

The complaint

Mr H complains about the way that Clydesdale Bank Plc has administered his mortgage.

What happened

In 2013, Mr H took out a mortgage with Clydesdale. In May 2017, he asked it to switch his mortgage to a fixed rate of 1.69% for 26 months. But the switch did not occur. And Mr H's mortgage was put on Clydesdale's standard variable rate (SVR). That meant the payments were £2,304.91 per month instead of £1,638.69.

Mr H suffered a serious accident soon after he asked for the rate to be switched.

Clydesdale said it required a signed acceptance to switch the interest rate product. But it never received it. Mr H's representative said that it was returned.

Nevertheless, Clydesdale agreed to re-work the account as if the rate had been switched as requested. The mortgage was repaid in 2021.

Mr H complains that Clydesdale:

- Didn't switch him to a new interest rate product as had been agreed.
- Moved thousands of pounds from his account without his consent. After initially denying this the bank accepted it had made an error.
- Sent the final response to the above complaint to the wrong address – so he has never received it along with breaching his confidentiality and exposing him to risk.
- Made multiple administration errors, including sharing his personal data without his consent that have caused him large financial losses, which have caused him chronic anxiety, stress and worry.
- Sent him messages threatening to repossess his home.
- Unfairly applied legal and arrears fees.
- Made it impossible for him and his attorney to manage his finances and causing him difficulty with other creditors.
- Failed to recognise a valid power of attorney and would only communicate through its "financial care team", which limited the attorney's ability to manage the account properly.
- Recorded adverse information on his credit file in error.
- Sent confidential information to the wrong address

- Hasn't provided the information and call recordings he has asked for as part of a subject access request.
- Refused to offer Mr H assistance during the Covid pandemic.

I issued a provisional decision, subject to any further submissions. My provisional findings, which form part of this decision were:

Rate switch

It's not clear that Clydesdale made an error in not switching the interest rate. It needed Mr H to sign that he accepted its offer. But I don't consider it handled this matter in a fair or reasonable way.

It knew that Mr H had been in a life changing accident in January 2018. It also ought to have known he had applied for a fixed rate in May 2017 that had not been applied to his account – and that his representative would not have known about it at that stage. And it knew Mr H's circumstances and that he was in arrears – so it ought to have considered a rate switch in any event. I think Clydesdale should have backdated the rate sooner than it did.

As I understand it, it wasn't until January 2019 that Clydesdale agreed to reconstruct the account using the fixed rate. This was the right thing for it to do – although it should have done that earlier.

Ultimately Clydesdale should have reconstructed the mortgage as if the interest rate was switched to the fixed rate in July 2017. As far as I can see, the position of the account reflects that. As far as I can see the total payments made from July 2017 were less than what was due – and there were several months with no payments at all. It seems likely that it is correct to say the mortgage was in arrears. That is to say that even if the interest rate had been switched and the payments were lower, it seems likely the payments would not have been made in full.

One of Mr H's points is that by being on the SVR it had a knock-on effect on his finances. I haven't seen any evidence of that. If Mr H feels he can prove that the increased payments caused him difficulty, then he will need to provide evidence to support that.

In any case, I think that Clydesdale could have handled this matter better than it did. There were opportunities to switch to the fixed rate sooner once it was aware of Mr H's accident. I have taken that into account in my award below.

Arrears and fees

As things stand, it appears that the mortgage would always have been in arrears, even if the rate had been correctly switched in July 2017.

Even if Clydesdale had switched the rate earlier, it would have been required under the relevant rules to contact Mr H regarding the arrears. I haven't seen any evidence that the communication was inappropriate.

Nor is there any evidence to show that Clydesdale applied any arrears fees.

Credit file

Clydesdale said it amended Mr H's credit file in line with the reconstruction of the account as set out above. Bearing in mind my findings, it seems correct to record arrears and late payments. I have not seen any evidence of any specific errors.

Power of attorney

Clydesdale has told us that its systems prevent a power of attorney being recorded on all its systems. It said it took steps to address that by making a note on its systems. And I can see it has engaged with Mr H's representative. That has not always been the case though. We have evidence where Clydesdale refused to discuss the account with the representative, despite having a valid power of attorney.

When we asked Clydesdale if the power of attorney it held allowed the representative to discuss the account, it said:

"I have not been able to get a substantive answer to your query. I suspect that this should be sufficient for [the representative] to discuss Mr H's request."

That is an unusual reply from a regulated financial business in response to what should be a straightforward question. If a complaints department is unable to answer such a question from our service it tends to support what Mr H's representative has said. He has set out in a persuasive way some of the difficulties he has encountered. I have taken how this affected Mr H into account in my award below. While I accept this made it more difficult on occasion for Mr H's representative to discuss the account, the evidence does not support that it was impossible for him to do so. There is evidence to show that Clydesdale communicated meaningfully with Mr H's representative and wrote to him.

Confidentiality

I have not seen any evidence that Mr H's personal details were shared without his consent.

Clydesdale has provided evidence that it only held one address for Mr H. I have not seen any evidence that it sent any correspondence to the wrong address.

Subject access request

Clydesdale has accepted that it delayed issuing a response to Mr H's subject access response – largely it appears because of issues related to its administration of the power attorney. Mr H would need to complain to the Information Commissioner's Office about any failure by Clydesdale to comply with its obligations. But I have taken account the delay in my award below.

Consent to let

I can see that Mr H's representative discussed the possibility of Clydesdale agreeing to Mr H letting his property. We have evidence to show that Clydesdale told him what he needed to do. But I can't see this was progressed by Mr H or his representative.

Covid payment deferral

This complaint was made before the start of the pandemic. We haven't investigated this point and don't have enough information to do so from either Mr H or Clydesdale. So I will not be addressing this point here.

Conclusion

I accept that Clydesdale has not always treated Mr H or his representative fairly and reasonably. I note that Mr H is the eligible complainant here. I don't have the power to make any award to his representative. But I accept that the impact on Mr H's representative is likely to have had some impact on his own distress and inconvenience in relation to this matter.

Mr H was caused distress and inconvenience because Clydesdale didn't take reasonable steps to identify his vulnerability. If it had I think overall, it should have identified the issue with the rate switch sooner than it did. And it has made resolving that issue less straightforward than it could have been – it took over six months from Mr H's representative identifying the issue in October 2018 until April 2019 for it be resolved fully.

Mr H has been caused distress and inconvenience by the issue with the rate going on for much longer than it should have, the failure to always recognise the power of attorney and the delay in providing the subject access request. I understand what he has told us about the impact on his mental health. Although I'm afraid that we do not have sufficient evidence to say that it has caused him losses of over £100,000 or that it meant that he had to sacrifice other things in his life because of what happened.

In saying that I accept that Mr H was vulnerable, this matter has gone on over a number of years, he has spent a considerable amount of time on this matter and I don't consider the bank has dealt with him or his representative as sensitively as it could have. Although, I note that the bank has extended forbearance to Mr H in relation to the arrears on the mortgage.

Looking at everything I consider it would be fair and reasonable for Clydesdale to pay Mr H £750 to reflect the distress and inconvenience this matter has caused to him – particularly in view of his vulnerability, the impact on his mental health and the length of time this matter has been going on for. I understand Clydesdale has already paid Mr H £300 – that can be deducted from the total amount.

I proposed that Clydesdale should pay Mr H £450 in addition to the £300 it has already paid him for any distress and inconvenience.

Clydesdale accepted my provisional decision. Mr H or his representative didn't respond.

What I've decided – and why

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

In the absence of any new submissions, I see no reason to reach a different outcome than I did in my provisional decision – and for the same reasons set out above.

My final decision

Clydesdale Bank Plc should pay Mr H £450 for any distress and inconvenience – in addition to the £300 it has already paid Mr H.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 20 April 2022.

Ken Rose

Ombudsman