

The complaint

Mr M has complained about the charges that Bank of Scotland plc ("BOS") applied to his account when he was in financial difficulty.

What happened

Mr M complained to BOS about the charges applied to his account in February 2019. BOS agreed to refund £100 in fees and put a hold on charges for 30 days. BOS issued a summary resolution communication ("SRC") regarding this on 23 February 2019. This outlined the time limits Mr M had to bring his complaint to this service.

Mr M brought a further complaint to BOS in April 2022. BOS didn't uphold Mr M's complaint and issued a final response letter on 12 April 2022 following which Mr M brought his complaint to this service

Our adjudicator looked at all of this and found that because Mr M hadn't brought his initial complaint to us within six months of the SRC, we could only look at the charges applied to his account from 23 February 2019. On review of Mr M's account our adjudicator thought that BOS should refund all interest and charges added to Mr M's account from 23 February 2019.

Following this, in-line with our adjudicators view BOS offered to refund all fees from 23 February 2019 until the account was closed on 6 August 2019. If Mr M had repaid his debt then it would pay him directly adding 8% simple interest and the default would be backdated to 23 February 2019.

Mr M didn't want to accept this offer, he wants all charges that were applied to his account prior to February 2019 reviewed.

Why I can't look at charges applied before 23 February 2019

I can't look at all the complaints referred to me. The rules applying to this service say that – where a business doesn't agree – I can't look into a complaint if it's been referred to us more than six months after the business sends the consumer its final response letter or summary resolution communication ("SRC"), telling them they can refer their complaint to us. This is Dispute Resolution rule 2.8.2R(1) – and it can be found online in the Financial Conduct Authority's handbook.

BOS's internal systems show Mr M raised a complaint over the phone on 22 February 2019 regarding the level of overdraft fees applied to his account. BOS confirmed the charges were applied correctly in accordance with the account terms and conditions and provided assistance by refunding £100 in fees and putting a 30 day hold on fees.

BOS issued a SRC on 23 February 2019. I've seen a copy of this and I'm satisfied it fits the meaning for a SRC as defined in the DISP rules - including the referral rights setting out the six month time limit. This means Mr M had until 23 August 2019 to refer the matter to the

service. But he didn't do so until May 2022, so I conclude the complaint was referred to us out of time under the rules that I have to apply.

I accept that since BOS issued a final response letter in April 2022 in relation to a further complaint but unfortunately this doesn't extend the six month time limit relating to Mr M's original complaint made over the phone in February 2019.

But I'm allowed to investigate complaints referred outside of the time limit if I'm satisfied the delay was due to exceptional circumstances. Mr M has not told us about any exceptional circumstances that prevented him from bringing his complaint to this service, so because Mr M didn't refer his complaint to us in time, my decision is that this complaint was made too late and I am only able to look at charges applied after 23 February 2019.

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 carefully considered everything, I think that what BOS has already agreed to do to put things right for Mr M is fair and reasonable in all the circumstances of this complaint. I'll explain why I think this is the case.

I've seen that Mr M has in some of his correspondence referred to the proportionality of the charges applied to his account. But before I go any further, I want to be clear in saying that I haven't considered whether the various amounts BOS charged over the years were fair and reasonable, or proportionate in comparison to the costs of the service provided. Ultimately, how much a bank charges for services, what services it provides and to who is a commercial decision. And it isn't something for me to get involved with.

That said, while I'm not looking at BOS's various charging structures or processes per se, it won't have acted fairly and reasonably towards Mr M if it applied any interest, fees and charges to Mr M's account in circumstances where it was aware, or it ought fairly and reasonably to have been aware Mr M was experiencing financial difficulty. And where this is the case, I'd expect BOS to put Mr M in the position he'd be in now if he hadn't paid any further interest and charges on that credit.

This means I'd normally expect a lender to refund the interest and charges added to any credit from the point the lender ought to have realised it was unsustainable.

Mr M contacted BOS regarding his financial difficulties in February 2019. Mr M informed BOS he'd lost his job and was behind on his mortgage payments. In response to this BOS refunded some fees and put a hold on charges for 30 days. But it then started charging again without establishing whether Mr M's financial position had improved. So I'm in agreement with our adjudicator that I don't think BOS did enough to assist Mr M with the knowledge it had about his circumstances.

But as BOS have already made an offer in-line with our adjudicators view and what I'd expect if I'd found it had done something wrong - I'm satisfied that what BOS has already agreed to do to put things right for Mr M is fair and reasonable in all the circumstances of this case and I'm not requiring it to do anything more. As this is the case, it's up to Mr M to decide whether he wishes to accept BOS's offer.

My final decision

For the reasons I've explained, I'm satisfied that what Bank of Scotland plc has already

agreed to do to put things right for Mr M is fair and reasonable in the circumstances of this case. So I'm not requiring it to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 13 October 2022.

Caroline Davies
Ombudsman