

# Fight back against unfair bank charges

Banks charge us too much when we exceed our overdraft limits or pay our credit card bills late. We explain why these fees are unfair and help you to get your money back

**A**s anyone who has gone over their overdraft limit or paid a credit card bill late knows, bank charges can be excessive. We've discovered that if these charges amount to more than it costs the banks to deal with overdrafts and late payments, the charges are likely to be unfair and legally unenforceable. So you may be able to claim your money back.

Many of you have told us about the exorbitant charges you've paid. For example, pensioner Pat Baillie, from Ilford in Essex, paid Halifax £250 in overdraft charges over a four-month period. On one occasion, she was charged £56 for going £34 over her £100 limit – £28 of this was for a charge from the previous month. Halifax has now agreed to refund £151 of these charges.

## The banks' profits

The banks make a fortune from these charges. We've estimated that they charged us around £4.7 billion from unauthorised

overdraft charges on current accounts last year. This works out at around £120 from each of us. They received a further £600 million in credit card charges imposed for exceeding limits or paying bills late. See 'Our research', p25, for how we calculated this.

In 2004 we called on the banks to start treating their customers fairly and cut their sky-high charges on credit cards and current accounts. But two years on, many companies have brazenly increased their charges even further.

## How much are the charges?

If you don't have an arranged overdraft facility and dip into the red, or if you go over your agreed overdraft limit, you'll be using an unauthorised overdraft. You're charged a one-off fee of between £20 and £30 each time you do this. You also have to pay a fee of £25 to £30 for every payment, such as a standing order or direct debit, your bank pays while you are using an unauthorised overdraft.



## BARCLAYS BACKS DOWN

### Matt Tones 30, data analyst

With our help, Matt Tones from Hertfordshire has received £800 from Barclays – twice the amount he paid in charges. Matt had paid around £400 in overdraft charges in the previous six months. He wrote to Barclays using the standard letter on our website and gave it seven days to respond. It wrote to him a week later and said it would respond in a further ten days. Matt was delighted when Barclays wrote back saying that, although it didn't agree with him, it was offering him £800 as a gesture of goodwill.

**Banks received around £4.7 billion from unauthorised overdraft charges in the last year**

The highest charges are reserved for transactions your bank decides not to pay due to your lack of funds. These include unpaid direct debits, card payments or cheques (often referred to as bounced cheques). These charges can be incredibly high. For example, Halifax charges a whopping £39 and NatWest a similar £38 for each unpaid transaction.

Some banks, including Alliance & Leicester, Co-op, HBoS, Lloyds and Smile, told us that they will hit you with further charges if a charge from a previous month takes you over your limit the following month.

Credit card companies typically charge £20 or £25 if you pay a bill late or go over your credit limit. For example, American Express, Co-op, Intelligent Finance and Smile all charge £25 for late payments and for spending more than your credit limit.

**Legally, these high charges could be unenforceable**

## £50 IN THE RED? THAT'LL BE £118 IN CHARGES

How much you pay in charges for exceeding an authorised overdraft of £250 by £50 for three days, including charges for three payments that were made during this time

Charges	
exceeding overdraft	£28
paid standing order	£30
paid cheque	£30
paid direct debit	£30
<b>Total charges</b>	<b>£118</b>

These are the charges of Bank of Scotland/ Halifax and NatWest/RBS Correct as at 21 April 2006





### Fighting bank charges

We launched our Asbo (anti-social banking order) campaign in April to put pressure on banks to cut unfair bank charges. Our website takes you through all the steps you need to challenge the charges and has downloadable letters for you to fill in. It also has a factsheet on going to the small claims court. Thousands of people have visited the site already.

Doug Taylor, who is leading our campaign says: 'It has really struck a chord with people who are sick of being charged too much by their banks.'

Go to [www.which.co.uk/bankcharges](http://www.which.co.uk/bankcharges) for more information.

### Interest on overdrafts

On top of these charges, the banks impose a high interest rate on any unauthorised borrowing. This can be as high as 30 per cent. Astoundingly, Nationwide and Northern Rock charge this higher interest rate on both your authorised overdraft as well as your unauthorised overdraft. Nationwide charges 24.9 per cent and Northern Rock charges 29.8 per cent on the full overdraft.

### The law on charges

Which? Campaigns lawyer, Ingrid Gubbay, explains: 'The law is quite clear that banks and building societies are allowed to recover only their administration costs through charges. If fees are higher than the costs the banks incur, they are challengeable because they are likely to be unfair.'

### The OFT's verdict

The Office of Fair Trading (OFT) has agreed with us that charges are too high. In April, it told credit card companies to reduce their charges to no more than £12 or face possible legal action. The OFT has stated that

### Banks often refund charges before cases get to court

### HALIFAX CAVES INTO PRESSURE

**Lisa McTaggart** 53, runs a social club for older people in Kew. Lisa wrote to Halifax in February to get a refund of charges on her joint bank account that amounted to more than £800 over six months. For example, last October she was charged £360 for 12 items paid while she had been over her overdraft limit (at £30 a time), plus a further £28 for exceeding her overdraft limit. Halifax initially offered to refund one and then two months' charges – a total of around £400 – but Lisa refused this offer. She stuck to her guns and eventually Halifax agreed to refund a total of £838, which she accepted.

credit card companies are allowed to recover only the costs they incur for dealing with someone going over their credit limit or making a late payment. Importantly, it also confirmed that this applies to bank charges. Although £12 is a more reasonable charge, it could still be more than the amount it costs the banks to deal with late payments and exceeded credit limits. We want banks to be upfront about how much it really costs them and to charge us only this amount.

### The banks' response

We wrote to the banks asking them to justify their charges. Of the few that responded, none gave a valid justification for their high charges. For example, Alliance & Leicester's head of current accounts, Ewan Edwards, told us: 'We believe our charges are reasonable and competitive compared with the industry. They are clearly shown in our literature and on our website, as well as being set out on our current account statements.'

### SWITCH WITH WHICH?

Currently, all banks have similarly high charges. But our Best Buy accounts offer better interest rates and service. See [www.which.co.uk/campaigns](http://www.which.co.uk/campaigns) for our Switch with Which? site to help you get a new current account.

## STEP-BY-STEP GUIDE TO CHALLENGING THESE CHARGES

### STEP ONE

#### Check your statements

■ You can claim for charges that you've paid going back six years. If you haven't kept your statements, write to your bank and ask it to send you copies. The most it can charge you for this is £10. Banks must respond to your request within 40 days.

### STEP TWO

#### Open a new account

■ It's a good idea to open a new bank account before challenging your bank in case it closes your account. See 'Switch with Which?', right.

### STEP THREE

#### Ask for a refund

■ Write to your bank asking it to refund all the unauthorised overdraft charges you've paid in the last six years. The reason you are entitled to your money back is that the charges are more than the costs incurred by the bank to deal with your

overdraft. Say in your letter: 'Under the Unfair Terms in Consumer Contracts Regulations 1999 and/or the law of penalties, when charges are disproportionate to the loss incurred, they are unfair and unenforceable at law.'

### STEP FOUR

#### Threaten court action

■ If your bank does not make you an acceptable offer, you can threaten it with court action. By going to the small claims court, you can claim up to £5,000 in England and Wales, £2,000 in Northern Ireland and £750 in Scotland. In your letter to your bank, say: 'I look forward to your response within seven days of the date of this letter; otherwise, I will have little option but to issue proceedings in the small claims court to reclaim this amount (£) plus interest, which will incur further court costs.'

### STEP FIVE

#### Seek advice

■ If your bank doesn't make you a satisfactory offer, you might benefit from seeking legal advice before issuing court proceedings. This is especially the case if you have frequently exceeded your authorised overdraft by large amounts. ***Be aware that if you lose your case, you run the risk of having to pay the bank's court costs, which could be very high.***

For more information on going to court, download our factsheet 'The small claims court' at [www.which.co.uk/bankcharges](http://www.which.co.uk/bankcharges) or call 01992 822 800 and quote code Bank06 for a copy to be sent to you.

You could also take your complaint to the Financial Ombudsman Service for it to consider. This service is free. If it does not resolve your case satisfactorily, you can still go to the small claims court.



A Nationwide spokesperson told us its charges are clearly set out: 'They are not hidden and customers can easily avoid them by using the account properly. We do not believe it is fair for customers who use their accounts properly to have to subsidise the costs required to administer accounts that are misused.'

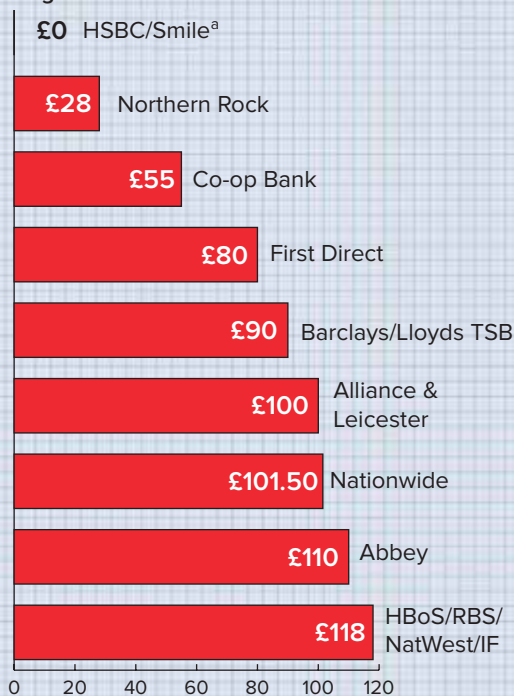
### Going to court

If your bank refuses to settle with you and tries to fob you off with similar excuses to those given by Alliance & Leicester and Nationwide, above, consider taking it to the small claims court (see our step-by-step guide, opposite). We've found that, once threatened with court action, banks often refund charges before cases get to court.

If you are in any doubt about winning your case, seek legal advice before issuing court proceedings. You have a greater chance of success the more disproportionate the charges are to the amount overdrawn. However, if you were constantly over your limit by hundreds of pounds, the courts may consider you to be 'unreasonable' and you may lose your case and possibly incur costs. Cases aren't always clear cut, though. For example, if you are claiming for charges made over a period of six years, the court may decide that some of them are unfair, while others are fair. It will depend on how much you exceeded your limit by and for how long, as well as how frequently you were charged.

## UNAUTHORISED OVERDRAFT CHARGES

The cost of exceeding an authorised overdraft of £250 by £50 for three days, including charges for a cheque, a direct debit and a standing order that the bank pays. The figures do not include interest.



Bank charges for unauthorised overdrafts

<sup>a</sup> HSBC and Smile have overdraft buffers of £50 and £500 respectively, so charges do not apply in this particular scenario Correct at 21 April 2006

## WHICH? SAYS

It's time for banks to start treating their customers fairly by reducing their excessive charges for unauthorised overdrafts and credit cards. Legally, these charges could be unenforceable.

Charges should cover only the banks' true costs of dealing with late charges and exceeding overdrafts. If banks and credit card companies refuse to reduce their charges, the OFT has made it quite clear that legal action could be taken against them.

The fact that the OFT has told credit card companies to reduce their charges should encourage

banks to reduce unauthorised overdraft charges as well, or face the consequences.

We have written to the Financial Services Authority, which regulates banks, asking it to take prompt action to force the banks to reduce their overdraft charges.

In the meantime everyone can do their bit to fight back against these unfair charges. If you've been hit with any unfair charges in the last six years, challenge your bank to refund them. Use our standard letters at [www.which.co.uk/bankcharges](http://www.which.co.uk/bankcharges) to help you make your complaint.

## Our research

In March 2006 we carried out an online survey of 2,218 current account holders and 1,573 credit card holders. We asked how many times they had been charged by their bank or building society for unauthorised borrowing or for paying their credit card bill late or exceeding their credit limit in the last year.

We then calculated the total charges, using the cost of a typical overdraft and average credit card charge. This gave us a figure of £4.7 billion taken in overdraft charges and £600 million in credit card charges received from adults in Britain in the last year.

## Checklist

### How to avoid charges

- If possible, avoid these charges altogether by making the most of online and phone banking to manage your finances.
- If you think you are going to exceed your overdraft limit, contact your bank to arrange a temporary overdraft or a permanent extension.
- Ask your credit card company to increase your credit limit if you think you are going to exceed it.
- Set up a direct debit to pay at least the minimum repayment but preferably the full balance owed on credit cards.
- Check your statements carefully on a regular basis. Query any bank charges as soon as you see them. Banks may agree to refund one-off charges immediately as a gesture of goodwill, especially if you are usually a good customer.
- Speak to your bank if you are in financial difficulties. Banks have to deal with you sympathetically and they may be able to help you sort out your financial problems.