



<u>Decision Ref:</u>	2022-0265
<u>Sector:</u>	Banking
<u>Product / Service:</u>	Car Finance
<u>Conduct(s) complained of:</u>	Refusal to grant consumer credit Dissatisfaction with customer service
<u>Outcome:</u>	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

This complaint concerns a loan account application.

The Complainant's Case

The Complainant submits that he sought to replace his motor vehicle and that he applied for a loan, with the Provider, in **September 2019**.

The Complainant further submits that the Provider subsequently informed him that he *"would not get a loan anywhere"*. The Complainant contends that, at this time, the trade-in value of his motor vehicle was €5,000.00.

The Complainant submits that in **January 2020** his motor vehicle broke down completely and when he contacted the Provider in relation to a loan, he was informed again that he *"would not get a loan anywhere"*. The Complainant contends that, at this time, his motor vehicle was *"worth nothing"*.

The Complainant submits that he subsequently applied for a loan with *"two other places"* and that he was approved for a loan *"in 24 hours"*. The Complainant also says that subsequently, he was approved for loans with other providers.

The Provider's Case

In its Final Response Letter date **28 January 2020**, the Provider advised that this complaint stems from the Complainant's loan application on **16 September 2019**. The Provider submits that the Complainant's application was declined following its consideration of information available from the Central Credit Register and Irish Credit Bureau.

The Provider asserts that this was explained to the Complainant by a staff member at the time of the decline.

In its letter to the Complainant dated **24 August 2020** the Provider made an offer of **€200.00** to the Complainant as a "*gesture of goodwill*" in full and final settlement of this complaint. This offer was expressly stated to be "*in recognition of the typographical error in the final response letter*".

The Complaint for Adjudication

The complaint is that the Provider wrongfully advised the Complainant that he "*would not get a loan anywhere*" when in fact, he was able to secure loans from other providers.

In his Complaint Form, when asked how he wished for his complaint to be resolved, the Complainant stated that if he had been:

*"... correctly advised by [the Provider] in **September**, [he] would have got the loan and had a trade in value of €5,000 which is a lot of money to me maybe not the bank, but to my family. An apology from the bank and more understanding management would also be nice."*

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 **14 July 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.

I note that the Complainant takes issue with the refusal by the Provider, on two separate occasions, to grant him a loan which he needed to purchase a new car, instead telling him that he *'would not get a loan anywhere'*. The Complainant highlights that, upon the second rejection by the Provider, he sought finance elsewhere and he was granted two loans within 24 hours.

The Complainant contends that, in the intervening period, his existing car suffered a devaluation of €5,000 (arising from a blown 'main board') such that he essentially lost this money, in terms of trade-in value.

The Complainant characterises the Provider's refusal to grant him a loan as unreasonable conduct by the Provider, and he states his opinion that *"a government owned bank should do more"*.

I note that in a letter of **31 January 2020**, the Complainant states that:

"... an institution or bank like yourself that is 75% owned by the taxpayer, really should try to make a better go of customer service"

before going on to reference the loans secured from other institutions. The Complainant goes on to state that he refuses *"to accept that [he] can get a loan anywhere else bar my own bank."*

I note that the Provider, for its part, in its Final Response Letter dated **28 January 2020**, gave the following explanation:

In advance of granting you a credit product of any type, we check your credit rating against the Central Credit Register and the Irish Credit Bureau. This information provides the bank with an assessment of your credit facilities and thus supports a full and accurate assessment of your ability to repay further credit advances.

Unfortunately your credit application has been declined following a consultation with the Central Credit Register and/or the Irish Credit Bureau.

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I also note that the staff member who took the application provided you with the information above at the time of decline, and more recently in email conversations just last week, and he again outlined the difficulties.

The decision as to whether to grant a loan to any individual, is a commercial decision over which a financial service provider enjoys a discretion. It is not the function of this office to act as a final appeal for applications for loans. In the absence of evidence of wrongdoing by the Provider or conduct within the terms of **Section 60(2)** of the **Financial Services and Pensions Ombudsman Act 2017** that could ground a finding in favour of the Complainant, this Office will not interfere with the discretion of any financial service provider in its decision as to whether or not to grant loan facilities and, in that event, its decision regarding the rate of interest or any other conditions.

In terms of this specific complaint, I accept on the evidence before me that the Provider refused the Complainant's loan request, based on its own policy regarding lending criteria, and following an individual assessment of the information available from the Irish Credit Bureau and the Central Credit Register. In adopting that approach, I take the view that the Provider acted reasonably. As noted above, a lending institution has a broad discretion (subject to the provisions of any relevant codes or legislation) over a commercial decision such as whether to accede to an application of this nature, and on the facts of this matter, I do not consider it appropriate to interfere with that discretion.

A portion of the Complainant's complaint includes the contention that he was advised by the Provider that he *'would not get a loan anywhere'*. This aspect of the complaint did not form part of the Complainant's initial complaint to the Provider, or part of the sequence of events detailed by him at that time. The Provider's employee states that she has *"no recollection of telling [the Complainant] he won't get approval elsewhere as this wouldn't be my concern"*.

Whatever discussions ensued between the Complainant and the Provider's representative, about the prospects, if any, for the Complainant to secure loan facilities elsewhere, there is no independent evidence available that the Provider's representative suggested to the Complainant that he would be unlikely to secure facilities elsewhere or indeed, that this would not be possible at all. In circumstances where staff members working for the Provider will not have access to the details of lending criteria of other financial institutions, I consider it unlikely that the Provider's staff member made a comment in such terms, though it is of course possible that the staff member in question could have referenced the potential difficulties which are typically thrown up by information registered with the Central Credit Register (or previously with the Irish Credit Bureau in 2019). In my opinion, the Complainant was, at all times, at liberty to consult with other lenders and, indeed, I note that he did so after the second refusal. I don't consider it appropriate however to hold the Provider responsible for the Complainant's failure to make such enquiries, at an earlier stage.

Finally, I note the offer of compensation in the amount of **€200.00** to the Complainant as a *"gesture of goodwill"* in full and final settlement of this complaint.

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This offer was expressly stated to be “*in recognition of the typographical error in the final response letter*” and the Provider’s response to this Office clarifies that the error in question was contained in the salutation which referred to ‘Mr [Complainant’s forename]’ rather than to ‘Mr [Complainant’s surname]’.

This, in my opinion, is a matter of limited impact overall, but I note the Provider’s reasonable attempt to resolve this more minor issue and I note that the Provider has stated that its offer remains open for acceptance.

In those circumstances, it will be a matter for the Complainant to decide as to whether or not he wishes to accept that compensatory measure, which remains open to him from the Provider to accept. In that event, he should notify the Provider expeditiously as the Provider cannot be expected to hold that compensatory offer open to the Complainant indefinitely.

Insofar as the substantive complaint is concerned however, on the basis of the evidence available, I do not consider it appropriate to 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.



**MARYROSE MCGOVERN
FINANCIAL SERVICES AND PENSIONS OMBUDSMAN (ACTING)**

16 August 2022

PUBLICATION

Complaints about the conduct of financial service providers

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.

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Complaints about the conduct of pension providers

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will **publish case studies** in relation to complaints concerning pension 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.

