

The complaint

Mr W complains that Bank of Ireland (UK) Plc (Bank of Ireland) unfairly closed his accounts.

What happened

The facts of this case are known to both parties so I will summarise below.

Mr W had two business accounts with Bank of Ireland, which he'd had for a number of years. Mr W has explained that he used the accounts to receive rental payments and pay bills associated with rental properties including repairs. He's said he also used one of the accounts to make payments towards a loan he had with another financial business.

Bank of Ireland wrote to Mr W explaining that it was completing a review of Mr W's accounts and needed some information from him which required Mr W to provide certified documents to the bank to verify his identity and address. Mr W complied with the request and supplied documents certified by a solicitor. However, the certification was done by a non- practicing solicitor. Following this Bank of Ireland decided to close Mr W's account immediately in October 2020. It didn't give Mr W a reason for the closure.

Mr W has said the immediate closure caused financial problems for him in that his monthly loan payments weren't able to be made and the loan fell into default. He also said he had to go to the trouble of arranging alternative means for tenants to make rental payments to him. It was also difficult to find a new account in the UK, although this was eventually done. Unhappy with the bank's decision to close his accounts, Mr W submitted a Data Subject Access Request (DSAR). In response he received some internal communications from Bank of Ireland which suggested the account had been closed because he'd provided ID documents which were fraudulent, which Mr W found very upsetting.

Mr W complained to Bank of Ireland about the closure of his accounts. He said Bank of Ireland didn't specify the documents needed to be certified by a practicing solicitor nor had it given him the opportunity to clarify or correct this before closing his accounts. He's also pointed to legislation which he says confirms that the definition of a solicitor includes a solicitor that doesn't hold a practicing certificate. He's said that had the bank gone back to him and explained this, he would have happily resubmitted any information needed. Bank of Ireland said that staff responsible for requesting the information and involved in Mr W's account review no longer worked at the bank. So, it couldn't complete a full investigation of what had happened. Bank of Ireland offered Mr W £50 compensation for any trouble and upset failing to contact him about the documents had caused.

Unhappy with Bank of Ireland's actions, Mr W brought his complaint to this service. Our investigator didn't uphold his complaint. She explained that Bank of Ireland had acted within the terms and conditions when closing the accounts and it didn't have to provide its reasons for doing so to Mr W.

Mr W disagreed. He pointed out that Bank of Ireland has confirmed to him that the only reason it closed Mr W's account immediately was because of the issue with the document

certification. He pointed out that a person can be a solicitor and not hold a practicing certificate because when qualified, all solicitors are entered onto the roll of solicitors, where they remain unless they are removed.

Mr W says Bank of Ireland had no reason to reach a conclusion of fraud or criminal activity that would warrant a closure of his accounts without notice. He also explained that he and his business still have many accounts with Bank of Ireland, ROI.

As no agreement could be reached the matter came to me to decide. Having looked at all the evidence I issued a provisional decision in which I said the following;

I'm very aware that I've summarised the events in this complaint in far less detail than the parties and I've done so using my own words. No discourtesy is intended by me in taking this approach. Instead, I've focused on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I do stress however that I've considered everything that Mr W and Bank of Ireland have said before reaching my decision.

I would add too that our rules allow us to receive evidence in confidence. We may treat evidence from banks as confidential for a number of reasons – for example, if it contains security information, or commercially sensitive information. Some of the information Bank of Ireland has provided is information that we considered should be kept confidential. This means I haven't been able to share a lot of detail with Mr W, but I'd like to reassure him that I have considered everything.

I'll deal first with Bank of Ireland's decision to review Mr W's accounts. Bank of Ireland has important legal and regulatory obligations it must meet when providing accounts to customers. These obligations are ongoing, so do not only pertain to when an account is opened. To comply with its obligations Bank of Ireland may need to review an account and ask customers for information in order to comply with these obligations.

Having looked at all the evidence, I don't believe it was unreasonable in the circumstances for Bank of Ireland to ask Mr W for information. Bank of Ireland has explained that this was its standard procedure, and I accept that it was. The information Bank of Ireland was asking Mr W to provide is fairly standard information that banks, and other financial businesses are required to have in order to adhere to the Know Your Customer (KYC) responsibilities (also known as Customer Due Diligence or CDD), as set out by the regulator - the Financial Conduct Authority. So, I can't say Bank of Ireland treated Mr W unfairly when it asked him to provide information.

However, having looked at all the available evidence, including the unredacted documents Mr W obtained from submitting a DSAR, I don't think Bank of Ireland treated Mr W fairly when it reviewed the documents Mr W provided. I say this because although I accept that it is within Bank of Ireland's prerogative to have documents certified by a practicing solicitor, I haven't seen anything to suggest Bank of Ireland specified this requirement to Mr W at any point. And having reviewed Bank of Ireland's policy around document certification, it does say that if the document doesn't meet the required standards, it should be returned to the customer and re-certification requested to the appropriate standards. Bank of Ireland didn't do this and so I can understand why Mr W was upset especially given the suggestion in the DSAR documents that Mr W acted fraudulently in supplying the documents he did. Mr W has said that had the bank gone back to him, he would have either provided the original document or had it re-certified by a practising solicitor. And I have no reason to doubt that he would have done so.

From looking at the final response letter Bank of Ireland sent to Mr W dated 24 November 2021, it appears that the bank accepts that the service it provided to Mr W around its certification process fell short. And it offered Mr W £50 compensation for any trouble and upset he was caused by the bank failing to contact Mr W to explain that the documents he'd provided didn't meet its criteria. I think this is a fair and reasonable way to resolve this aspect of Mr W's complaint.

I next turn to Bank of Ireland's decision to close Mr W's accounts. I understand why Mr W believes the reason for the closure rests solely on the certification and I'm in agreement that this appears to be the main factor. But Bank of Ireland has also shared with this service in confidence additional rationale behind the closure. And having reviewed its reasons, whilst I'm satisfied Bank of Ireland was able to close Mr W's accounts under the terms and conditions, I'm not satisfied it treated Mr W fairly when it closed his accounts with immediate effect.

Bank of Ireland can close accounts in certain circumstances, and it sets this out in the terms and conditions of accounts. I've looked at the terms relating to Mr W's accounts, and they state the bank can close an account immediately – or give notice of around two months. Having reviewed all the information, I would expect to see stronger evidence than it has provided. As already mentioned, I'm not satisfied that the bank followed its process in terms of the document certification. It failed to ask any follow up questions or give Mr W an opportunity to provide further information when the certified documents were submitted to alleviate any concerns it may have had. Taking this into account, I have seen nothing that convinces me an immediate closure was warranted or permitted under the terms and conditions. Having looked at what's happened here, I think the bank should have given Mr W more notice.

Looking at the impact the immediate closure had on Mr W, I think Bank of Ireland should pay him £250 compensation for the trouble and upset he's been caused. It's clear that having no notice of the closure caused Mr W inconvenience and upset. He had to quickly arrange alternative ways for tenants to make rental payments and pay ongoing bills. I note too that Mr W has said that he fell into arrears with loan repayments. He's provided a letter from his loan company dated 5 November 2021 in support of what he's said. But having looked at the letter, I'm not satisfied that the immediate closure of Mr W's accounts led to the arrears. Mr W also hasn't explained why he couldn't continue to meet his loan repayments from elsewhere. When reaching this award, I've considered that Mr W would always have had to find another account elsewhere.

Putting things right

In order to put things right I said Bank of Ireland should do the following:

- *Pay Mr W £250 compensation for the trouble and upset caused by closing his accounts without notice.*
- *If it hasn't already done so, pay Mr W £50 compensation for failing to contact him to let him know that the documents he'd submitted weren't sufficient*

Bank of Ireland didn't respond to my provisional decision. Mr W did. In summary he said:

- He wants an explanation why his bank account was closed.
- He went to a great deal of trouble clarifying facts with the bank, but it still rejected his complaint and closed his account.

- The bank made very serious allegations of fraud and criminal behavior against him, which has caused him great distress and led to him seeking medical help.
- His good name has been damaged by these false allegations being circulated amongst staff at the bank and he wants this corrected. He also wants his credit rating to be changed if necessary. And an apology from the bank.
- He believes that the bank used untrained and inexperienced staff to save the costs of its compliance obligations. And it's no coincidence that the staff who dealt the KYC exercise relating to his account have now left the bank.
- He wants to know more about the additional information provided by the bank to our service and why this not been shared with him.
- Given the serious allegation of fraud made against him he should be awarded more compensation.

Now both sides have had an opportunity to comment I can go ahead and issue my final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

When considering what is fair and reasonable, I am required to take into account relevant law and regulations; regulator's rules, guidance, and standards; codes of practice; and where appropriate what I consider to have been good industry practice at the relevant time.

As Bank of Ireland didn't respond to my provisional decision, I see no reason to depart from my findings that it was incorrect to close Mr W's account immediately and should have provided notice.

In response to the provisional decision, Mr W has highlighted a number of concerns, which I'll now address below.

Mr W feels Bank of Ireland's complaint procedure didn't identify the issues I have with the closure of his account. I agree with him on this point and that is why I have upheld the complaint. It's clear Bank of Ireland felt that had a basis for closing Mr W's account immediately but as I've explained, I don't agree.

Mr W's is concerned about the expertise and experience of the staff involved in the KYC exercise concerning his account. I want to make it clear that whilst I understand the point Mr W makes, we're not the regulator of financial businesses and we don't police their internal processes or how they operate generally. It's not for me to tell the bank who it should employ or how it should train staff. If Mr W has concerns about the level of skill of the bank's compliance staff and its processes, he should direct this to the regulator, The Financial Conduct Authority.

Mr W says it is no coincidence that staff who carried out his KYC exercise no longer work at the bank, which means it can't complete a full investigation of what happened – in other words Bank of Ireland is covering up what's happened.

This is a serious allegation. We've asked Bank of Ireland about its rationale for closing Mr W's account. I would expect it to set out for our service the full details of all of its interactions with Mr W when asked to do so. And the events which led to the closure of Mr W's account.

I've not seen any evidence that would suggest it hasn't done so. And I don't think, as Mr W seems to fear, that there is anyone within Bank of Ireland who is deliberately misleading or withholding information from this service.

Mr W wants the bank to explain why it no longer wanted him as a customer. In addition to what I've already said in my provisional decision, I should explain that each financial institution has its own criteria and risk assessment for deciding whether to continue providing accounts and providing an account to a customer is a commercial decision that a financial institution is entitled to take. That's because it has the commercial freedom to decide who it wants as a customer. And unless there's a good reason to do so, this service won't usually say that a bank or financial business must keep a customer. But they must treat new and existing customers fairly.

At times, following a review, such as a KYC process, banks sometimes choose to end their relationship with customers. This can be due to a number of reasons and a bank isn't obliged to give a reason to the customer. Just the same as if Mr W decided to stop banking with Bank of Ireland, he wouldn't have to explain why.

I appreciate that it can't be pleasant being told you're no longer wanted as a customer. And I acknowledge what Mr W has said about how Bank of Ireland's actions impacted him – especially because he hasn't been told the reasons behind the bank's decision. But Bank of Ireland is under no obligation to tell Mr W the reasons behind the account review and closure, as much as he'd like to know. So, I can't say it's done anything wrong by not giving Mr W this information. And it wouldn't be appropriate for me to require it to do so. As long as this service can be satisfied the reasons for closing an account were legitimate, fair, and free from discrimination, then it is a decision the financial business is entitled to make.

Mr W wants to know more about the information that has been provided to us by the Bank of Ireland. As I set out in my provisional decision, some of the information Bank of Ireland has provided is information that I consider should be kept confidential. This means I won't be sharing this with Mr W. Our rules allow me to do this.

Our service's powers are set out in the DISP section of the Financial Conduct Authority's Handbook. DISP 3.5.2. says:

The Ombudsman may:

1. (1)
exclude evidence that would otherwise be admissible in a court of law or include evidence that would not be admissible in such a court;
2. (2)
where he considers it necessary or appropriate, accept information in confidence, so that only an edited version or (where this is not practicable) a summary or description is disclosed to the other party;

DISP 3.5.4. states;

For the purposes of DISP 3.5.2 R (2), evidence which the Ombudsman may accept in confidence includes confidential evidence about third parties and security information.

Mr W wants Bank of Ireland to apologise for accusing him of fraudulent behaviour. He says his good name has been damaged and fears his credit rating may have also been impacted by the bank's actions. But I've not seen any evidence that this is the case.

I recognise that Mr W has been very upset by the bank accusing him of fraud – which he discovered after submitting a DSAR to the bank. I've also read the medical report Mr W has kindly provided about how this matter has impacted him. Having done so, I consider the level of compensation I've suggested in my provisional decision is fair compensation for the distress and inconvenience Mr W was caused. So, I won't be increasing the level of compensation.

In reaching this conclusion I should explain that our awards are designed to reflect the actual loss, trouble, and upset caused to the consumer by something a financial business did wrong. We are not here to punish financial businesses. Nor can we award compensation as a means of punishing a business for a consumer bringing their complaint to this service. I've also not seen any evidence that the closure of Mr W's accounts and the suspicions held by the bank, has caused any damage to Mr W's reputation, or activities as a businessman. So, I cannot therefore find that Bank of Ireland is liable to pay any compensation for something there is no evidence of.

In summary, I appreciate that Mr W will be disappointed by my decision, but whilst I take on board Mr W's comments, I see no reason to depart from my provisional findings. I remain of the view that this complaint should be upheld for the reasons set out in my provisional decision, which are repeated above and form part of this decision. And I direct Bank of Ireland to settle the complaint as detailed below.

My final decision

For the reasons I've explained, my final decision is that I uphold M W's complaint against Bank of Ireland (UK) Plc. To put things right, Bank of Ireland (UK) Plc should do the following:

- Pay Mr W £250 compensation for the trouble and upset caused by closing his accounts without notice.
- If it hasn't already done so, pay Mr W £50 compensation for failing to contact him to let him know that the documents he'd submitted weren't sufficient

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 24 October 2023.

Sharon Kerrison
Ombudsman