

Ombudsman Decision

CIFO Reference Number: 17-000015

Complainant: [The complainants]

Respondent: [Bank X]

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

A decision shall constitute an Ombudsman Determination under our law.

The complainants', [redacted for anonymisation purposes], submitted a complaint concerning their dealings with [Bank X] in connection with the blocking of their accounts in September 2016.

Background

On 8 April 2016, both complainants completed and returned a 'self-certification' form which had been received from [Bank X]. Confirmation was subsequently received that [Bank X] had all the information it required.

However, on 16 August 2016, the complainants received an email from [Bank X] requesting identical information from them on a Personal Information Form (PIF), stating that it required the form to be returned to [Bank X] by 27 September 2016.

The complainants say that due to a busy schedule they were unable to complete this task until 13 September 2016, at which point they contacted [Bank X] to ask what documents were required. The complainants were advised that they needed only to complete the PIF. I note however that [the complainants] ensured that all their documents were certified by the [Bank X] bank manager [overseas]; a task which took them approximately 3 hours.

The complainants provided the documents to [Bank X] on 15 September 2016 by email and subsequently received a receipt confirmation email the next day from [Bank X], which also confirmed that the documentation was being processed.

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

On 27 September 2016, the final day for submitting the documents, [Bank X] sent an email to the complainants to advise them that the bank was unable to open the files attached to the email sent on 15 September. On the following day [the complainants] were notified by email that the documents had been processed and that no further information was required from them.

On 29 September 2016, [the complainant] received an email from [Bank X] to notify him of a temporary restriction on his account and on 3 October 2016, [the complainant] found that her account had also been blocked. The block stayed on the accounts until 15 October 2016.

In response to this notification the complainants called [Bank X], during which [the complainant] states that he felt subjected to a number of what he believed to be intrusive questions. [The complainant] considered these were not the standard security questions normally asked in order to confirm his identity. [The complainant] was also concerned that [Bank X] asked a number of intrusive questions relating to a military pension which was not paid into any [Bank X] account. The call also revealed that the temporary restriction was in place because of information missing from one field on the PIF.

[Bank X] apologised for the poor communication in this matter and offered the complainants £200 by way of an apology and as a gesture of goodwill. CIFO's case handler upheld the complaint in part and recommended [Bank X] increase its compensation to £350. The complainants rejected this recommendation and asked for a formal Ombudsman decision on the issue.

[The complainants] complained specifically of the following matters:

1. The delay in opening the documents sent 15 September 2016;
2. The lack of communication from [Bank X] regarding the information requirements;
3. The intrusive questioning by [Bank X] to establish identity and regarding a non-[Bank X] related pension;
4. The amount of time and effort expended on dealing with the issues;
5. Financial inconvenience, stress and loss as a result of being unable to access funds; and,
6. [Bank X] not having a standalone complaints process.

As a fair and reasonable resolution to the complaint [the complainants] ask for a formal apology from [Bank X], acknowledgment of the loss and inconvenience, a reply to their questions in the email and additional financial compensation.

Analysis and Findings

I am of the view that it was appropriate for [Bank X] to request up-to-date information from their customers in order to satisfy their regulatory obligation. I note however that the 'self-certification' form relates to the external '*Common Reporting Standard*' required by

Her Majesty's Revenue and Customs (HMRC), while the PIF is an internal [Bank X] Group document used to satisfy [Bank X's] regulatory requirements.

The two requests are separate in order to satisfy the requirements of two different and distinct official bodies; HMRC and [Bank X's] regulator. It is to be expected that much of the information requested in both instances would be the same. However, as the documents were requested only four months apart, it is understandable that the complainants had assumed that the two requests were related. I find that this information could have been communicated to the complainants in a better way that made this distinction more clear.

I note that [Bank X] sent the PIF form to the complainants on 25 July 2016 and that it had been completed and returned to the bank by email on 15 September 2016.

While I note that certification of certain documents was done [overseas], I find that the request was only to complete the PIF. The certification process undertaken by the complainants was unnecessary. The emailing of the extraneous large files caused [Bank X] to have difficulty in opening them.

I find it entirely reasonable that the complainants would have felt concern when, on the deadline day for the document submission, and 12 days after sending in the forms, they were advised that the bank had not been able to open the electronic files. The delay was not reasonable, and their resulting concern was understandable.

The anxiety however was not prolonged as the following day, on 28 September 2016, the complainants received an email informing them that the documents were fully processed and that no further information was required. Fortunately, the complainants had also emailed the same files to an email address capable of dealing with the documents, so they could be opened and processed.

On 29 September 2016, [the complainant] received an email to advise him, without any other explanation, that his account would be temporarily restricted. There was no explanation of what action was required to be taken by him to rectify his account status. On 3 October 2016, [the complainant] found that access to his account had been restricted.

[Bank X] claims that, as both customers had connections with the United States, blocks needed to remain on the accounts until both customers were 'approved'. The complainants have denied having any US connections.

It is now understood that while the complainants are not considered "U.S. connected clients", [Bank X] have explained that the complainants had made a USD payment [overseas] and that all USD payments made via [Bank X] must be routed through [Bank X's] correspondent bank in the USA. The correspondent bank had flagged the payment as requiring additional information before it could be processed and had asked that [Bank X] place a block on the account until this information was received. A regulatory requirement for U.S.-connected clients is that the accounts are blocked 60 days after being sent the PIF,

which meant. This meant that restrictions were placed on the account on or around 25 September 2016.

The information received by CIFO shows that while [the complainant] was 'approved' on 21 September 2016, as they held a joint account, the restrictions were required to stay in place until [the complainant] was also 'approved'. The additional information required from [the complainant] was obtained during a telephone call with the bank's Contact Centre on 5 October 2016. [The complainant] was subsequently 'approved' on 12 October 2016.

[Bank X] has agreed that the urgency regarding the deadline should have been communicated to the review team and I consider that, had this occurred, the missing information could have been received prior to the deadline.

With regard to the allegation of intrusive questioning during a telephone conversation on 5 October 2016, [Bank X] has said that the information was requested in order to remove the restriction on [the complainant's] account and was not related to the standard security questions asked in order to establish identity. I am satisfied that this is the case and that [Bank X] was, on this occasion, following reasonable procedures.

I note that [the complainant] refused to continue with the 5 October telephone conversation, in part because he says it may have been an identity theft scam. I have noted however that in a letter from the complainants to [Bank X] dated 27 October 2016, it is stated that it was [the complainant] who had telephoned [Bank X] and not the converse. I therefore cannot conclude that it was reasonable for [the complainant] to suspect he was being scammed when he had initiated the call himself.

The complainants say that [Bank X] requested irrelevant information regarding [the complainant's] military pension, which they consider is not related to his [Bank X] account.

The Money Laundering (Jersey) Order 2008 requires [Bank X] to have in place robust customer due diligence measures. This necessarily involves scrutinizing transactions undertaken throughout the course of a business relationship to ensure that the transactions being conducted are consistent with [Bank X's] knowledge of the customer, including the customer's business and risk profile. Where necessary, this scrutiny may include the source of the funds in the account.

I find that it was appropriate for [Bank X] to seek to understand where those funds originated from and where the funds were going notwithstanding [the complainant's] view that questions about his pension were intrusive and unnecessary.

Regarding the complaint about the [Bank X] complaints process, I am aware of [Bank X's] internal complaints procedures and I am satisfied that it complies with the model complaints process CIFO published as a model for financial service providers. The model complaints process is available on the [Bank X] website.

It appears however that, in this particular case, the communication of the complainant's dissatisfaction at the initial stage had simply been logged for feedback rather than escalated appropriately as a formal complaint. I am aware that this has become a training and development point within [Bank X] that will be shared with the Contact Center.

The complaint was recorded by [Bank X] as having been received on 27 October 2016 by the Customer Care Team and the response appears to have been sent on 7 November 2016, the 6th working day following receipt. On 14 November 2017 the complainants contacted the Contact Center to notify them that a response had not been received so the email of 7 November was resent to them the same day. This aspect of the complaint did not appear to have merit.

Conclusion

On the basis of the information provided, I am of the view that the complaint is, in part, upheld in this case. It is clear that the information requested of the complainants by [Bank X] was both necessary and proportionate to satisfy its regulatory obligations.

However, the standard of communication by [Bank X], both internally and externally, demonstrated multiple failings and resulted in unnecessary misunderstandings and anxiety, particularly with regard to being notified, on deadline day for submission, that there had been a 12-day delay in opening a relevant email and processing the information in the electronic files.

It is also clear that the complaints process was not properly followed in this case, which was acknowledged by [Bank X] as a training and development point for its staff.

Final decision

My final decision is I uphold this complaint in part. In my view, I agree with the case handler's recommendation and consider the offer of £200 as an apology and goodwill gesture to be insufficient to compensate for the breakdown of communication and the consequences. [Bank X] should increase this payment to £500.

The complainants must confirm whether they accept this decision either by email to ombudsman@ci-fo.org or letter to the Channel Islands Financial Ombudsman, PO Box 114, Jersey, Channel Islands, JE4 9QG, by **30 May 2019**. The decision will become binding on the complainants' and [Bank X] if it is accepted by this date. If we do not receive an email or letter by the deadline, the decision is not binding. At this point the complainants would be free to pursue their legal rights through other means.

If there are any particular circumstances which prevent the complainants confirming their acceptance before the deadline of 30 May 2019, they should contact me with details. I may be able to take these into account, after inviting views from [Bank X], and in these circumstances the decision may become binding after the deadline. I will advise both parties of the status of the decision once the deadline has passed.

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

Douglas Melville
Principal Ombudsman and Chief Executive

Date: _____ 30th April 2019 _____