

Fully Charged

Evidence on overdraft charges from Scottish Citizens Advice Bureaux

*based on the evidence of Citizens Advice Bureau
clients across Scotland*



**BANK
STATEMENT**

CHARGES

by Keith Dryburgh
Social Policy Officer

2010

**citizens
advice
scotland**

Citizens Advice Scotland

Scottish Association of Citizens Advice Bureaux



1939-2009: 70 years
of Scottish CAB advice

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Evidence from Scottish Citizens Advice Bureaux

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Citizens Advice Scotland and its CAB offices form Scotland's largest independent advice network. CAB advice services are delivered through service points throughout Scotland, from the islands to city centres.

The CAB service aims:

to ensure that individuals do not suffer through lack of knowledge of their rights and responsibilities, or of the services available to them, or through an inability to express their need effectively

and equally

to exercise a responsible influence on the development of social policies and services, both locally and nationally.

The CAB service is independent and provides free, confidential and impartial advice to everybody regardless of race, sex, disability or sexuality.

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Summary

The recession has left Scots more exposed than ever to disproportionate and unfair overdraft charges from their banks. For our clients they *are* unfair – they are disproportionate to the level of infringement, they penalise low income customers for being poor, and trap many in a cycle of debt for an overdraft that can be as little as a penny.

As incomes reduce in the recession and people get closer to their overdraft limit, many will look to their bank for financial help. However, the reality is that many bureau clients will be hit with high charges for their financial trouble, leaving their existing credit commitments and housing costs ever harder to pay.

This report looks at the sharp end of overdraft charges, showing that bank charges are not always caused by irresponsible spending, that vulnerable clients are hit much harder by charges, and that banks are failing to help those struggling with their finances.

Bank charges occur for various reasons – not just irresponsible spending

- A great number of those facing overdraft charges do so for reasons other than being an irresponsible spender, such as low income, job loss, mistakes by banks, or problems with benefit payments or direct debits. Regardless of whether the mistake is the client's fault, the charges remain the same.

Overdraft charges discriminate against low income clients

- Bank charges inherently discriminate against low income clients, where the level of charges is insensitive to the level of infringement. Many of these clients are in a vulnerable situation, such as having a low income, suffering from health problems, being a lone parent, or being a single pensioner. Banks rarely consider these circumstances when imposing charges.
- Overdraft charges can have a significant impact on clients whose only source of income is benefit payments. These clients can budget in pennies, then find that a slight overspend results in a debt of up to £100 in charges.

Banks are failing to help customers in financial difficulty

- A significant problem for bureau clients is the attitude and actions that banks take when clients question or ask for reprieve from charges. The responses from banks are often unhelpful and can adversely affect the customer.
- A common response from banks is to pressure clients to take out new products while they are stuck in their overdraft. This can include consolidation loans, re-financing loans, and other products. Clients feel under pressure to agree to these requests as overdraft charges mount up.

- Bureaux report that it can be common for banks to ask for high rates of repayment of overdraft arrears and to be unresponsive to other offers of repayment.
- It is a common occurrence for banks to let charges build up on a client's overdraft and then to sell or pass on the debt to a debt collector. In the mean time, the client often has little chance of escaping the seemingly endless charges.

Low income customers subsidise banking for higher income customers

The upshot of the variety of charges that clients can incur has resulted in a substantial cross subsidisation from those who incur charges and those who do not. According to the OFT market study on personal current accounts¹, and supported by our evidence, this cross subsidisation is from low income, low saving clients, to high income, higher saving consumers – a kind of reverse Robin Hood effect. The revenue made from the customers who incur charges is actually keeping the cost of an account low for other higher income customers.

Remedies

The task for the government and the banks is to provide remedies that will empower clients to take control of their current accounts. This needs to be done by making terms and conditions more transparent, by encouraging switching, and making insufficient charges fairer and more proportionate. This could result in banks being encouraged to make their revenue from better deals for clients, rather than from low income clients who can ill afford it.

- Customers should receive bank charges that are proportionate to their level of infringement. A customer who is overdrawn by pennies should be charged less than a customer who is overdrawn by hundreds of pounds.
- Banks need to show greater discretion in applying charges, taking into account a debtor's financial situation, before automatically applying charges.
- Banks should help customers to repay their overdraft debts by freezing charges and interest when it becomes clear that the client does not have the ability to repay them.
- Bank charges need to be more transparent and understandable.
- Low income customers should be given small approved overdrafts when they are struggling financially.
- Customers should be given the option of opting out of going overdrawn if this would benefit them.
- Customers should have a buffer zone on their account in which they are charged either no fee or a small fee, in order to allow them the chance of getting back into the black.

¹ Personal Current Accounts in the UK July 2008 - <http://www.of.gov.uk/news/press/2008/84-08>

Introduction

1. Citizens Advice Scotland (CAS) is the umbrella organisation for Scotland's network of 83 Citizens Advice Bureau (CAB) offices. These bureaux deliver frontline advice services throughout nearly 200 service points across the country, from the city centres of Glasgow and Edinburgh to the Highlands, Islands and rural Borders communities.
2. In 2008/09, Scottish Citizens Advice Bureaux dealt with nearly a million issues for clients. Issues related to debt increased by 16% last year to over 360,000 issues – nearly 1,000 debt cases for each day of the year. Our recent research report, *Drowning in Debt* (2009), found that the average debt held by a bureau debt client was £20,193, a 50% increase in five years.
3. The issue of overdraft charges has been on the public agenda for a number of years, while the Office of Fair Trading (OFT) challenged the banks on the fairness of charges and millions of customers claimed compensation for unfair and disproportionate charges. Bank charges continue to affect customers as the recession forces more people into their overdraft as incomes drop and debt rises.
4. The Office of Fair Trading (OFT) started a test case with the UK banks in 2007 arguing that it should be able to assess the fairness of overdraft charges. Despite High Court and Court of Appeal decisions in favour of the OFT, the Judgement of the Supreme Court on overdraft charges found that the OFT could not assess whether charges were unfair. It was hoped that the Supreme Court case regarding overdraft charges would help resolve the issue, but while the decision in favour of the banks may have brought clarity for bankers, it ensures that unclear and unfair overdraft charges continue to adversely affect millions of people.
5. Overdraft charges continue to affect a great number of Scottish bureau debt clients. Our *Drowning in Debt* (2009) report found that nearly nine out of ten debt clients who took part in the research were in debt to their banks, while nearly half of debt clients (44%) had an outstanding overdraft debt. The proportion of debt clients with an overdraft debt has increased substantially in the last five years by more than a quarter. The research made a number of key findings on overdrafts and bank charges:
 - Over three-quarters of clients reported that they regularly incurred charges from their bank for being overdrawn or being in arrears.
 - Overdraft debts were the third highest debt that clients held in the survey after personal loans and credit cards, while one in five clients in the survey listed an overdraft debt as one of their priority debts.
 - Overdraft debts were the most common type of debt to be sold on to a debt collector.
 - Some client groups – such as male clients, clients living on their own, and clients renting their home – were more likely to have an overdraft debt than the average.

6. It has been clear for some time that overdraft charges are immensely profitable for banks, but come at the expense of penalising low income and financially vulnerable consumers. The Office of Fair Trading (OFT) undertook a study on the UK Personal Current Account market in 2008, which found that £2.6 billion in overdraft charges were paid by bank customers in 2006, comprising nearly a third of total retail revenue for the UK banks. It further found that vulnerable customers were hardest hit by charges and that, *'there seems to be a substantial cross subsidisation from those consumers who incur insufficient funds charges to those who do not; and to a significant extent from 'vulnerable', low income and low saving consumers, to higher income, higher saving ones'*. Other findings from the study include:
 - 14 million current accounts had an unarranged overdraft in 2006 (26% of all current accounts) – a significant proportion of all accounts
 - £2.6 billion in overdraft charges were paid to the UK banks – accounting for nearly a third of retail banking revenue in the UK
 - Customers who had an unarranged overdraft incurred an average of over £200 in overdraft charges, and 1.4 million customers incurred at least £500 in charges
 - 39% of those charged had at least six charges
7. The study clearly found problems in the way that the UK banks operate current accounts for customers, particularly on the subject of overdraft charges, and recommended a number of remedies that the banking sector could take on. However, to date, few of the remedies have been adopted by banks, and are less likely to be implemented following the result of the Supreme Court hearing. The study concluded that consumers lose out in two ways: A minority lose out significantly, but ultimately everyone suffers if the banks have little incentive to compete vigorously by providing better offers on key elements of their current accounts.
8. This report will look at the problems under the following headings:
 - Why clients incur overdraft fees
 - Why charges are unfair and disproportionate
 - Impact on different client groups
 - How banks fail to help customers in financial difficulty.
9. This report will also outline a number of potential remedies that would help make overdraft charges fairer and more proportionate for all UK bank customers.

Why clients incur overdraft charges

10. There is a common myth that overdraft charges are only incurred by customers that are careless with their money and who lack the budgeting skills needed to stay in the black. Indeed, there is a public perception, often propagated in the media and by banks, that charges are generally levied at shopaholics or big spenders who splash out on goods that they could never afford. This has progressed to a feeling that overdraft charges are somehow fair in that they only target irresponsible spenders, and that to reform bank charges would be unfair on the rest of us.
11. However, a great number of those facing bank charges do so for other reasons such as low income, job loss, mistakes by banks, or problems with benefit payments or direct debits. In the experience of the Scottish CAB, many of these events happen out with the client's control, but ultimately lead to the client being overdrawn and incurring multiple charges. These charges can be so high that the client, who is more often than not vulnerable with a low income, has little chance of escaping from the cycle of debt that ensues. In our experience, it is not the case that most clients don't learn from the first charge – it is much more likely that high charges and low income make another charge unavoidable.
12. The reasons why clients incur overdraft charges are explored in this chapter under the following headlines:
 - Budgeting problems
 - Redundancy
 - Problems with banks
 - Problems with benefit payments
 - Problems with direct debits

Budgeting problems

13. It is of course true that clients can incur overdraft charges due to budgeting problems. Many clients struggle to balance a low income with their outgoings, especially where incomes may fluctuate. However, clients who go beyond their budget may only do so by small margins, and then find themselves facing increasingly disproportionate charges for doing so.

An East of Scotland CAB reports of a client with severe mental health problems who quickly built up substantial bank charges for an overdraft of £1.92. The client used her debit card for a purchase of £4.25, not realising that there was only £2.33 in her account. Over the next two months her overdraft of £1.92 grew to more than £180, solely as a result of interest and charges imposed by the bank. The client was very worried as to how she could possibly pay this from an income of £79 per week.

14. These budgeting problems are often as a result of the low income of the client, who will face small margins of error every month. An unexpected bill, such as a washing machine needing repair, or an abnormally high utility bill, can often be all it takes to push a low income client into being overdrawn.
15. Many of the clients that incur charges do so with little knowledge of the level of charges and the circumstances in which they would be charged. Indeed, many clients were not aware that these charges existed before incurring them. This is partly due to lack of financial capability on the client's behalf, but it is also due to the lack of transparency that banks show over charges leading to customer confusion.

A South of Scotland CAB reports of a young client who incurred bank charges after assuming that his card would be frozen after he ran out of funds. The client did not know about bank charges, thinking that he would be told when he had no money. The bureau asked for a refund of charges, but found it very difficult to find somebody who would talk about the client's situation.

Redundancy/loss of work

16. The number of people unemployed in Scotland rose to 202,000 in November 2009, a rise of 67,000 over the previous year.² Scots facing redundancy will face paying housing costs and existing credit commitments on a reduced income. Anecdotal evidence from Scottish bureaux suggests there has been an increase in clients facing overdraft charges after being made redundant.
17. These clients are not bank customers who require a sharp shock of overdraft charges to mend their ways. They are customers in genuine need of understanding from their banks. Instead, they can face multiple charges for being in financial difficulty putting them in greater debt and at the mercy of their other creditors and mortgage lenders.

A West of Scotland CAB reports of a client who built up a £900 overdraft after being made redundant. The client is keen to repay his overdraft, but his bank is insisting on monthly payments of £138 when the client only receives £160 a month in benefit payments. In the meantime, interest and charges continue to mount on the client's overdraft, while the client's JSA payments are being 'swallowed up' by the bank leaving the client with nothing to live on. The client is relying completely on his mother for money and support.

² Office of National Statistics (ONS) – Regional monthly data for Scotland
<http://www.statistics.gov.uk/StatBase/Product.asp?vlnk=15084>

A North of Scotland CAB reports of a client whose overdraft debt was passed on to a debt collector after the bank had agreed to freeze the charges to allow the client a chance to repay the debt. The client is a single parent whose debt built up after being made redundant. The client has now been contacted by the debt collector who told him that he had two days to repay his £1,300 overdraft and charges. When the client said that he did not have this sum of money, the operator suggested that he borrow the money from friends or family.

An East of Scotland CAB reports of a client who experienced significant financial and housing difficulties when his benefit payments were swallowed by bank charges. The client lost his job, and was unable to make repayments on his borrowing whilst on Job Seekers Allowance (JSA), and went into his overdraft. The client's housing benefit and JSA were paid directly into his account, but all monies going into the account were used up by bank charges for unauthorised overdraft, failed direct debits and letters to the client. The client went into rent arrears and was evicted by the landlord. He is currently homeless and staying with a friend. The bureau arranged for the client's housing benefit to be paid directly to a landlord and another account opened for his JSA to be paid into.

A North of Scotland CAB reports of a client who has incurred multiple overdraft charges since being made redundant. The client recently exceeded his authorised overdraft limit and received more than £400 in charges in a six week period. The client is extremely stressed and worried about his debts and cannot see how to stop them increasing.

Problems with banks

18. Clients often experience problems being overdrawn due to actions and policies of their bank. This can be due to a lack of communication between the bank and the client, as well as poor policies and practices.

An East of Scotland CAB reports of a client who was mis-sold a current account causing him to incur charges. The client wanted to open a student account and was led to believe that he had done so. However, the bank had opened a fee-charging current account for the client, causing him to incur multiple overdraft charges. After six months of complaints, the client had a student account opened and his charges refunded. However, the letter from the bank stated that this would be the last time that he would get charges refunded as it was 'his fault' the mistake had been made.

An East of Scotland CAB reports of a client who opened a student account upon starting her studies, and built up substantial charges without ever using the account. At some point, the client's account changed to a 'royalties account' which meant a charge of £6 per month for use of the account. Because there was a zero balance the £6 charge put the account into the red and a £28 per month bank charge plus interest began to be applied. By the time the client realised what had happened, she had a debt of over £300 and rising. The client maintains that she was not told that the unused account was going to be upgraded to the new fee-charging account nearly two years after she had initially opened the account.

19. Clients can also find themselves overdrawn through actions taken by their banks which the client had little control over. In particular, the '**right of set off**', in which banks can move money from a customer's account to put towards arrears, often puts a client overdrawn leaving them open to charges and interest.

A West of Scotland CAB reports of client who fell into arrears on a bank loan after becoming unemployed. He borrowed money from his family to clear his overdraft and negotiated a repayment arrangement with the bank to clear the arrears on the loan. However, he recently paid money into his account, after which the bank withdrew £600 of this money through their right of set off to put towards the client's personal loan, despite the client keeping to the repayment agreement. This action has put the client's current account back into overdraft thereby putting the client back in a cycle of charges.

A West of Scotland CAB reports of a client whose insurance pay out was used by her bank to pay off the client's unauthorised overdraft. The client was unable to work due to illness and received a payment from her work insurance. However, all of the payment was then taken by the bank to cover overdraft charges, leaving the client without funds. The client contacted the bank asking for the money back and was offered a loan instead.

A North of Scotland CAB reports of a client whose bank took money from her current account when the client fell behind on payments on a loan. This left the client without funds for necessary expenditures and relying on her mother's help to get by. The deductions from the client's current account pushed her into her overdraft thereby leaving the client facing additional charges.

A North of Scotland CAB reports of a lone parent whose bank took £400 from her account to repay debts without her permission. They used their right of set off, despite bureau involvement in respect of negotiating repayments of her credit card debts and overdraft. The bank took £400 from her current account after her wages had been made in, leaving the client with no money. The client contacted her branch who denied having any contact with the bureau, and stated that if the client moved her account to another bank they would take her to court.

Problems with benefits

20. Many bureau clients report problems with the administration and payment of their benefits, which often leads to problems in their finances. If a benefit payment is stopped or delayed, this can put a client into financial difficulty and put them into their overdraft. These circumstances can often occur out with the client's control, but leave the client with the responsibility of coping with the consequences.

A North of Scotland CAB reports of a lone parent who incurred overdraft charges due to problems with Child Tax Credit. Payments to the client for her youngest child were suddenly stopped, apparently because the client's details were incorrect in the system. Despite sending her child's birth certificate as proof, the payments have not been reinstated, resulting in the client incurring bank charges due to the drop in income. This has caused the client severe financial problems and stress.

A South of Scotland CAB reports of a client who incurred overdraft charges due to a mistake in his benefit payments. The client receives Employment Support Allowance (ESA) based on sick lines being sent by his GP. However, one sick line went missing and the client's benefit was stopped for a month. During this time, a direct debit was returned twice leaving the client with £76 of charges.

21. A number of clients receiving benefit payments incur bank charges as their payments are misaligned with their outgoings. While this is essentially the client's responsibility, banks could easily spot this trend and act with the client to rectify the problem. Simply taking direct debits later in the month could have a significant impact on a client's finances.

An East of Scotland CAB reports of a client who received over £800 of bank charges in an 18-month period despite only rarely being overdrawn. The bureau checked the client's bank statements and found that the client had only been withdrawn on a few occasions and by no more than £2 at any one time. The charges mainly related to unpaid direct debits because of a misalignment with the client's benefit payments. The client is in receipt of Disability Living Allowance due to learning difficulties, and lives with his wife and young child.

Problems with direct debits

22. Clients can receive significant charges of up to £35 for a missed direct debit, which can take a client into their overdraft or compound problems for those already overdrawn. This can be due to a client having less income than anticipated in their account, direct debits being poorly scheduled, or direct debits being mistakenly taken out of a client's account. In some cases, problems with direct debits are caused solely by the actions of the bank or the company to which the direct debit is being paid, and happens out with the client's control.

A South of Scotland CAB reports of a client who incurred multiple bank charges for missing a direct debit that she had no knowledge of and had not authorised. The client's bank returned the direct debit three times costing the client over £100 in charges. The application of these charges resulted in the client's overdraft limit being exceeded. This resulted in her benefits being swallowed up and resulted in her applying for a crisis loan to make ends meet.

A West of Scotland CAB reports of a client who incurred significant bank charges after a company failed to cancel a direct debit as instructed. The client opened a bank account in order to pay a direct debit and regularly paid money into the account to cover the payment. The client decided to change the method of payment and instructed the company to cancel the direct debit. However, the company failed to do so, and the missed direct debit took the client 70 pence into overdraft. By the time that the client realised the company's mistake, he had built up nearly £200 of charges for the missed direct debit. Both the company at fault and the bank have refused to take responsibility for the mistake.

An East of Scotland CAB reports of a client who incurred charges after her bank paid out direct debits early. The client had received charges for missing direct debits the previous month, so the client checked her online banking the following month and found that her direct debits had been paid out "1 minute" before her wages were paid into the account. The client challenged the bank on why they were paying her direct debits earlier than specified, and they replied that they were entitled to take it early. The client was charged £150 for missing the direct debits and as a result spiraled into debt.

Why charges are unfair and disproportionate

23. This section looks at the ways in which overdraft charges are disproportionate for clients who are vulnerable or have a low income, and how multiple charging can make repayment of overdrafts extremely difficult. The problems with overdraft charging will be looked at under the following sections:
- Disproportionate charging
 - Direct debits/items charges
 - Multiple charges

Disproportionate charging

24. Scottish bureaux have seen a number of clients who have built up substantial charges for a very small overdraft. These clients often go into their overdraft without realising that they have done so, and find that they have incurred high overdraft charges at the end of the month.
25. These overdraft charges are often highly disproportionate to the level of overdraft infringement. This system inherently discriminates against low income customers, where the level of charges is insensitive to the level of infringement. Many of these clients are in a vulnerable situation, such as having a low income, suffering from health problems, being a lone parent, or being a single pensioner.

An East of Scotland CAB reports of a client who incurred excessive bank charges for a small overdraft. The client is a mature student who works part-time. The client went 60 pence into his overdraft and was charged £28 and a subsequent charge of £38. Since then, the client has been unable to clear his overdraft. The client only earns £50 per week, and finds himself in an impossible situation.

A West of Scotland CAB reports of a disabled lone parent who was given an overdraft charge after exceeding her overdraft limit for one day. The client stated that she regularly checks the status of her account using the telephone services and was at no time made aware of a problem with her account. The client feels that the £28 charge is excessive and unfair.

An East of Scotland CAB reports of a pensioner who received excessive charges for exceeding her overdraft limit. The client recently exceeded her overdraft limit by £46.74, with her bank statement showing charges of £170 for exceeding the limit. The client lodged a complaint about the excessive charge, but despite being a pensioner found that the local manager was unsympathetic to her situation.

A North of Scotland CAB reports of a client who received over £60 of charges after spending £9 in a shop. The client cannot understand why the charges are so high for a very small overdraft, and is very upset at effectively losing a full week's income.

An East of Scotland CAB reports of a client who was charged nearly £100 for an unauthorised overdraft of £7.30. The client complained to the bank about the high charges for a small overdraft, but is yet to receive a response.

A West of Scotland CAB reports of a client who received £75 in bank charges for a £17 overdraft, despite crediting her account with £20 on the same day as she went into overdraft.

An East of Scotland CAB reports of a client who received £47 of bank charges for an overdraft of 47 pence. The client phoned the bank to complain, but was told that if the charge was not paid she would be charged double next month.

A South of Scotland CAB reports of a pensioner who incurred overdraft charges of over £1,000 in an eight month period. In one month alone, the client was recieved over £550 in charges – the client only recieves £600 a month through his occupational pension.

26. Overdraft charges can have a significant impact on a client whose only source of income is benefit payments. These clients can budget in pennies, then find that a slight overspend can mean that they owe up to £100 in charges. A standard overdraft charge of £25 can be a daunting prospect for those living on benefit payments.
27. Low income customers can very quickly be in a lot of debt to a bank due to a small overdraft. The customer's low income would then preclude any chance of getting out of the overdraft, thereby trapping the client in a cycle of debt. The consequence of this cycle of debt is that clients begin to have their benefits – which are necessities for living - swallowed up by charges. Under the present system, benefits lose their identity when they reach the client's

account, and are used by banks for paying bank charges. This can leave clients with very little to live on.

An East of Scotland CAB reports of a client who has bank charges taken from her account each month even though her income consists entirely of benefits. The client gets about £40 per week, but this month's bank charge was £120, leaving the client with £10 a week to live on. The client is stuck in a cycle of bank charges that her limited income will not allow her to escape.

A West of Scotland CAB reports of a single mother whose entire income was swallowed up by bank charges. The client has three children and receives £204 in benefit payments, but this month the entire amount was immediately taken by the bank to go towards the client's pre-existing overdraft charges. The client tried to negotiate with the bank, insisting that she is willing to put some of the money towards the charges, but the bank will not negotiate with the client.

An East of Scotland CAB reports of a client who is being charged £5 for every day she is overdrawn and £25 for each transaction presented. The client is living on Income Support with a five year old daughter and is in serious financial difficulties.

28. The system of overdraft charges impacts most severely on clients with low incomes. The charges do not differentiate between small and low overdraft infringements, or between high earners and low earners. The result is that low income clients are left with unaffordable charges that do not reflect their level of infringement or personal circumstances.
29. Many of the clients in the case studies were in vulnerable situations that were made worse by the bank charges that were imposed on them. These clients can report that bank charges eat up the majority of their income, leaving them with very little to live on.

Direct debits/Item charges

30. High charges for unpaid items are a common problem for bureau clients. This is particularly the case for missed direct debits and standing orders. These charges are for a high amount (commonly £35) and can be charged a number of times in the same month for a client with multiple direct debits. The impact of this is that a client who is not in overdraft can be dragged over their overdraft limit by one missed payment and consequently incur a number of charges.
31. For example, a client who has £34 in their account and has a £35 direct debit to be paid from the account on that day will be likely to incur a £35 missed payment charge and then a £25 charge for going over the overdraft limit. This

would leave the client with a £26 overdraft for being £1 short and liable to receive future charges – including the missed direct debit.

32. A client may have set up multiple direct debits for the same day. If the anticipated balance is not available to meet these costs, this can result in multiple charges for the client with disastrous consequences.

An East of Scotland CAB reports of a client who went into his overdraft and consequently was charged for missing nine direct debits. The client does not have guaranteed hours of work and already had debt of more than £15,000. The client's debt problems were aggravated by receiving £351 of bank charges for missed direct debits in a two week period. The charges are approximately the same as his monthly income.

A West of Scotland CAB reports of a client who returned from holiday to find that she had been charged for a missed direct debit as she was 2 pence short. The bank charged the client £35 for the missed direct debit. The client was unhappy with the charge as she has been a customer with the bank for over 20 years.

A North of Scotland CAB reports of a retired client who received charges of over £80 for a failed direct debit. The bureau tried to negotiate the charges with the client's bank, but found the bank to be uncooperative.

An East of Scotland CAB reports of a 77 year old client who received over £300 of overdraft charges in one month which all appear to originate from one bounced transaction. The client's only income comes from her pension.

A West of Scotland CAB reports of a client who was charged twice for the non payment of a standing order. The client had insufficient funds for a standing order of £17 and received a charge of £38 for the 'unpaid item'. He put money into the account to cover both costs, but then received a letter from the bank advising him of an additional charge of £28 for an unauthorised overdraft relating to the same standing order. The customer feels that these charges are excessive and is being charged for the same thing twice.

33. Clients may be also charged for the number of items that they purchase while overdrawn. Not only can these charges be significantly and disproportionately high, but they can also be very difficult to predict, as a client will not necessarily know at what point they will start to incur the charges. The charges are also insensitive to the level of the purchase, often charging the same set fee for a £2.50 food item as for luxury goods costing £1000.

34. For example, a client that enters into their overdraft while on a shopping trip could incur charges for every item paid for over the limit. A client who buys three items over the limit could expect a £25 overdraft charge and three charges of up to £30 for each item – a total of £115 worth of charges.

A North of Scotland CAB reports of a client who has received excessive charges on items paid for when in his unauthorised overdraft. The client has an authorised overdraft of £2,000, but has occasionally been over this limit in the last year. His bank charges £30 for every item paid for over the limit, with a maximum of three such charges per day. The client has paid a total of £1,135 in overdraft charges in five months, mainly due to the item fees.

A South of Scotland CAB reports of a client who incurred over £1,200 of overdraft charges over a two year period, mostly through charges applied due to items being bought after the client exceeded their overdraft limit. The client would commonly receive a standard charge of £30 for buying items worth only £3 or £4.

A South of Scotland CAB reports of a client who incurred significant overdraft charges after being made redundant. In one month alone, the client incurred charges of over £500, mostly related to unpaid item fees.

Multiple overdraft charges

35. The variety of different types of overdraft and similar charges – insufficient funds charges, missed payment charges, and item charges, among others - mean that clients can receive levels of charges that are massively disproportionate to the level of infringement. It is not inconceivable that a client could slip into their overdraft unknowingly by a few pounds, miss two direct debits, and buy three items while over the limit. Using the cases in the briefing so far, this could mean charges of nearly £200 for a small overdraft.
36. This is an example of a ‘snowball’ effect, in which a client enters their overdraft on one occasion and incurs multiple charges. This effect can cause severe detriment to clients and condemn them to an endless cycle of charges. Alternatively, clients may go in and out of their overdraft in the same month and incur a charge for each separate occasion.
37. Analysis by MoneyExpert.com found that the average total charges are £44.98 for an overdraft infringement and fees for an unauthorised overdraft can go much higher.³ By contrast, fees for defaulting on a credit card are a standard £12 after being effectively capped by an investigation by the Office of Fair Trading.

³ <http://www.moneyexpert.com/ContentArticle/None/Overdraft-mistake-costs-nearly-fourty-five-pounds-on-average/Article.aspx?articleID=237&productTypeID=0>

38. In many ways, overdraft charges are effectively a form of short term high cost lending. For example, a client who goes into their overdraft by £2 for any reason will incur charges that they may not be able to afford. The upshot of this is that they continue to incur charges and the amount that the client pays for the initial 'borrowing' of £2 continues to accrue.
39. One client reported that they went into their overdraft by £2 and built up charges of over £180 in the next two months based on the original £2 overdraft. The multiple charges effectively make up an APR charged on the initial £2 of over 2000%. The client would most likely have been better off had she borrowed high cost credit from a sub-prime lender.
40. The upshot of the variety of charges that clients can incur has resulted in a substantial cross subsidisation from those who incur charges and those who do not. According to the OFT market study, and supported by our evidence, this cross subsidisation is from low income, low saving clients, to high income, higher saving consumers. Indeed, the revenue made from the customers who incur charges is actually keeping the cost of an account low for other higher income customers.⁴

⁴ Personal Current Accounts in the UK July 2008 - <http://www.of.gov.uk/news/press/2008/84-08>

Impact on different client groups

41. Many of the problems stemming from bank charges are caused by the uneven impact that they have on different groups in society. Bank charges are completely insensitive to a client's circumstances and income, and consequently impact most severely on those least able to afford them. These charges may work as a deterrent to those who have a reasonable income and can afford to learn from their mistake. However, for those with a low income and those in financial difficulty, these same charges are often punitive, unfair, disproportionate, and counterproductive.
42. This report will now look at overdraft charges in relation to different types of clients, showing the impact that various scenarios of charges have on income and circumstances.

Case studies

43. The following boxes outline four typical clients that Scottish bureaux help on a regular basis:

Client 1 – Job Seekers Allowance (JSA)

This client is single and in receipt of JSA having been made redundant in the recession. The client is likely to have limited savings and may be struggling with credit commitments and housing costs. The client may not have experienced overdraft problems in the past, but is likely to experience charges now as personal income reduces.

Client's monthly income = £257

Client 2 – Employment and Support Allowance (ESA)

This client has a long-term illness that prevents them from working, and has recently been through a work capability assessment confirming that the client is unable to work. The client is likely to struggle with low income and debt, and may have experienced problems with overdraft charges in the past.

Client's monthly income = £358

Client 3 – Minimum Wage (NMW)

This client works a 35 hour week for the national minimum wage of £5.80/hour, and receives Working Tax Credits to top up his/her income. Despite being in full time employment, the client struggles with low income and debt, and is likely to have experienced problems with overdraft charges in the past.

Client's monthly income = £966

Client 4 – Full time employee earning the average UK wage

This client is working 35 hours per week and earns the average (net) UK wage. The single client is likely to have credit commitments and some debt, but their income is high enough to cope. However, if the client was made redundant, they could soon be in the same situation as Client 1.

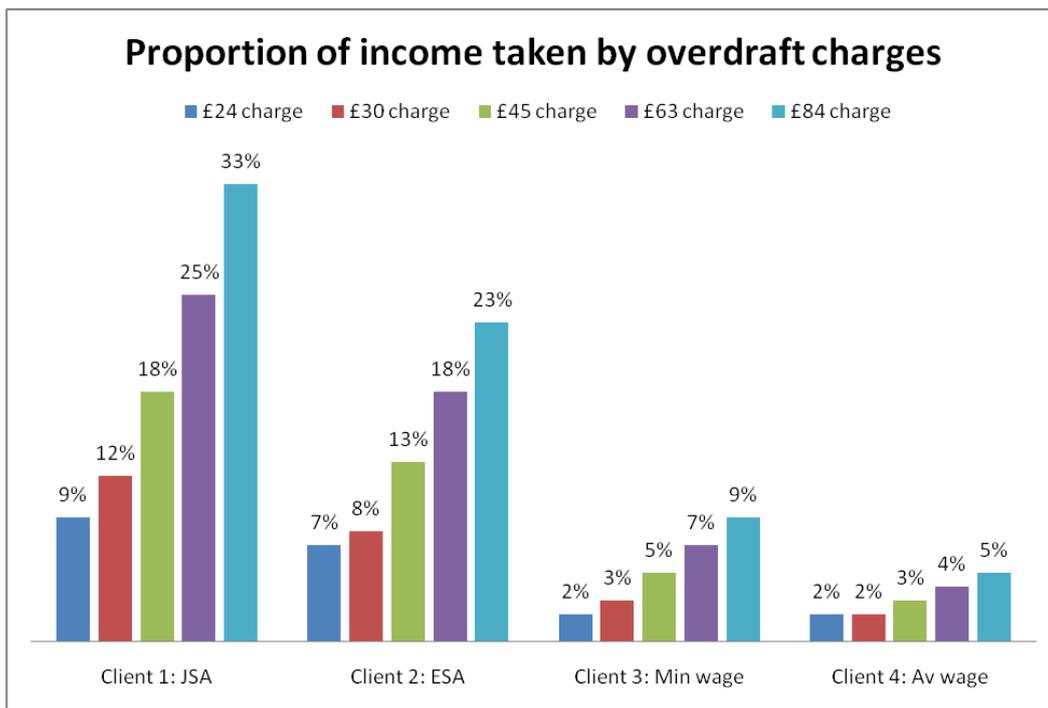
Client's monthly income = £1,540

44. These four clients represent a broad section of Scottish society, including a client out of work due to the recession, a client unable to work due to illness, a client earning the minimum wage, and a client earning the average full time wage.
45. This paper now considers the impact of five different overdraft charge scenarios on the four clients listed above. This is shown in Table 1:

Scenario	Days beyond limit	Typical amount beyond limit	Number of payments beyond limit	Monthly charge from banks⁵ (lowest charge – highest charge) Average	Client 1: JSA % of monthly income (£257)	Client 2: ESA (with support component) % of monthly income (£358)	Client 3: Minimum wage % of monthly income (£966)	Client 4: Full-time mean wage % of monthly income (£1,540)
1	1	£1	1	(£0 - £50) av. = £24	9%	7%	2%	2%
2	2	£20	1	(£10 – £50) av. = £30	12%	8%	3%	2%
3	5	£20	2	(£20 – £74) av. = £45	18%	13%	5%	3%
4	10	£20	3	(£20 - £125) av. = £63	25%	18%	7%	4%
5	15	£50	4	(£20 – £175) av. = £84	33%	23%	9%	5%

⁵ Figures taken from Moneysavingexpert.com in December 2009 – based on the charges of 11 major UK banks

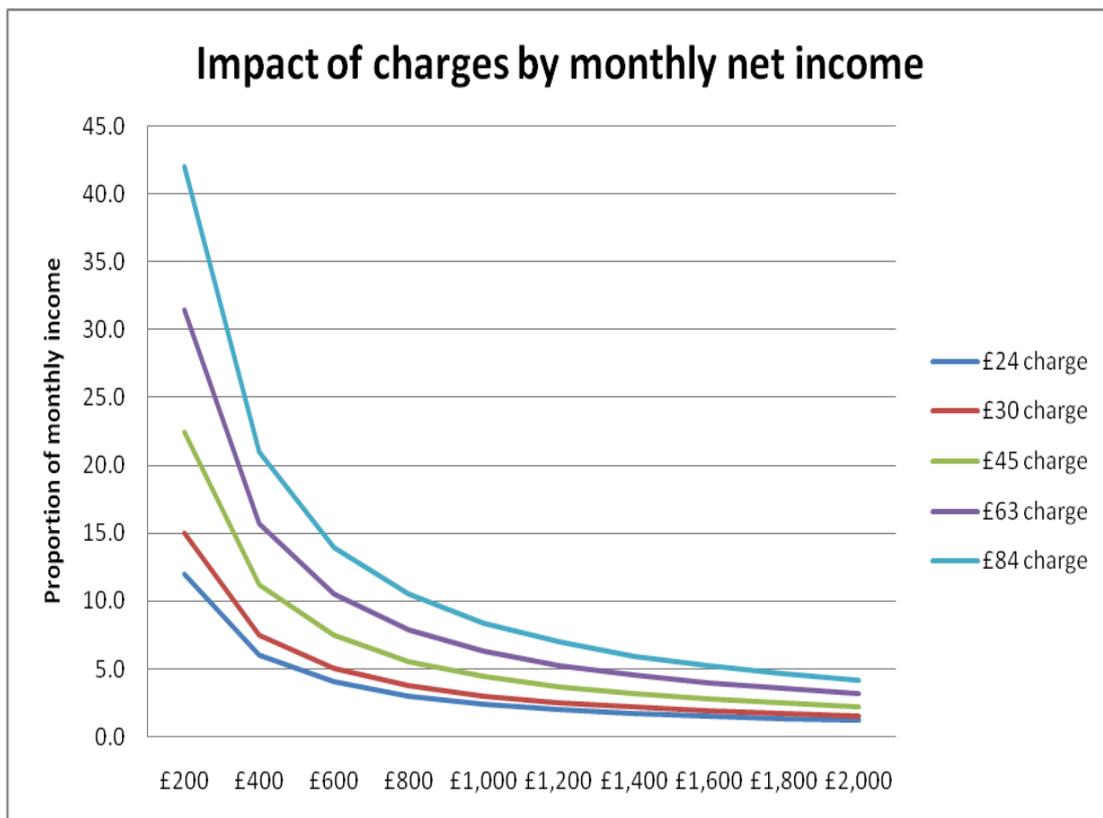
46. Table 1 shows the varying impacts that the same overdraft charges can have for different types of client. While the charges are the same for all clients, **their impact on a client can vary substantially**.
47. The table also shows how **disproportionate** charges are in relation to the original 'misdemeanour'. In the first scenario, the client is £1 over their limit for one day. For the client living on JSA, this effectively amounts to them 'borrowing' 0.4% of their monthly income for one day, and then being charged an average of 9% of their monthly income for doing so.
48. These findings are shown in greater detail in Figure 1, which shows the relative impact on a client's income in the different scenarios:



49. Both the table and the graph show that an **average full-time worker** can probably absorb these charges as they only make up 2-5% of their monthly income. These charges will likely act as a sting to the client who will probably be able to climb out of their overdraft, although if the client is already struggling with debt the charges could still become a significant problem.
50. If this client was to be made redundant and relied on **Job Seekers Allowance (JSA)** for a period, they would have a much different view of bank charges. The same bank charges that cost them 2-5% of their income will now cost up to 33% of their income. They are also suddenly much more likely to incur charges due to their situation. The client who has been made redundant is likely to be struggling with credit commitments and housing costs already – yet they may end up in the position of losing a significant amount of their income to overdraft charges when they are already in financial difficulty.
51. Clients receiving JSA pay a proportion of their income that is six times higher than the average worker for the same charges – this means that **the impact of bank charges is six times worse when a client loses their job**. For an

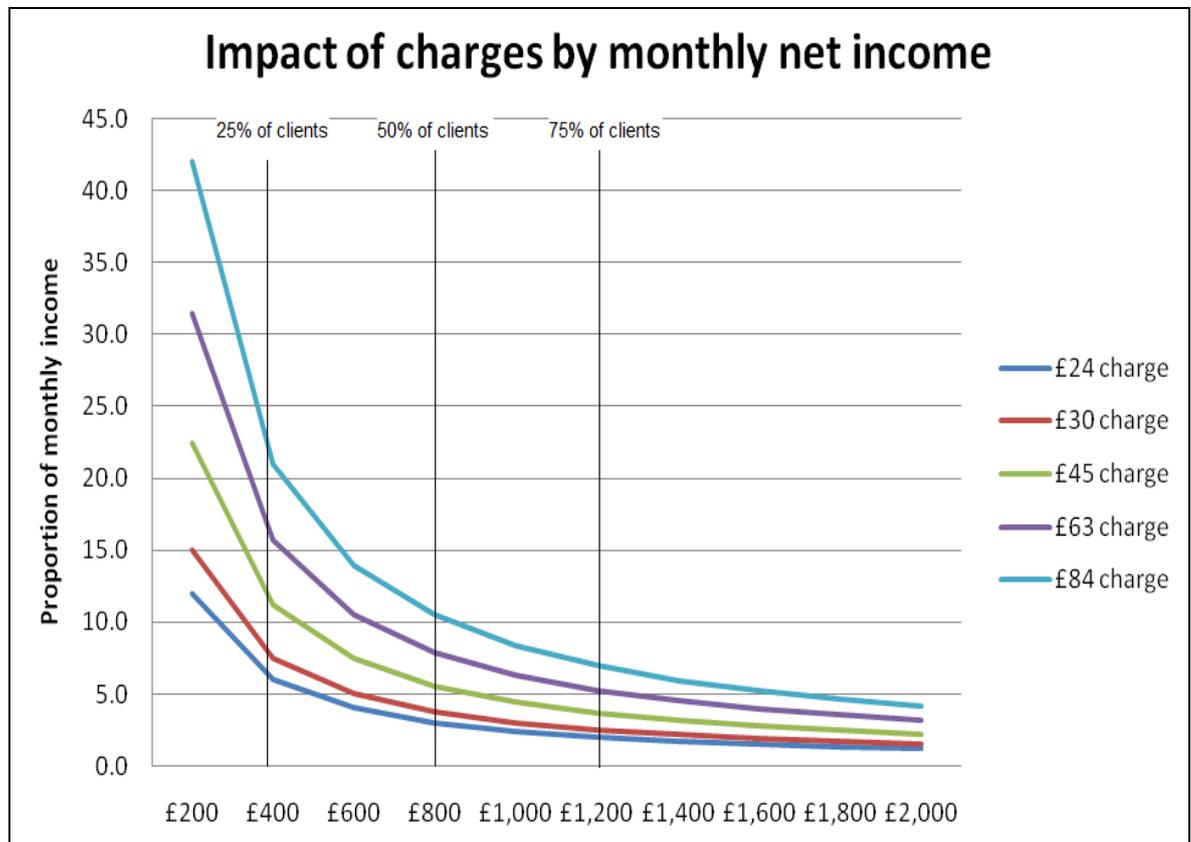
average full-time employee to feel the same proportional impact on their income from an £83 charge they would need to receive over £500 in charges.

52. A client who receives Employment and Support Allowance (ESA) for a **long-term illness/disability**, and is unable to work, will experience very similar problems affording overdraft charges. The impact on their income from a bank charge is roughly five times higher than for an average full-time employee for the same situation.
53. A client employed full-time on the **minimum wage** is likely to be better off than clients on JSA or ESA, but is still significantly worse off than the average full-time employee. Bank charges affect this type of client twice as severely as their better paid counterpart. For example, a client working full time on the minimum wage will incur charges of up to a tenth of their income for relatively small transgressions. However, a client earning the average monthly wage will incur charges of only between 2% and 5% of their income for exactly the same situations.
54. If we think about the proportion of income taken up by bank charges in any given situation, it can be seen that those with a lower income pay a greater proportion of their income for the same service. This is shown in Figure 2:



55. Figure 2 graphically shows the hugely disproportionate impact that bank charges have on clients with different incomes. It shows how the same charge can have a relatively small impact on one person but a massive impact on another. Charges applied to clients with an income of less than £800 a month have a much more significant impact on their income than clients with a higher

income. This is an important finding, as 50% of Scottish bureau debt clients have a monthly income of less than £800, while a quarter have an income of less than £400. This is shown in Figure 3:



56. It is clear that low income clients are more significantly affected by overdraft charges. It is also the case that they are more likely to incur these charges, as the margin for error on their budgets is much smaller, while anecdotal evidence suggests they are less likely to have an arranged overdraft. The OFT study showed that consumers on low incomes or with less than £1,000 in household savings were significantly more likely to have been charged in the past 12 months for going into their unarranged overdraft.⁶

⁶ Personal Current Accounts in the UK July 2008 - <http://www.oft.gov.uk/news/press/2008/84-08>

Banks fail to help customers in financial difficulty

Overdraft charges are an unhelpful, and in many ways harmful, response from banks to clients who experience financial difficulties. These situations are made worse by attitudes and actions towards clients who ask for help and try to take responsibility for their financial situation. The responses from banks to customer queries vary considerably and often adversely affect the customer. Problems experienced by clients are looked at under the following headings:

- Unreasonable actions
- Unreasonable requests for payments
- Refusal of additional overdraft facilities
- Selling additional products to clients
- Selling overdraft debts to debt collectors

Unreasonable actions

57. A significant problem for bureau clients is the attitude and actions that banks take when clients question or ask for reprieve from charges. Scottish bureaux have found that attempts to negotiate with banks over overdraft fees are often met with unhelpful attitudes, ranging from closing the client's account to taking away a client's overdraft facility.

An East of Scotland CAB reports of a client whose account was frozen after he sought advice on clearing his overdraft. The client had financial problems that had pushed his account over his authorised overdraft limit. The client sought advice from the bureau to help him stay out of overdraft and avoid charges. The bureau wrote to the bank asking them to consider reimbursing some of the charges to help stabilise his position while he worked out repayments to the bank and his creditors. The bank responded by freezing the client's account, leaving the client with no access to funds, even though he was within his authorised overdraft at that time. The bureau requested an explanation and was told that the account had been frozen as the accounts were "at risk". The client feels he is being punished for trying to be responsible with his money and repay his debts.

An East of Scotland CAB reports of a client who had her agreed bank overdraft removed after sending the bank a letter requesting repayment of bank charges she felt were unfair. Upon receiving the letter, the bank removed her agreed overdraft, leaving her liable to charges once again, and gave the client a week to repay the overdraft (£600). The bureau felt that the bank's actions were retaliatory, and advised the client to report the matter to the Financial Ombudsman.

Unreasonable requests for repayment

58. Many clients who have overdraft debts are keen to repay them before they get out of hand. However, banks can demand high levels of repayment from clients, often completely disproportionate to the client's income. They can also be unresponsive to offers of repayment from the client.

A West of Scotland CAB reports of client who built up a £900 overdraft after being made redundant. The client is keen to repay his overdraft, but his bank is insisting on monthly payments of £138 when the client only receives £160 a month in benefit payments. In the meantime, interest and charges continue to mount on the client's overdraft, while the client's JSA payments are being 'swallowed up' by the bank leaving the client with nothing to live on. The client is relying completely on his mother for money and support.

A North of Scotland CAB reports of a lone parent whose bank are insisting that she increases repayments on her overdraft to over four times the level she is currently paying. The client has an agreement to pay £66 per month, but now her bank is insisting on the overdraft being cleared in six months which would entail payments of over £300 which the client cannot afford.

Additional overdraft facilities

59. Numerous clients report to bureau that they build up multiple charges after finding themselves slightly in their overdraft at the end of every month. The consequence of these charges is that clients find it harder and harder to stay in the black as the charges affect their ability to budget. Many of these clients would benefit from a small agreed overdraft on their account to allow them the flexibility to sort out their finances. However, banks are often reluctant to give these clients such an overdraft facility.

A South of Scotland CAB reports of a client whose bank refused to allow him a small overdraft facility even though the client was slightly in debt at the end of each month. The client requested an overdraft facility of £100 as the client was incurring hefty bank charges at the end of each month after small incursions into his overdraft. The charges meant that the client would struggle to stay out of his overdraft the following month, thereby ensuring that the client was stuck in a cycle of debt. The client was eventually forced to apply for bankruptcy due to this situation and other mounting debts.

A South of Scotland CAB reports of a client who accumulated bank charges of £1000 in four months for an overdraft of £270. The client has repeatedly applied for an authorised overdraft, but the application was refused on each occasion. The charges levied to the client each month make the situation progressively worse. The client has paid far more in charges than he was ever overdrawn.

Selling additional products to clients

60. Another common response from banks is to pressure clients to take out new products while they are stuck in their overdraft. This can include consolidation loans, re-financing loans, and other products. Clients feel under pressure to agree to these requests as overdraft charges mount up.

An East of Scotland CAB reports of clients who were offered a consolidation loan after advising their bank that they were experiencing difficulties repaying their overdraft. The clients had an overdraft of £3,546 which they felt unable to repay. At the time, both clients were under considerable stress and did not fully understand the nature of the agreement. The loan included insurance cover of £1,281 which was not required as neither of the clients are able to work, a fact the branch manager was aware of. The clients now have a debt of £8,600, an increase of £5,000 on the original debt.

An East of Scotland CAB reports of a client who has an overdraft with a bank who is pressuring her to take out other products as part of a repayment agreement. The client is trying to repay an overdraft she incurred while at university. The client has since changed her account for financial reasons. The bank has sent correspondence stating that the client must re-open an account with them, take out a credit card, and are asking for £260 per month. The client cannot afford to pay this amount, and has tried repeatedly to contact her branch to negotiate. Meanwhile, her account continues to incur overdraft charges.

A South of Scotland CAB reports of a client who was pressurised to take a consolidation loan to repay his overdraft. The client is currently unemployed and living on Job Seekers Allowance. The client noticed that the interest on the consolidation loan was greater than he was currently paying on his overdraft. His income is only £50 per week and he is not in a position to take on a loan.

A North of Scotland CAB reports of a lone parent who went into her overdraft after her Child Tax Credit payments reduced unexpectedly. The client went into her bank to ask if they would reconsider the overdraft charges on her account, and was given a number to telephone. The client phoned this number, which appears to have been a finance company attached to the bank, who tried to persuade the client to open a new account with her bank at a cost of £25 per month then make repayments of £12.50 per week. This is vastly more than the client can afford, and would only have made the situation far worse for the client.

Selling overdraft debts to debt collectors

61. In our *Drowning in Debt* research⁷, one of the key findings was that overdraft debts were the most likely debts to be passed on to debt collectors. This is significant, as the client's debt is now likely to be much higher than the original amount overdrawn, while it is also likely the client will have had their account frozen leaving them unable to use it.
62. It appears to be a common policy for banks to let charges build up on a customer's overdraft and then to sell or pass on the debt to a debt collector. In the mean time, the customer often has little chance of escaping the seemingly endless charges. The effect of this type of policy is to create a significant debt for the customer (often over £1,000) for effectively borrowing a relatively small amount from the bank. If these were consumer credit agreements, the APR for many of these examples would be well over 1000%.

A North of Scotland CAB reports of a client whose overdraft debt was passed on to a debt collector after the bank had agreed to freeze the charges to allow the client a chance to repay the debt. The client is a single parent whose debt built up after being made redundant. The client has now been contacted by the debt collector who told him that he had two days to repay £1,300. When the client said that he did not have this sum of money, the operator suggested that he borrow the money from friends or family.

⁷ <http://www.cas.org.uk/drowningindebt.aspx>

A North of Scotland CAB reports of a client whose overdraft debt has been passed to a debt collector three months after first being overdrawn. The client went into her overdraft by £280 after receiving an unexpectedly high bill. In the three months since then, bank charges of over £500 have raised the amount to over £800. The bank has now frozen all accounts and passed the debt to a debt collection agency.

An East of Scotland CAB reports of a client whose overdraft debt has been passed to a debt collection company. The client has learning difficulties and his only income is from benefits. The client exceeded his authorised overdraft of £280 with his bank withdrawing his banking facilities as a result. However, the bank has continued to add charges and interest to the client's account. The debt has now been passed to debt collectors and the sum claimed has now reached over £1,300 on the original overdraft of £280. The client tried to reach a repayment arrangement with the bank at a rate of £15 per month, however despite making payments the balance continues to increase, creating an impossible situation for the client.

Remedies

63. Based on the problems experienced by Scottish bureau clients, it is clear that changes to the system of overdraft charges in the UK are both desirable and necessary. Revenue from the provision of banking services should be achieved in a transparent and fair fashion from consumers of these services.
64. There are a number of potential remedies that could create a more fair and transparent service for customers. Most of these remedies are already in use in the UK banking market, but often only sporadically. If they were to be used more widely, they could lower disproportionate and unfair charges while promoting competition in the market. In many ways, the proposed remedies are complimentary.
65. The aim of these remedies is to make the terms and conditions of insufficient funds charges more transparent, and at the same time to better inform clients of the circumstances in which they will incur these charges. The remedies also aim to curb the practice of charging low income clients high charges for having small overdrafts, which will help to stop the cross-subsidisation that currently exists in the market.

Greater discretion in applying charges

66. This report has shown that many clients incurring charges are in a vulnerable position, and may have gone overdrawn due to circumstances beyond their control. However, overdraft charges are triggered automatically regardless of the client's circumstances or the situation leading to the charge. Overdraft charges are also insensitive to the client's income level and ability to repay the charges. The result of this is that many low income, vulnerable clients are put into a spiral of increasing debt for a small overdraft.
67. A potential remedy for this situation is for banks to show greater discretion in applying charges, taking into account a debtor's financial situation such as other debts or benefit-only income. The ultimate aim of a bank's actions should be to help the client to be financially stable. Automatic charges can often do the opposite.

Proportional charging

68. The current banking system hands customers the same charges for small overdrafts as for large overdrafts. This system inherently discriminates against low income customers who can very quickly be in a lot of debt to a bank due to an overdraft of only £1 or £2. The customer's low income would then preclude any chance of getting out of the overdraft, thereby trapping the customer in a cycle of debt. This situation can then be made worse by multiple charges.
69. A remedy to this problem would be to charge customers proportionately for their infringement into their overdraft. This would avoid the situation where an overdraft of £1 is met with a charge that can be 30 times the amount. This

practice gives little chance to customers on low incomes to clear their overdraft.

70. CAS therefore proposes that charges should be proportionate to the level of infringement, including low levels of charges for low levels of overdrafts. For example, a flat charge of £5 could be levied for any infringements of less than £30 in an overdraft. Clients would then be exempt from other charges provided they clear their overdraft within a certain limit.
71. In addition, clients should not be charged for going in and out of their overdraft during a month. For example, in the current system, clients who go into their overdraft three times in the month, even if this is only by pennies each time, will receive three sets of charges.
72. It is mutually beneficial, or should be, for banks and customers if the customer is financially stable. By charging low income customers high charges for small overdrafts, banks are taking away the chance of financial stability for many clients. Customers should be allowed to repay small overdrafts and proportionate charges and to reach an even financial footing.

Helping clients to repay their overdraft debt

73. Clients often find that bank policies and practices prevent them from repaying their overdraft debts. High charges make repayment difficult for clients with a low income, while refusal to freeze unaffordable charges and to agree affordable repayment schedules make life even more difficult for clients. Banks are also quick to pass on overdraft debts to debt collectors, meaning that the client has no chance to question or negotiate the amount of charges imposed.
74. Overdraft charges and interest should be frozen when it becomes clear that the client does not have the ability to repay them. It is in nobody's best interests for the client to spiral into huge amounts of debt for a small overdraft. Banks should allow clients the opportunity to repay the initial charges and overdraft amount – rather than piling a multitude of charges on to the client when they are already unable to repay, causing stress and financial hardship for the client.
75. Banks should also consider waiving overdraft charges where it is clear that the client is in a vulnerable position and would be put in hardship by the charge, or where the charges came about through actions that were out of the client's control (such as mistakes with direct debits and benefit payments). This does happen on occasion for vulnerable clients where bureaux have complained to the bank.

'Opt-in' Overdrafts

76. The OFT market study found that only 7% of consumers knowingly went into their overdraft, while over 60% of consumers said that they would prefer to have their payment refused rather than enter an unarranged overdraft.
77. A potential remedy for this situation is for customers to have a choice of whether they want to go into an unarranged overdraft. Customers could indicate when they open an account whether they would prefer to go into an

unarranged overdraft or be stopped from doing so if their account had no funds. Alternatively, a customer could be informed when making a cash withdrawal that doing so would take the customer into their overdraft, and asking if the customer still wished to take the withdrawal.

78. The benefit of this option is that customers who do not want to go into their overdraft cannot do so accidentally. Those that are prepared to go into their overdraft will at least be aware of the consequences of doing so. This remedy would also ensure that all clients are at least aware of overdraft charges when they begin to use their account.
79. The drawback of this option is that when customers run out of funds, they may be unable to find additional funds for essential expenditure on food or utilities. However, this option is voluntary for the customer so would put them in the position where they know that they cannot spend past their resources and are therefore less likely to spend unwisely. Customers could also be able to have the option of contacting the bank to ask for a temporary overdraft facility.

Access to arranged overdrafts

80. In the OFT market study, those with arranged overdrafts were as likely to go overdrawn as those without one. The only difference is the charges that are applied. Scottish bureaux have reported a number of clients who are struggling with bank charges after finding themselves overdrawn at the end of the month, and who are consistently refused a small arranged overdraft that would help them to get their finances back in order. These clients can often be a only few pounds in their overdraft, but then face charges that make it very difficult to keep in the black at the end of the next month.
81. This situation puts clients into a cycle of debt for a very small infringement. A simple remedy for this type of client would be for banks to be more flexible about giving a small arranged overdraft to clients who would really benefit from one.

Warning Systems

82. The OFT market study found that many consumers are unaware of overdraft charges or underestimated the likelihood of incurring an overdraft charge. Nearly a fifth of consumers who had been charged in the previous twelve months had never heard of such charges, while only 7% of consumers knowingly went into their overdraft. These findings suggest that there is scope for both warning clients that they are close to their overdraft and informing them of the consequences of doing so.
83. Some banks in the UK are trialling the use of mobile phone texts to warn customers that they are close to entering their overdrafts and then again when they have entered the overdraft. Clients then have till the end of the day to get out of the overdraft until charges are applied.
84. This is a positive step towards informing customers of their financial position in real time, rather than sending them a letter after the event. Given the number of customers who unknowingly enter their overdraft, this should help to lower the number of people incurring charges. These texts could also include

information on the level of charges that would be applied. The effect would be to make charges more transparent and clients better informed. For those without mobile phones, there could be an option of phoning or emailing a client to inform them.

85. However, the period in which clients have grace to clear their overdraft after receiving the text, currently the working day, is too short for many customers. A customer will often have good reasons, such as work or transport problems, of being unable to reach a bank branch. It would therefore be beneficial if customers received a longer period of time to clear their overdraft, such as three days.

Buffer zones

86. A complimentary remedy for disproportional charges is allowing customers to have a small buffer zone in their overdraft in which they have a certain number of days to clear their debt before they incur charges. This system would ensure that clients aren't hit with high charges for very small infringements into their overdraft, and allows for extra leeway for affording cheques and direct debit payments.
87. An alternative remedy would be to allow customers to have three chances at staying out of their overdraft before they incur charges. This would allow customers to learn from their mistakes, rather than being put into unserviceable debt the first time they enter their overdraft.

Conclusion and recommendations

88. Overdraft charges remain a key area of concern for bureau clients. Clients still struggle with disproportionate and punitive overdraft fees. Examples of problems that clients experience include:

- **Disproportionate fees** – paying high or multiple charges for small overdrafts
- **Swallowing of benefit payments** – overdraft charges can take away much needed benefit payments from clients
- **Direct debits/standing orders** – clients can receive multiple charges for being short of funds for a direct debit
- **Item charges** – clients who unknowingly go into their overdraft can receive multiple charges for buying further items
- **Unclear terms** – some clients don't have a clear understanding of the terms and conditions applied by banks and do not understand the consequence of being overdrawn
- **Responses to client requests** – Banks can be unhelpful towards clients who actively try to make an agreement to repay overdraft debts

89. Based on the concerns noted in the OFT's report on current accounts, and the problems experienced by Scottish bureau clients, it is clear that changes to the current account market in the UK are both desirable and necessary. Insufficient funds charges and overdraft fees are disproportionately high compared to overdraft infringements. Additionally, these type of charges can often be applied in an opaque and unfair manner.

90. Citizens Advice Scotland have a number of proposed remedies of how the banking model could be reformed to allow a more fair and transparent service for customers. These remedies include:

- **Greater discretion in applying charges** - taking into account a debtor's financial situation, such as other debts or benefit-only income, before automatically applying charges
- **Proportional charging** – charging clients on a scale according to how much they owe on their overdraft. Those in their overdraft by small amounts should receive small charges
- **Helping clients repay their overdraft debts** - overdraft charges and interest should be frozen when it becomes clear that the client does not have the ability to repay them – allowing the customer a chance of repaying them
- **Opt-in overdrafts** – giving customers the option of not going into their overdraft when they have run out of funds
- **Warning systems** – warning clients, through mobile phone messages, when they are close to or into their overdrafts and giving a time period to repay

- **Buffer zones** – allowing a small amount that customers can use to go into their overdraft in which they can repay without charges within a time limit
91. These remedies would go some way to ensuring that banks impose charges that are fair and more proportionate to a client's situation. It would also decrease the level of charges and number of customers incurring these charges, thereby giving vulnerable customers greater opportunity to control their finances and get back in the black.
 92. The UK personal current account market isn't working for clients. The myth of free banking, alongside opaque terms and conditions, has led to a low client understanding of current accounts and overdraft charges. This situation has proved profitable for UK banks, and there is therefore little incentive for banks to address the problems in the market or to offer better deals on their accounts.
 93. The OFT has decided not to continue its investigation into the fairness of banks' unarranged overdraft charging terms under the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCRs) following the Supreme Court ruling that the OFT cannot fully assess the terms. This ruling did very little to address the problems that are inherent in the personal current account market, preventing the organisation charged with making markets work well for consumers from fulfilling its purpose. It is now essential that the government addresses the issue of unfair overdraft charges – millions of constituents continue to be unfairly treated by banks that are still benefitting from taxpayer support.
 94. The task for the government and the banks is to provide remedies that will empower clients to take control of their current accounts. This needs to be done by making terms and conditions more transparent, by encouraging switching, and making insufficient charges fairer and more proportionate. This could result in banks being encouraged to make their revenue from better deals for clients, rather than from low income clients who can ill afford it.

Citizens Advice Scotland and its member bureaux form Scotland's largest independent advice network. CAB advice services are delivered using service points throughout Scotland, from the islands to city centres.

The CAB Service aims:

to ensure that individuals do not suffer through lack of knowledge of their rights and responsibilities, or of the services available to them, or through an inability to express their need effectively

and equally

to exercise a responsible influence on the development of social policies and services, both locally and nationally.

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