainant at an earlier time, as he had repeatedly requested, including in the course of various phone calls. This might indeed have avoided the necessity of this complaint.

The 'Account Switching' form (identifying Monday 08 April 2019 as the requested 'switch' date) was completed by the Complainant on 04 March 2019 however it was not received by the Provider from the Complainant's new Bank until Tuesday 02 April 2019. On 09 April 2019, the Provider reverted by letter to the Complainant's new Bank indicating that the 'Account Switch' could not be completed as the Provider was "*unable to verify customer*".

The letter of 09 April 2019 notes that a phone call was made by the Provider to the Complainant's new Bank on the same day. No recording has been made available but, whatever discussion was had, it would seem that the Provider's position, as communicated to the Complainant's new Bank on 09 April 2019, may not have been brought by the Complainant's new Bank, to the Complainant's attention until a phone call from the new Bank to the Complainant on 17 April 2019 (per the Complainant's account).

This unfortunate delay caused problems because, on Thursday 11 April 2019, the Complainant attended at a branch of the Provider and proceeded to give instructions for the closing of his account, with this action ultimately being actioned on Monday 15 April 2019. This meant that the Complainant's various direct debits were destined to fail given that the account from which they had historically been paid had closed, and given that they had yet to be migrated to the new account.

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Whilst the Provider was not afforded adequate time to effect the account switch in advance of the requested 'switch' date (six days amounting to three clear working days only), it would clearly have been far preferable if the fact that the direct debit switch request had been rejected by the Provider, had been communicated to the Complainant on 11 April 2019 when he attended at the Provider's branch. Had this information been imparted, there is every chance that the Complainant would have delayed the closure of his account with the Provider. That said, I note that the Complainant did not ultimately suffer any financial loss, in terms of missed payment penalties or similar costs, but rather he complains because of the inconvenience caused to him.

The Provider has now acknowledged certain general "*service shortcomings*" and has offered compensation, initially in the amount of €1,500 which was expressly stated to "*remain open to the Complainant indefinitely*" (earlier offers of €25 and €125 were made without appropriate acknowledgement of shortcomings). I note that the offer was then increased to €2,500.

The shortcomings giving rise to the offer seem to me to have been a failure to bring to the Complainant's attention on 11 April 2019, the fact that the direct debit switch had not been executed, the prolonged failure to provide to the Complainant the signature samples which had been requested on multiple occasions and on which the Provider had relied in rejecting the switch request, and the failures to provide return phone calls (inclusive of an inaccurate denial that this had been promised).

In the circumstances, I am satisfied that the Provider has now (albeit belatedly) acknowledged and addressed those issues. I am also satisfied that the compensation offered is adequate. In coming to my decision, as already noted, I have had regard to the paucity of time afforded to the Provider to effect the account switch, in advance of the requested 'switch' date. I have also had regard to the fact that the Complainant suffered no specific financial loss in terms of missed payment penalties.

In light of the foregoing, I do not consider it appropriate to uphold this complaint, as the Provider, when responding to the formal investigation of this complaint, acknowledged its wrongdoing and made an appropriate compensatory offer to redress the inconvenience which was caused to the Complainant and it will be a matter now for the Complainant to communicate directly with the Provider if he wishes to accept that reasonable offer of compensation. Since the preliminary decision of this Office was issued in January 2022, the Complainant has raised a query in that regard as to how to make contact with the Provider, from which it appears that he may wish to accept the compensatory measure which has been offered. The Provider may wish in those circumstances to make direct contact, in order to expedite the conclusion of that aspect of the matter.

Insofar as the Complainant has, subsequent to his original complaint made to this Office, raised criticisms about various other transactions that *were* permitted notwithstanding the signature anomaly, this more recent complaint is a new matter which will need to be raised directly with the Provider by the Complainant, so that it can be given an opportunity to address this new aspect of the matter.

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If then, having received the Provider's Final Response Letter in that regard, the Complainant wishes to pursue this separate matter, a new complaint can be made to this Office, in the usual way.

### **Conclusion**

My Decision, pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is rejected.

**The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.**



**MARYROSE MCGOVERN**  
**Financial Services and Pensions Ombudsman (Acting)**

8 February 2022

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.**