

## **The complaint**

Mr N complains about the change in the charges on the overdraft of his account with The Royal Bank of Scotland Plc (RBS). He also complains about the charges and the effect on him since March 2020.

## **What happened**

From information supplied by RBS, Mr N first had the account from September 2004 when he was at school. He then applied for it to be a student account in September 2011 and after that it became a graduate account for a further two years. RBS has said his account is a Select one now. Mr N has had a savings account since October 2009.

Mr N complained by telephone in March 2021 and he received a final response letter on the same day explaining that following the Financial Conduct Authority's (FCA) High Cost Review universal changes had been introduced which affected all overdrafts and included Mr N's account.

The introduction of the new charges was scheduled to be introduced in March 2020 and delayed twice – one of the reasons being the Covid 19 national pandemic and lockdown.

RBS reminded Mr N of his opportunity to apply for a £500 interest free 'buffer limit'. And it explained the rationale behind the charges alterations.

Mr N referred his complaint to the Financial Ombudsman Service and in his complaint form he also referred to the effect the charges have had on him because the Covid 19 pandemic led to him having a reduced salary and with the increased charges he was finding it difficult to manage. Mr N made it clear that his complaint related to the period from March 2020 to date.

When RBS submitted its files for the second time to the Financial Ombudsman Service in October 2021 as part of our complaint investigation, to resolve the complaint it offered to refund the charges and interest applied to the account since March 2021 which would be off-set against the debt on the account.

Mr N rejected this and one of our adjudicators looked at the complaint. He thought that it was fair for RBS to rework Mr N's account to remove all of the interest and charges added to Mr N's account from 1 January 2021, because by this point, Mr N hadn't been in credit or maintained a credit balance for an extended period of time.

RBS made a new offer which was to agree to our adjudicator's view and refund the interest and charges from 1 January 2021. But it also wished to refund just 75% because RBS said that looking at his savings account, as that had been – on average – in credit for a while it felt it was fair to offer 75% of the charges and interest from January 2021. And this was to be off-set against the existing account debt.

Mr N did not accept that offer to resolve the complaint and felt that the interest and charges refund should be back-dated further in time to March 2020.

The unresolved complaint was passed to me to decide.

### **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.

RBS will be familiar with all the rules, regulations and good industry practice we consider when looking at whether a bank treated a customer fairly and reasonably when applying overdraft charges. So, I don't consider it necessary to set all of this out in this decision.

Having carefully considered everything provided, I find that RBS acted unfairly when it continued charging overdraft interest and associated fees after 1 January 2021. At this point, it ought to have been clear that Mr N was in no position to sustainably repay what he owed within a reasonable period.

This is because, by this time, Mr N was hardcore borrowing. In other words he hadn't seen or maintained a credit balance for an extended period. I've seen Mr N's bank statements and he was very rarely in credit since this time. He usually had a significant overdraft balance.

RBS's own literature suggests that overdrafts are for short term or emergency use. So, an overdraft shouldn't have been used for prolonged day-to-day expenditure. But as the charges only came into play in August 2020 then I do not think that I can uphold Mr N's complaint from a date before the August 2020 date. And I have had to consider the fact that from August 2020 to January 2021 a period of time needed to have elapsed for the evidence to show whether or not Mr N's account appeared to be under stress. Hence me agreeing with our adjudicator that upholding Mr N's complaint from January 2021 seems a fair point in time.

However – I do not agree with RBS that because Mr N had some savings in another account that it should reduce what it needs to pay by way of refund and interest. That is not appropriate in my view. Mr N is entitled to use and place his money where and as he feels fit.

I uphold Mr N's complaint in part and I think that RBS should do as I have outlined below,.

### **Putting things right**

I direct that RBS re-work Mr N's current overdraft balance so that all interest, fees and charges applied to it from 1 January 2021 onwards are removed.

AND

if an outstanding balance remains on the overdraft once these adjustments have been made RBS should contact Mr N to arrange a suitable repayment plan for this.

If it considers it appropriate to record negative information on Mr N's credit file, it should backdate this to 1 January 2021.

OR

if the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr N, along with 8% simple interest on the overpayments from the date they were made (if they were) until the date of settlement.

If no outstanding balance remains after all adjustments have been made, then RBS should remove any adverse information from Mr N's credit file. †

† HM Revenue & Customs requires RBS to take off tax from this interest. RBS must give Mr N a certificate showing how much tax it's taken off if he asks for one.

### **My final decision**

My final decision is that I uphold Mr N's complaint in part and I direct that The Royal Bank of Scotland Plc does as I have outlined in the 'putting things right' section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 11 July 2022.

Rachael Williams  
**Ombudsman**