

current-account charges

This is a factsheet for consumers who have a complaint about a bank charge that has been applied to their current account.

what are current-account charges?

Current-account charges are applied to current accounts when the account holder:

- goes overdrawn without an agreed formal overdraft in place;
- exceeds the agreed overdraft limit; *or*
- makes payments (or attempts to make payments) when there isn't enough money in the account.

The current-account charges covered by this factsheet are different from the interest charges applied to overdrawn balances. They are also different from the monthly fees that are charged for current accounts with additional features – often called “packaged” bank accounts.

what's the legal position on current-account charges?

In July 2007 the Office of Fair Trading (OFT) began a court case against a number of banks and a building society. It was seeking to challenge the fairness of terms relating to current-account charges.

This legal “test case” was to establish if the OFT could assess whether the amounts the banks were charging were fair.

The Supreme Court issued its ruling on current-account charges in November 2009. The ruling overturned the earlier judgments of the Court of Appeal and High Court. Put simply, the Court ruled that these sorts of charges:

- did not generally amount to “penalties”; *and*
- cannot be challenged on the grounds they are too high.

This meant that the OFT lost its legal case. It subsequently announced that it would not pursue a further legal challenge on any new grounds.

what does the OFT's legal “test case” mean for complaints about current-account charges?

We have to take the law into account when we decide cases. So we have considered the Supreme Court's decision – and its implications – very carefully.

Our view is that the legal ruling means we cannot generally help with complaints that current-account charges are unfair or too high.

But we *can* help where the charges:

- have not been properly applied in line with the terms and conditions of the account; *or*
- result from an error by the current-account provider.

what should I do if I'm unhappy about current-account charges applied to my account?

If you think you have grounds for a complaint, you should get in touch first of all with your bank or building society – and give them a chance to look into your concerns.

You might want to look at our website for more information on making a complaint (www.financial-ombudsman.org.uk/consumer/complaints.htm).

If you're not happy with the response – or if you don't receive a response within eight weeks – contact us and we'll look to see if we can help.

what if I'm in financial difficulty?

Current-account providers don't have to refund or suspend charges automatically – where a customer is experiencing financial hardship. But they *are* required to deal positively and sympathetically with a consumer in these circumstances.

You should give your current-account provider information about your financial circumstances and the problems you are having – so that they can consider your situation fully. As part of this review, they may ask you to complete an “income and expenditure” form or a “financial statement”.

If you are experiencing financial hardship, your current-account provider should suggest some appropriate steps to help. This *may* or *may not* involve some refund of charges – depending on the circumstances.

A fair outcome might often include your current-account provider offering one or more of the following sorts of things:

- giving you a type of current account that is more appropriate for your circumstances;
- helping you to re-schedule your account payments to minimise the possibility of future charges;
- helping you with interest or charges;
- re-scheduling your current-account debt to help break the cycle of charging.

If you're not happy with the response from your bank or building society – or if you don't receive a response within eight weeks – let us know.

We will look to see whether we think your current-account provider has:

- assessed your financial situation properly; *and*
- done enough to help – where we agree there is financial difficulty.

In these circumstances, we don't generally tell the current-account provider to refund all current-account charges – or to agree not to make these charges in future. Instead, we normally require them to take a fair approach to your problems – which includes taking practical steps to help you run your account better.

This factsheet for consumers is only a general guide. It is not legal advice. We look at each case on its own individual facts and merits. We will always give you the chance to query anything you don't understand or agree with. © Financial Ombudsman Service Ltd, June 2014