

Ombudsman determination

CIFO Reference Number: 15-000047

Complainant: [The complainant]

Respondent: [Bank H]

It is the policy of the Channel Islands Financial Ombudsman (CIFO) not to name or identify complainants in any published documents. Any copy of this determination made available in any way to any person other than the complainant or the respondent must not include the identity of the complainant or any information that might reveal their identity.¹

This complaint concerns the conduct of [Bank H] in relation to the suspension of [the complainant's] account.

Background

First complaint

In 2013 [the complainant], a resident of [Country X], submitted a change of address request to [Bank H] with respect to his [jurisdiction 1]-based bank account. Upon receipt of this request [Bank H] identified missing information which they were required to hold in order to comply with their regulatory requirements.

In August 2013 [Bank H] contacted [the complainant] and requested proof of his [overseas] residential address. No response was received so in October 2013 [Bank H] sent a further letter to him asking for proof of address.

[The complainant] says that he forwarded the required information to [Bank H] on 13 November 2013. However, [Bank H] denies having received any documents and on 16 December 2013 they suspended [the complainant's] account.

[The complainant] contacted [Bank H] and provided them with a proof of address in the form of a tenancy agreement on 7 January 2014. However, this was insufficient for [Bank H's] purposes; after requesting an exception from [Bank H's] internal compliance team, they confirmed they were unable to accept this document as the tenancy agreement was in a company name, not [the complainant's] own name.

[The complainant] opened another bank account with a different bank in February 2014. The branch of this bank provided a printout of his residential address. However, this document was still not acceptable to [Bank H]. It was not until 3 June 2014, when

¹ Financial Services Ombudsman (Jersey) Law 2014 Article 16(11) and Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 Section 16(10)

[Bank H] received documents they were able to accept in the form of a letter from the complainant's new bank to [Bank H] confirming his residential address, that the suspension was then lifted from his account.

Second complaint

On 2 October 2015 [Bank H] wrote to [the complainant] giving him 60 days' notice of their decision to close his [jurisdiction 1]-based account. The account was subsequently closed on 14 December 2015.

[The complainant] telephoned the [Bank H] Service Centre on 11 January 2016. They advised that his funds could be claimed by submitting a written payment instruction, but [Bank H] failed to advise [the complainant] of the requirement for supporting documentation with the instruction, including a certified copy of his passport and confirmation of his residential address.

[The complainant] made his payment request on 13 January 2016 and this was received by [Bank H] on 21 January 2016. [Bank H] emailed [the complainant] on 28 January 2016 confirming that they required the supporting documentation to ensure the release of the funds. On 29 January 2016 [the complainant] provided verification of his residential address obtained from a member of staff at his new bank with whom he held an account. On 10 February 2016 the payment took place.

Findings

I have considered all the available evidence to decide what is fair and reasonable in the circumstances of this complaint.

First complaint

I acknowledge that [the complainant] found it very frustrating when he was unable to access his bank account but [Bank H] did not hold the necessary documentation required to ensure that it complied with its regulatory obligations in monitoring and managing his account. I do not consider that [Bank H's] request for documentation was inherently unreasonable, given that [Bank H] did not hold this information.

I have considered the concern raised by [the complainant] of [Bank H's] potential negligence by requesting a residential postal address for him [overseas], despite the fact no such system is operated by the [overseas] postal service; however, I need to consider whether [Bank H] have acted fairly and reasonably and I consider that they have done so. [Bank H] recognised that the requirement of obtaining proof of [the complainant's] residential address from [Country X] might be an exceptional case, so an employee of [Bank H] tried to obtain an exemption in order for the documents subsequently provided by [the complainant] to be accepted. This attempt was unsuccessful but it does not follow that [Bank H] has acted negligently.

[The complainant] also asserted potential maladministration by [Bank H] while exercising their commercial judgement in relation to security. I do not consider it the role of the Ombudsman to specify what information [Bank H] should obtain and on

what basis they should obtain it to meet their risk management needs; this is a matter for the regulator.

On the balance of probabilities, I am satisfied that [Bank H] was not acting unreasonably during the process of obtaining further information required to meet their due diligence obligations and I therefore consider the £100 already offered by [Bank H] to be a fair and reasonable amount of compensation payable to [the complainant] as a result of the delay in lifting the suspension of his account from 3 June 2014 to 25 June 2014.

Second complaint

I have reviewed the letter sent to [the complainant] from [Bank H] dated 8 March 2016. I agree with the case handler that the decision taken by [Bank H] to end their banking relationship with [the complainant] was an exercise of their commercial judgement. Furthermore, [Bank H] provided 60 days' notice of their intention and I consider this a fair and reasonable length of time to enable him to make alternative banking arrangements.

On the other hand, I also agree with the case handler that [Bank H] did not provide clear direction to [the complainant] as to how his funds could be obtained by omitting any mention of required supporting documentation. This caused an additional exchange of correspondence and unnecessary delay.

Notwithstanding the previous experience in dealing with [the complainant's] [overseas] residency, I note that [Bank H] yet again had been unable to provide him with appropriate guidance on how to verify his [overseas] residency. It was fortunate in this case and avoided further delay that [the complainant] had anticipated this potential issue and provided the letter from his other bank within a day of receiving [Bank H's] request for supporting documentation.

[Bank H] instigated this account closure and I am of the view that this places an obligation on them to ensure the information and guidance given to the customer during this process is clear, which in this case it clearly was not. Therefore, I consider it fair and reasonable in the circumstances for [Bank H] to pay [the complainant] £500 for the inconvenience caused and the delay in accessing the funds from the closed account.

Final decision

My final decision is that I uphold this complaint in part. [Bank H] are required to pay a total of £600 to [the complainant] within 15 days of his acceptance of this determination.

[The complainant] must confirm whether he accepts this determination either by email to ombudsman@ci-fo.org, or letter to Channel Islands Financial Ombudsman, PO Box 114, Jersey, Channel Islands JE4 9QG, by **19 September 2016**. The determination will become binding on [the complainant] and [Bank H] if it is accepted by this date. If we do not receive an email or letter by the deadline, the determination is not binding. At this point [the complainant] would be free to pursue his legal rights through other means.

If there are any particular circumstances which prevent [the complainant] confirming acceptance before the deadline of 19 September 2016, he should contact me with details. I may be able to take these into account, after inviting views from [Bank H], and in these circumstances the determination may become binding after the deadline. I will advise both parties of the status of the determination once the deadline has passed.

Please note there is no appeal against a binding determination, and neither party may begin or continue legal proceedings in respect of the subject matter of a binding determination.

Douglas Melville
Principal Ombudsman and Chief Executive