

complaint

Miss B complains that Bank of Scotland plc (trading as Halifax) will not refund current account charges which she says have caused her financial hardship.

background

Miss B holds a current account with Halifax. She says that she has been complaining to Halifax since 2007 about bank charges applied to the account, but has been unable to get a satisfactory response.

Miss B says that she has health problems which now affect her ability to work, and considers that bank charges have caused her financial hardship. She would like a refund of all the overdraft-related charges that have been applied to her account over the years.

Halifax says it has made a refund of some charges. It does not accept that Miss B is entitled to a refund of all the charges made on her account.

As Miss B remained unhappy with the charges, she brought her complaint to this service where an adjudicator investigated it. From the evidence, the adjudicator noted that Halifax had made some charges refunds over the years.

The adjudicator also considered that Halifax had taken reasonable steps to guide Miss B towards getting help with her finances. In view of that, the adjudicator did not agree that Halifax should refund further charges.

However, the adjudicator noted that Halifax had delayed responding to Miss B when she complained in 2014 and had wrongly said she had not complained about bank charges before. This had not made any difference to Miss B's financial position, but Halifax offered to pay Miss B £50 in recognition of the service failure – which the adjudicator thought was fair in the circumstances.

Miss B did not want to accept Halifax's offer and asked for her complaint to be reviewed. She also said, in summary:

- Halifax has not complied with its duties to a customer experiencing financial difficulty;
- the charges did not reflect the true cost of her use of the unplanned overdrafts, and were excessive and unfair;
- she had received poor service from Halifax when she complained; and
- she has incurred charges since 1998, creating a cycle of debt.

Miss B also asked to extend her complaint to bank charges incurred since 2001, to include those applied to a previous current account held with Halifax.

my findings

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

Banks do not have to keep account records indefinitely, and Halifax did not have records for Miss B's account going back before 2006. However, Miss B had older statements and sent copies going back to January 2002.

The basis of Miss B's complaint is that she feels the unplanned overdraft and associated charges are inherently unfair because they are high and do not represent the actual cost incurred by Halifax when she used an unplanned overdraft. Miss B also says that the charges created a cycle of financial difficulty which she was unable to break free of.

These types of charges were the subject of a legal decision by the Supreme Court. Put simply, that decision said that these charges cannot be successfully challenged on the grounds that they are too high or unfair. The level of the charge does not have to be limited to the costs for the bank concerned.

Banks have a duty to deal fairly with, and be ready to help, customers who are in financial difficulty. But that does not mean a bank must refund past bank charges, or must not apply charges in the future.

I note that in December 2014 Halifax refunded all the unplanned overdraft charges that Miss B had paid from 1 January 2012. These totalled £85. I accept that Miss B is in difficult financial circumstances, and I do not doubt that this has been a struggle for her over the years, but I am not persuaded that the unplanned overdraft charges applied by Halifax contributed unfairly to her situation.

From the statements, it appears that Halifax has applied the charges in the way that the terms and conditions of the account allow - including pre-notification to Miss B so that the charges did not go onto her account without warning. Miss B was provided by Halifax with information about how to get free help with her finances and managing her account.

In all the circumstances, I find that Halifax does not have to make any further refunds. I note that Halifax has offered to pay Miss B £50 in relation to its recent service failure on her complaint, which I consider to be fair in this case.

my final decision

My final decision is that Bank of Scotland plc (trading as Halifax) must pay Miss B £50.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss B to accept or reject my decision before 9 July 2015.

Jane Hingston
ombudsman