



**Financial
Ombudsman
Service**

Mr Nick O'Donohoe
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from **Caroline Wayman**
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Dear Mr O'Donohoe

Thank you for your letter on behalf of the Commission on Dormant Assets – and for giving us a little more time to respond to the call for evidence.

Before I address the specific points in your call for evidence, I thought it might be helpful to explain a little bit about the ombudsman service. We were set up by parliament to sort out individual complaints that consumers and financial businesses aren't able to resolve themselves. Our decisions are based on what we believe is fair and reasonable in the individual circumstances of each case, taking into account the law, regulators' rules and guidance, relevant codes and good industry practice at the relevant time. We weigh up all the relevant facts and arguments. We then decide – on the balance of probability – the version of events that seems the more likely. If we decide the business has treated its customer fairly, we'll explain why. But if we decide the business has acted wrongly, we can order it to put matters right. Consumers don't have to accept any decision we make. But if they accept an ombudsman's decision, it's binding both on them and the business. I should also add that we don't make the rules for financial businesses – or punish them when they break them. That's the job of the regulator.

Turning to the call for evidence itself, we do receive complaints – although not in large volumes, typically in the region of 70 to 120 cases a year – in relation to dormant accounts. We see complaints where:

- the consumer discovers an old bank or building society passbook – which might be their own, or one that belongs to a relative who has died;
- the passbook shows a balance of money apparently still in the account; *and*
- the bank or building society says that the account is no longer open but cannot say exactly when it was closed, or produce a copy of the customer's signature withdrawing the balance and closing the account.

Because the bank or building society is unable to produce a record of how and when the account was closed, and the consumer holds a passbook that seems to show that there is still money held in the account for them, the consumer refers the complaint to us. If the passbook is not in the consumer's own name, we will make sure that the consumer has the right to bring the complaint. For example, where the passbook is in the name of a relative who has died, we will check that the complaint is being brought by whoever is legally entitled to act on behalf of the estate (or, where there is only a small amount of money at stake, the person who is entitled to receive the money).

When we investigate these cases, we will review all the available evidence. Because these complaints frequently involve accounts where there have been no transactions for many years – or perhaps even decades – it is not usually possible to trace clear documentary evidence about exactly what happened in relation to the account. So we will use what evidence we have, to decide what probably happened.

We expect the financial business to have searched its own records for any trace of the account before the consumer brings their complaint to us – and to show us that it has made a thorough search. While it is not unknown for us to find the account where the financial business has previously failed to do so, it is very unusual indeed.

If we are satisfied that there is no evidence of the continued existence of the account, such as an entry in the financial business's current or dormant account records, we are generally likely to decide that the account was probably closed and the balance withdrawn at a date after the last recorded entry in the passbook, in circumstances that the consumer has forgotten. However, if we find strong evidence that the account and balance still exist, then we are likely to tell the financial business to:

- reinstate the account, with interest, at the rate appropriate to the type of account held, from the time of the last recorded transaction to the point at which the consumer first asked for the money;
- pay interest on the new balance at the rate of 8% per annum simple from the point the consumer first asked for the money, to date; *and*
- pay compensation if any distress and inconvenience was caused to the consumer.

We also see complaints from consumers about:

- The process involved in reactivating a dormant account – such as the need to go in person to a branch, or the paperwork that's required;
- Delays in funds in dormant accounts that have been reactivated being transferred; *and*
- Administrative problems – such as funds being transferred to the wrong account.

In these cases we'll look carefully at whether the bank has treated the consumer fairly – and whether the level of customer service the bank provided was reasonable. It's fair to say that it's more common for us to uphold these sorts of complaints, compared to complaints about untraceable accounts.

However, we don't see very many complaints at all from consumers about funds in dormant accounts being transferred to a central fund and put towards good causes – in fact we don't have any record of any complaints against Reclaim Fund Ltd.

I hope this information is helpful for your work – but, of course, if we can help in any other way, please don't hesitate to let us know.

Yours sincerely,



Caroline Wayman
chief executive & chief ombudsman