

The complaint

Mr C complains that Bank of Scotland plc started to apply charges for use of a business bank account, despite the account having been set up with the promise of free banking for life.

What happened

In 2003, Mr C set up a farming business. He opened a bank account for the business with Bank of Scotland, which he says was promoted as offering “free banking for life”.

In 2019, Mr C noticed that the account had started to incur monthly charges. So he raised a complaint with Bank of Scotland last September.

Bank of Scotland said that it had made a commercial decision to amend its charging structure, and that the terms and conditions of the account allowed it to make such changes. Accounts like Mr C’s were now subject to a £5 monthly fee – and in May 2020 would move to the bank’s standard tariff, which carried a £6.50 monthly fee and transaction charges. It said it wouldn’t amend its decision in Mr C’s case.

But Bank of Scotland did accept that it had put the account on the wrong tariff initially – and that it had failed to give Mr C appropriate notice of the changes as required under the terms and conditions. So it sent him £50 compensation. And it said the account would be monitored until it was moved across to the right tariff, with any additional charges refunded in the meantime.

Mr C continued to receive additional charges above the £5 fee, despite escalating the matter with the bank. It paid him a further £100 compensation and £60 to cover his costs, and refunded the additional charges he was receiving. But Mr C remained unhappy, so he referred the matter to us.

Our investigator thought Bank of Scotland had been entitled to make the change under the terms and conditions of the account. And while acknowledging that the bank had made errors in how it had carried things out, he thought that it had already paid Mr C fair compensation for the inconvenience caused. So he didn’t recommend that it do anything more.

Mr C didn’t accept our investigator’s view and asked that an ombudsman review his complaint. So it was passed to me to decide.

My provisional decision

I issued a provisional decision on Mr C’s complaint last month, setting out why I thought the complaint should be upheld. I said:

There seems to be some uncertainty on the bank’s part as to what tariff the account was originally on when it was opened back in 2003. It says there is no record of Mr C being offered free banking for life. But it’s not told us what tariff did apply. It doesn’t

have the original account conditions, but it's sent us a copy of the application form – which doesn't mention any special conditions, like free banking. And it says there are a number of customers who've benefitted from fee free status for years, due to ad-hoc arrangements with relationship managers – but these wouldn't constitute an agreement for life.

I've looked at the application form and agree that there's no particular mention of a fee-free status. But there's also no mention of a fee tariff of any kind. So I don't think this evidences the position one way or the other. And the bank hasn't provided any evidence to show that the fee-free status was set up on an ad-hoc basis at any point.

The application form does, however, show that the account opened at the time was a "Direct Business Cheque Account". Information published on the bank's website around the time Mr C opened the account in 2003 said that this type of account was offered with "free banking forever". That supports Mr C's recollection of the account being set up on a "free for life" basis. I understand that no charges were applied from the account opening, until the change made in 2019 – further supporting what Mr C says.

So taking everything into account, I think it's most likely that the account was opened on a "free banking forever" basis.

That's important here because under the bank's review of its charging structure, accounts that were set up on a "free for life" basis were to remain unchanged. In other words, the bank wouldn't have changed the tariff for Mr C's account if it had been identified as a "free for life" account.

So while the bank may be allowed to make changes to the account under the terms and conditions, it wouldn't have done so here if the account had been correctly identified as "free for life". And so it follows that I don't think it is fair to apply the changes. There's no reason why Mr C's account should be treated any differently to those of the same status.

And so to put things right, I'm intending to direct Bank of Scotland to revert the account back to its "free for life" status. It will also need to refund all of the charges that have been applied to the account as a result of the change. And as I can see that Mr C has been put to some inconvenience in trying to rectify the matter in a number of exchanges with the bank, I'm also intending to require the bank to pay a further £150 compensation on top of the £210 it's already paid.

Mr C responded to say that he accepted my provisional decision. Bank of Scotland confirmed it had nothing further to add.

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.

Having done so, and with no new information or evidence for me to take into account, I see no reason to reach a different conclusion. So this decision confirms my provisional findings, as set out above.

My final decision

For the reasons I've explained, I uphold this complaint and require Bank of Scotland plc to:

- Reinstatement of the account to its "free for life" status;
- Refund of all charges incurred as a result of the tariff change in 2019; and
- Payment of £150 compensation to Mr C.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 22 September 2020.

Ben Jennings
Ombudsman