

The complaint

Ms A has complained that Bank of Scotland plc ("BoS") acted unfairly when it applied charges linked to her overdraft on her account.

Background

Ms A has a current account with BoS. She has told us that she became financially vulnerable due to ill health in 2020. Things continued to worsen and by April 2022 she was no longer able to keep her account in credit and was relying on her overdraft facility to meet her monthly outgoings. She feels BoS has acted unfairly by adding charges and fees linked to her overdraft usage on her account given her financial difficulties.

In addition to the issues with her overdraft Ms A has also explained that she's had ongoing problems accessing her online banking. She has a mortgage with another high street bank linked to BoS and has some access to her account via that bank's website but hasn't been able to access online banking with BoS directly.

She has said that BoS has closed her account and removed the overdraft facility which she was dependant on. Ms A say the bank has asked her to repay the full amount she owes it despite knowing she doesn't have any income and will be unable to do this.

BoS has said that Ms A's account remains open (as per late October 2023) and the overdraft facility is still in place. It says it has provided fee refunds on a number of occasions, but that Ms A does need to contact it to discuss the outstanding debt and set up a repayment plan. It has confirmed that Ms A never registered for BoS online banking and can still do this if she wants to. It doesn't think it has behaved unreasonably in how it has treated Ms A.

One of our investigators looked into Ms A's complaint already. She found that BoS were wrong to apply the charges it had to Ms A's account after April 2022 when it was aware that Ms A was struggling financially. So, she upheld Ms A's complaint and asked the bank to refund all of the fees and charges that had been added to the account since that date. She also suggested that Ms A and BoS discuss a suitable repayment plan and that the overdraft facility be reduced and eventually removed from the account.

BoS agreed with the investigator's findings, but Ms A didn't and so the complaint has been passed to me for consideration.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'd like to acknowledge that I've summarised the events of Ms A's complaint. But I want to assure both Ms A and BoS that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

Ms A has explained that her personal circumstances changed dramatically following the Covid pandemic in 2020. I'm sorry to hear of everything Ms A has gone through and can only imagine how incredibly difficult things have been for her.

Between March 2020 and April 2022 Ms A was no longer able to work and became extremely physically and mentally unwell. This had an enormously negative impact on her financial situation, and she found herself using all of her savings and unable to meet her monthly outgoings. Ms A has explained that she started to worry about being able to meet her monthly mortgage repayments and became increasingly reliant on her overdraft to pay her bills. By April 2022 Ms A had depleted the savings she did have and was entirely reliant on social welfare payments and her overdraft to survive.

At the same time this was happening fees and charges were being added to Ms A's account linked to her overdraft usage. This in and of itself isn't unusual as most banks now charge consumers for using their overdrafts. The sorts of charges that apply vary from bank to bank but from what I can see the fees that were added by BoS were in line with those set out in the terms and conditions of Ms A's account.

However, when consumers are facing financial difficulties, as Ms A clearly was, we'd expect businesses to treat them with forbearance. And this often means suspending fees and charges until such a time as the account is brought back into good order. I can see that at different times Ms A contacted BoS to discuss her circumstances and fees were refunded, but ultimately the bank started to apply them again and this would cause Ms A enormous upset and distress. She has explained when this happened she would have to call the bank to speak to someone and go through everything that had happened to her again. Each of these calls were extremely upsetting for Ms A and she felt like she was being retraumatised each time it had to happen.

I can understand why Ms A feels this way. She has provided both the bank and this service a lot of very personal and sensitive information and I've no doubt that each time she needed to repeat this to someone at the bank it was exhausting and overwhelming.

I agree that by April 2022 BoS should have suspended all fees and charges on Ms A's account entirely and started the process of putting some sort of repayment plan into place as it was clear from what Ms A was saying that by this time her financial situation had completely deteriorated and was unlikely to improve. So I will be asking it to deduct all fees and charges added to the account since April 2022 from the outstanding amount that is owed.

I know that Ms A has said she's unable to enter a repayment plan as she has no fixed income beyond social welfare payments. And her main priority has been to meet her monthly mortgage repayments, so she doesn't lose her home. So, she doesn't think the suggestion of arranging a repayment plan is a reasonable or realistic one. She also doesn't want BoS to remove the overdraft facility from her account as without it she says she won't be able to meet her monthly outgoings or survive.

However, it's not reasonable to expect BoS to continue to provide an overdraft facility and allow Ms A to continue to accumulate debt she's unable to repay. If a repayment plan can't be arranged the account will need to go to recoveries and BoS will have to start the process of defaulting the account. I know this will be extremely distressing for Ms A. But it's not reasonable for me to expect BoS to continue to provide the overdraft facility on her account while not charging her for it and having no guarantee the money she has borrowed will ever be repaid. So, some sort of compromise needs to be reached in regard to the outstanding amount owed.

Since bringing her complaint to this service Ms A has told us that BoS has closed her account and removed the overdraft facility. We contacted BoS to clarify this matter as we were concerned that Ms A had been left unbanked and potentially unable to access her social welfare payments. BoS has responded to say that the account is still open and the overdraft facility still available. It provided bank statements up to the end of September which showed this was the case. So I'm satisfied that Ms A still has access to the account.

In regard the issues around her online banking. I appreciate Ms A hasn't had access to BoS online banking but did have access to a linked system through another bank. BoS has confirmed that Ms A should be able to register for BoS specific online banking and access her current account through that platform. She may need to call the bank to arrange this, which I appreciate is very difficult for her. If there is any other way she can register for online banking without having to make a call I would ask BoS to write to Ms A and clarify what her options are.

Putting things right

Bank of Scotland should do the following:

- Re-work Ms A's current overdraft balance so that all overdraft fees and linked charges applied from 26 April 2022 onwards are refunded.
- This refund should then be used to reduce the outstanding overdrawn balance
- Bank of Scotland should then reduce Ms A's overdraft limit to whatever the new overdrawn balance is
- Bank of Scotland should then contact Ms A to establish whether or not it's possible to arrange a repayment plan to repay the outstanding balance within a reasonable time frame
- If Ms A is unable to enter a repayment plan Bank of Scotland should follow its standard procedure for defaulting the account and back date that default to 1 September 2022.

My final decision

For the reasons set out above I uphold Ms A's complaint against Bank of Scotland plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 15 December 2023.

Karen Hanlon
Ombudsman