



## **RECLAIMING BANK FEES: A 7 STEP GUIDE**

Have you ever been charged £20 for a letter informing you that you have breached an over-draft limit? Or perhaps you found a fat £30 charge on your bank statement for a bounced cheque or failed direct debit? When you are struggling with your finances, bank penalties can represent the difference between staying afloat and going under. A lot of people think that bank penalties are a fact of life that cannot be avoided, but there is a way.

In 2006, an Office of Fair Trade ruling made it absolutely clear that you are entitled to reclaim your bank penalties in full and this 7 Step Guide will show you how.

This guide explains how you can get that money back!

### **STEP 1 – WORKING OUT HOW MUCH YOU ARE OWED**

- You can claim charges going back 6 years so the first thing you will have to do is work out how much you are owed. If you have 6 years' worth of bank statements you can simply tot up the charges and move to Step 2.

If you don't have that information, you will need to get it from your bank. You can do this by sending a written request for a full 6 years' worth of bank statements. You can use Appendix B to structure your letter. You will also need to enclose a £10 payment with your request, but when you claim back your charges, you will be able to claim that back too.

Under the Data Protection Act, the bank is legally obliged to provide you with this information within 40 days. You can claim interest at 8% APR for the period you wait for their reply so it is not in your bank's interest to delay. If they do refuse or fail to reply after 40 days, they will have breached the Data Protection Act, and you will be entitled to report them to the Information Commissioner. If you do this, they should soon supply you with the information you request.

### **STEP 2 – REQUESTING YOUR REFUND**

Now that you have a list of all your charges you need to lay them out on a breakdown sheet. You can use Appendix C to do this. You then need to write to your bank, enclosing your full breakdown of the charges you are reclaiming, and request a refund. You can use Appendix B to structure your letter at this stage.



## STEP 3 – THE REPLY FROM YOUR BANK

When your bank replies, they will normally give one of four responses.

They might...

- 1)Offer you a partial or full refund. If this happens, they should include full details of how you can receive your refund and you can move to Step 4.
- 2)Claim that they are looking into it and, under the banking code, have 8 weeks to respond. If this happens, you should wait 14 days before moving to Step 5.
- 3)Claim that the charges are in your terms and conditions and instruct you to contact the Ombudsman. If this happens, go to Step 5.
- 4)Claim that the charges are not unlawful. If this happens, go to Step 5.

## Step 2 - The local authority considers your representations

Your local authority will:

- 1.Consider representations received in time;
- 2.Decide whether to accept or reject them;
- 3.If they accept they will:
  - a.send you a Notice of Acceptance (a letter issued by a Council to a motorist following their formal representation against a Notice to Owner indicating that this representation has been accepted)
  - b. cancel the Notice to Owner (a statutory notice to be served by the council on the person believed by them to be the owner of a vehicle issued with a Penalty Charge Notice that remains unpaid after 28 days)
4. If they do not accept they will:
  - a. send you a Notice of Rejection (a letter issued by a Council to a motorist following their formal representation against a Notice to Owner, indicating that this representation has been rejected)
  - b. send you a Notice of Appeal form (the form which must be issued to a motorist along with a Notice of Rejection and which opens up the motorist's right to appeal to an independent Parking Adjudicator)

The local authority should respond to representations within 3 months.

## STEP 4 – DECIDING WHETHER TO ACCEPT THE BANK'S OFFER

If the bank offers you a partial refund, you have 2 options.

- 1)If you wish, you can accept the partial refund, but remember, the money is yours and you are entitled to it.



2) You can reject the offer.

If you decide to reject the offer, you should write back to your bank and tell them that, while you thank them for the offer, they now have 7 days to refund you in full or you will begin court proceedings.

## THE PROCESS FOLLOWING REJECTION

Once a Notice of Rejection has been served, you have 28 days to either:

- Pay the charge; or
- Appeal to the Adjudicator. A Notice of Appeal form should be sent by the local authority with their Notice of Rejection. If it is not, contact the authorities to get one.

If you wish to appeal to the Adjudicator later than the 28 days, you should still send your appeal but you MUST explain on the Notice of Appeal form the reason it is late. The Adjudicator will then decide whether to allow you to appeal late.

## STEP 5 – BEGINNING COURT PROCEEDINGS

If your bank refuses to refund your fees, you will need to begin court proceedings. The easiest way to do this is to register online at Money Claim Online, Her Majesty's Courts Service Internet based service for claimants and defendants.

When you register your claim, you will need to pay upfront court fees of £30 - £120, depending on how much you are claiming. Remember, in most cases, the banks will not contest your claim so it is up to you to decide if it is worth pursuing the claim once you know the cost. If you are receiving any kind of benefits, you can avoid paying the court fees. Contact your local county court for details.

Once your claim has been submitted, the bank will usually respond in one of three ways:

- 1) Fail to acknowledge the claim. If this happens, after 14 days you can ask the court for a default judgement and you will win your claim.
- 2) Agree to pay your claim in full, including interest and court fees.
- 3) Submit an acknowledgement of your claim. If this happens, they will have 14 days to enter a defence.



## STEP 6 – DEALING WITH YOUR BANK'S DEFENCE

A lot of banks submit an acknowledgement, and then decide to pay your claim. In some cases, however, the bank will submit a defence.

If they do, you will be sent a Court Allocation Questionnaire. This must be returned within 7 days and can involve an additional fee.

The court will then set a date. However, by this point, most banks will have settled, if they have not already, rather than go to the trouble of going to court. If it does go to court, just remember, you are entitled to your claim and should not feel guilty.

If you are nervous about fees, you can look into getting a 'No Win, No Fee' solicitor to help you.

## STEP 7 – AVOID IT HAPPENING AGAIN

As obvious as it sounds, the best way to avoid being stuck with penalty charges is to avoid going into unauthorised debt.

If you are experiencing problems with debt, you may benefit from speaking to a debt solutions company, such as Thomas Charles and Co Ltd who can be contacted on 0870 141 72 71.



## APPENDIX A

[your name]  
[your address]

[bank name]  
[bank address]

[date]

### Data Protection Act disclosure request

Dear Sir/Madam

#### ACCOUNT DETAILS: [your account number and sort code]

Under the Data Protection Act 1984 and 1998, and including the right of subject access under these acts, please supply me with a complete list of transactions and charges relating to my bank account since [date – up to 6 years prior to date of letter]. Alternatively, a complete set of bank statements for that period will be acceptable.

Additionally, where there has been any event in my account history over this period which has required manual intervention by any member of your staff or any other person, I require disclosure of any indication or notes which have either caused or resulted in that manual intervention or other evidence of that manual intervention in relation to my banking business with you.

If you are unable to supply data relating to manual intervention because there has been no such manual intervention then please be so kind as to confirm this in your response to this request.

I enclose the statutory maximum fee of £10. You have 40 days in which to comply. Furthermore, if I discover that you have levied disproportionate penalties against me then I shall be reclaiming them and also reclaiming the enclosed £10 DPA disclosure fee.

Furthermore, I am sure you are now aware, due to the sheer amount of these letters you receive, plus the massive media attention, that every time you receive one of these letters it will be followed up by a request for a full refund of any disproportionate penalty charges, this will give you 14 days to do so before court action. Please note, if I have to take court action to reclaim these charges then I will do so. Therefore, to save yourselves some time and money,



if you could just refund all these charges dating back 6 years immediately you will not incur the court fees or your solicitor's fees and the 8% interest I am entitled to claim.

Yours faithfully,

**APPENDIX B**

[name]

[your name]

[your address]

[bank name]

[bank address]

[date]

Dear Sirs

**ACCOUNT DETAILS:** [your account number and sort code]

Due to recent media coverage on bank charges I am now aware that you, [bank name] have been charging me charges that are contrary to the Unfair Terms in Consumer Contracts Regulations 1999. Schedule 2 (e) of the said regulations gives a non-complete list of terms, which may be regarded as unfair, such as a term that requires me as a consumer who fails in his obligation, to pay a disproportionately high sum in compensation.

I believe that your charges are disproportionately high and therefore they are contrary to the Unfair Terms in Consumer Regulations 1999. In addition, I believe that your charges are a Penalty. Penalty charges are irrecoverable at common law. The precedent for this was Dunlop Pneumatic Tyre Co Ltd v New Garage and Motor co Ltd [1915] AC 79 along with Murray v. Leisure play [2005] EWCA Civ 963. It was held that a contractual party can only recover damages for an actual loss or liquidated losses. It is clear that your charges do not reflect any actual and or real loss.

Furthermore, if you fail to comply with this letter, I request without further notice a breakdown and proof of all costs involved, in regards to your actual or liquidated losses involved in any breach of contract to which these charges relate with yourselves, and that these charges reflect your true costs in relation to the said charges, and are proportionate to the charges levied on my account as defined in Unfair Terms in Consumer Contracts Regulations 1999. Schedule 2 (e). I also hereby request a detailed report of which clause in your terms and conditions each charge has been applied against.

Your charges appear to be nothing more than a profit-making scheme. Therefore I require you to refund me at a total of [£X,XXX.XX], representing the total unlawful charges during the last 6 years. I hereby give you 14 days to refund the charges back on to my account. For the

page 6 of 3



avoidance of doubt, if this is not done within 14 days, I will commence my claim in the courts without further warning. This action will inevitably involve you in additional costs.

Yours faithfully,

[name]

## APPENDIX C

## ACKNOWLEDGMENTS

Thanks go to <http://www.penaltycharges.co.uk/> for providing the templates for the letters given in the Appendix and for the legal information contained within this brochure.