

## The complaint

Mr F complains about the relationship fees he was charged by Citibank UK Limited.

In summary, he says he wasn't aware of the new fees coming into force, and they were too high.

To put things right, Mr F would like a refund of the fees along with compensation for distress and inconvenience caused.

## What happened

In late April 2022, I issued my provisional decision, a copy of which is stated below and forms part of my final decision. In the decision I said:

*"...provisionally I'm not going to uphold this complaint.*

*On the face of the evidence, and on balance, despite what Mr F says, I'm unable to safely say that Citibank behaved unreasonably by introducing changes to its terms and conditions and consequently charging fees for the use of its account.*

*Before I explain further why this is the case, I think it's important for me to note I very much recognise Mr F's strength of feeling about this matter. He has provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope he won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.*

*The purpose of my decision isn't to address every single point raised under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. My role is to consider the evidence presented by Mr F and Citibank and reach what I think is an independent, fair and reasonable decision based on the facts of the case.*

*In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice, but unlike a court or tribunal I'm not bound by this. It's for me to decide, based on the information I've been given, what's more likely than not to have happened. I appreciate that fees didn't apply when Mr F first opened his account in 2000. However, Citibank is entitled, in the reasonable exercise of its legitimate commercial judgement, to introduce changes to its terms and conditions. It's not for us to tell Citibank how to run its affairs, providing it has notified its customers of any changes. So, in this instance I can't say that Citibank has done anything wrong by introducing fees to its account.*

*I've seen nothing to suggest that Citibank gave any undertaking that its terms and conditions would remain the same. Despite what Mr F says, I don't think Citibank has done anything wrong by not obtaining his consent before implementing these changes, because it wasn't obliged to. I'm satisfied that the business acted reasonably by notifying Mr F in good time and providing the relevant literature.*

*I appreciate what Mr F says about fees being too high, but Citibank's entitled to set fees for*

*the use of its account. In this instance I think the onus was on Mr F to look for a new account if he was unhappy with paying the monthly fee. Unless an issue was raised by him, as he maintained the account for which fees had been introduced, Citibank was entitled to charge fees in line with its terms and conditions.*

*Based on what Citibank says, on balance I'm satisfied that it notified Mr F in writing at least two months before the changes were introduced in January 2018, giving him enough time to decide whether (or not) to move his money elsewhere or stay and fulfil the conditions that would enable him to keep his money in the same account for free.*

*It's possible that Mr F didn't receive the letter with the terms and conditions, however I'm not aware of there being an issue with the post. But even if there was an issue, I still can't hold Citibank responsible for the actions of a third-party postal service.*

*The November 2017 notice aside, I think it's unlikely that Mr F wouldn't have received a single bank statement showing the fee deductions since they were introduced in 2018. So even if he hadn't received the notice, he ought reasonably to have been aware of the deductions being made.*

*It's possible that Mr F may not have read the original notice and/or any of the statements sent over the years – and that's why he didn't know about the fees – but I can't blame Citibank for this.*

*On balance, I accept that Mr F probably would've chosen to withdraw his money if he'd been aware of the fees, but I can't blame Citibank for him not checking his account until 2021, when he discovered that his account balance was zero.*

*I appreciate Mr F feels that Citibank should've closed his account, and put his money into a new account, on the assumption that he was unlikely to agree to the fees. But in the circumstances, unlike introducing changes to its terms and conditions, I don't think Citibank could generally do that without his authority.*

*Besides, the fees would've only been applied if the conditions weren't met, as opposed to automatically applying from a specific date. So, Mr F still had the option to remain with Citibank, and not pay any fees providing he met the criteria.*

*I note the terms and conditions for his specific account made clear the following:*

*"Your average monthly balance will be calculated to include balances from any Offshore Bond you hold with us (referred to as 'Investment Linked Life Insurance Products' in our terms and conditions). This means any balance from these Investments will be Included when calculating if a Relationship Fee is payable based on your average monthly balance...*

### *3. Relationship fee*

*3.1 You will not be charged a relationship fee for any month for which you:*

*(a) credit your Account with a minimum of £3,500 and have a minimum of two Direct Debits paid from your Account; or*

*(b) have an average monthly balance of £35,000 (or currency equivalent) or more as described in Condition 3.3 of these Account Specific Terms and Conditions."*

*I appreciate that Citibank has offered to pay Mr F £75 compensation as a gesture of goodwill, plus a further USD75 for being a longstanding customer, which I would expect it to*

pay.

*Citibank could offer to refund the entire fees charged if it chooses to. But in the circumstances, it's not something I can ask it to do, because in my opinion it hasn't done anything wrong."*

I gave the parties an opportunity to respond to my provisional decision and provide any further submissions they wished me to consider before I considered my final decision.

Mr F responded but didn't accept my provisional decision. In summary, he made the following submissions:

- There's no proof that communication regarding the changes to fees were sent or received by him. Citibank should provide proof of the means by which the information was sent and tracked.
- No attempt was made to ensure he received or read the documents.
- Proof of receipt would've allowed Citibank to know whether he had received the notice before imposing fees. To charge fees without him knowing, especially in relation to an 'inactive account' is unreasonable.
- No relationship services were being provided for the fees charged which were disproportionate in maintaining/servicing the account. Citibank should confirm the net costs attributable to maintaining the account.
- The payment of £75 as a gesture of goodwill is just a token gesture, in respect of £614 charged.
- Given that there was no account activity, it's unreasonable that there's implied agreement of acceptance of the new fees.
- According to the general terms and conditions for Citibank current accounts and savings accounts, his account should've been treated as dormant due to inactivity for a period of 360 days.
- Alternatively, even if the account had been active at a single point, the maximum fees payable would be for 15 months amounting to £225.
- Electronic access to the account was suspended following inactivity, which is why he had to request new access rights. As such electronic notifications couldn't have been received.
- In the circumstances, he is entitled to compensation for distress and inconvenience caused.

Citibank also responded and accepted my provisional decision. In short it said that if Mr F wanted to accept its initial offer it should provide his bank account details so that it could transfer the payment.

At my request, Citibank provided further clarification in relation to the Mr F's response to my provisional decision. In summary, it said:

- It has a tracker confirming all email communication it sends, so it has proof that it sent emails to Mr F. In doing so, Citibank met the regulatory obligation by providing the two month notice via email.
- It's the client's responsibility to open communication. It tracks email comms, and if they bounce back, it re-sends the communication by post. None of Mr F's emails bounced back and there was no change to his email address.
- The fees were applied for maintaining the account. However, Mr F didn't meet the criteria for the free service and that's why he was charged.
- Compensation as a gesture of goodwill was offered. It wasn't an admission of liability and wasn't a refund of the fees paid

- The fees were applied based on the account criteria, not account activity. As shown in its email Mr F contacted it in 2017 and requested that it remove the 'dormant marker'. Mr F also contacted it to get a new card and pin. If he hadn't removed the dormant marker, he wouldn't have been charged fees.

Through my suggestion, the investigator sought Mr F's views with (particular) reference to the account activation and removal of the dormant marker. In summary, he said:

- He doesn't disagree that the account was re-activated in 2017 and that it should've been dormant prior to that. So, he doesn't think that fees prior to that should've been applied.
- He maintains he wasn't told about the fees charged.
- Whilst he was aware of the money in his account, he wasn't aware of the fees and only became aware when he discovered he had no money left.
- He's never used any of the services.
- Because he didn't use the card for 360 days the account should've fell dormant again.

The next day, Mr F supplied a digital copy of his bank statement, showing that £15 a month had been withdrawn between (and including) July 2017 and December 2017.

Because the new fees started in January 2018, I asked Citibank for an explanation. I said that if the information supplied by Mr F was correct I would be minded to partially uphold the complaint and order the business to refund the fees (incorrectly) taken in 2017 – totalling £90 – plus pay another £75 for any loss of interest and the distress and inconvenience caused, in addition to the £75 and USD75 already offered/paid by Citibank.

Through our investigator, I was told that Citibank agreed with my decision to uphold the complaint and award redress as suggested.

### **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, considering the responses from the parties, my provisional decision not to uphold this complaint has changed. I'm now going to partially uphold this complaint.

In other words, the 2017 bank statement recently provided by Mr F in response to my provisional decision has persuaded me to change my decision. Therefore, Citibank should refund the fees charged - in this instance on six occasions in 2017 – before the new terms and conditions were implemented in January 2018. Citibank should also pay Mr F £75 compensation for any lost interest, and distress and inconvenience caused.

The above notwithstanding, the other key points remain the same, and have been considered by me, in my provisional decision. In other words, I'm still unable to safely say that Citibank behaved unreasonably by introducing changes to its terms and conditions and consequently, charging Mr F fees - for the use of its account – from January 2018.

It's because of this reason, and because Citibank has been notified and agrees with my proposed uphold and redress payment that I don't consider another provisional decision is needed.

A financial business isn't generally required to 'track' correspondence it sends to customers and there is no obligation for it to ensure that customers read it either. It's generally the responsibility of the customer to read any correspondence, including any changes to the terms and conditions.

In this instance despite Mr F suggesting that he didn't receive the email, Citibank has provided evidence to show that the email titled 'Changes to our Terms and Conditions' was sent to Mr F in November 2017 but wasn't opened. I note two other emails sent in March and May relating to a branch closure notification and 'how to manage your account' respectively also weren't opened.

Based on what Citibank says, on balance I'm satisfied that it notified Mr F in writing – via email – at least two months before the changes were introduced in January 2018 and the email was received – giving him enough time to decide whether (or not) to move his money elsewhere or stay and fulfil the conditions that would enable him to keep his money in the same account for free.

Despite what Mr F says, in the circumstances I'm unable to say Citibank behaved unreasonably. Because the emails didn't bounce back, and there was no change to Mr F's email address, I can't blame Citibank for not checking to see if Mr F had read the email and/or sending the same information in the post.

In the circumstances, and despite my partial uphold of the complaint, Citibank isn't obliged to provide a breakdown of the net cost to maintain Mr F's account and I don't need this (potentially) commercially sensitive information in order to make a final decision in this case.

As I've explained in my provisional decision, Citibank is entitled to charge a fee for the use of its account as well as set the rate, and that's not something I can blame it for. However, on balance I don't think Citibank is entitled to charge fees before the new terms and conditions were implemented, and that's why I've partially upheld the complaint.

On the face of the evidence, and on balance, I'm satisfied that Citibank charged a fee for the use of its account from January 2018, and Mr F didn't meet the criteria to receive this service for free.

The above notwithstanding, despite what Mr F suggests about how he should've been treated in respect of his account, on balance, I'm unable to agree. Based on what Citibank says, I note in January 2017 Mr F contacted Citibank and removed the 'dormant marker' from his account (he also requested a card and pin) and that's why his account was 're-activated' and treated as such going forward.

The above would suggest that his account was previously dormant – probably as a result of having had no activity since 2014 – and based on what Citibank says it wouldn't have attracted any fees following changes to the terms and conditions had it been left that way. This is probably why Citibank now concedes that any fees taken from Mr F's account in 2017 was done so in error.

But as a result of Mr F's actions the account was 're-activated' and treated as active thereafter even though there was no money coming in or out of it – Mr F still had the means to instantly access his account and/or spend his money. In other words, Mr F's funds were ready and available to use if he wanted to, unlike a dormant account where the money is likely to be ringfenced and can't be accessed in the same way.

In the circumstances, I'm satisfied that the terms and conditions referred to by Mr F – which incidentally are from September 2019 – are unlikely to apply in this instance where the

dormant marker has been removed. In the circumstances I can't say that Citibank behaved unreasonably by applying charges – following (notified) changes to its terms and conditions in 2017 – for the use of its account. The charges therefore only applied from January 2018, when the new fees came into effect, and not prior to this point.

In my opinion, and on balance, in the circumstances I'm satisfied that Mr F's account was likely to be live (rather than dormant), whether or not any transactions were carried out – because the dormant marker was removed. And Mr F had a valid card and pin that he could use to access/spend his money.

I note there was an issue accessing funds in November 2019. Despite what Mr F says this wasn't because of his account not being used, it was due to a change in the card scheme and consequently he was given a new card and pin.

I appreciate Mr F might be unhappy that I've changed my decision but still haven't given him everything that he wants. Whilst I appreciate his frustration, I'm not going to ask Citibank to do anything other than pay redress as set out below.

On the face of the available evidence, and on balance, I'm unable to uphold this complaint *and* give Mr F what he wants.

### **Putting things right**

Citibank UK Limited should pay Mr F redress as follows:

1. Refund the fees erroneously taken in 2017 amounting to £90.
2. Pay £75 compensation for any lost interest, distress and inconvenience caused.
3. In addition to the above, pay £75 and USD\$75, if it hasn't done so already.

### **My final decision**

For the reasons set out above, and in my provisional decision, I partially uphold this complaint.

Citibank UK Limited should pay Mr F redress as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 16 June 2022.

Dara Islam  
**Ombudsman**