

The complaint

Mr and Mrs M are unhappy that Clydesdale Bank Plc, trading as Virgin Money, applied an early repayment charge when they repaid their loan early having been told when they took the loan that no such charge would be applied.

What happened

Mr and Mrs M took a personal loan from Clydesdale. When they did so, they intended to repay the loan early and so asked about early repayment charges and were told by Clydesdale that no early repayment charges would be applied. However, when Mr and Mrs M later repaid the loan early, Clydesdale did apply an early repayment charge. Mr and Mrs M weren't happy about this, so they raised a complaint.

Clydesdale looked at Mr and Mrs M's complaint, but they felt that the loan documents that had been provided to Mr and Mrs M at the point of sale, and in particular the Key Features document, did clearly state that an early repayment charge would be applied.

Mr and Mrs M weren't satisfied with Clydesdale's response, so they referred their complaint to this service. One of our investigators looked at this complaint, but they felt it was most likely the case that Mr and Mrs M had been given the Key Features documents at the point of sale, and as such had been advised that an early repayment charge would be applied. So, they didn't uphold the complaint.

Mr and Mrs M remained dissatisfied, so the matter was escalated to an ombudsman for a final decision.

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.

I issued a provisional decision on this complaint on 14 July 2022 as follows:

Mr and Mrs M are adamant that they specifically asked about early repayment charges and that they were told that no such charges would be incurred by them on this loan should they repay it early, as they were intending to do.

On the other hand, Clydesdale maintain that it's a feature of their loans that early repayment charges do apply, and they refer to the following section of the Key Features document:

“Early Repayment

You have the right under section 94 of the Consumer Credit Act 1974 to repay the sums due under this agreement early in full or in part at any time. If you wish to pay any amount early you must give notice to us in writing to your branch or to Direct Banking, Symington House, 7 North Avenue, Clydebank Business Park, Glasgow, G81 2NT, or visit us in branch or telephone us on 0800 0283632. If you want to pay

off all the balance, let us know and we will send you a settlement statement telling you what you need to pay and by when. If you want to pay only some of the balance, let us know that you are going to do that and make the payment within 28 days of telling us (or by the date you have told us if that is a later date).

When we calculate what you need to pay to repay in full or what your remaining balance would be if you partially repay, we can use a date that is up to 58 days after the date we receive notice of your intention to repay early. This means that the interest that would fall due during the 58 day period would be payable by you and will be included in the full early repayment figure given to you or added to your remaining balance if you partially repay.

If you wish to repay your loan more quickly by making additional payments over and above your regular monthly instalments then you must tell us this is what you want to do each time you make an additional payment in order that we can process these payments correctly and we will normally use the extra money to shorten the loan term. However, if you are making a partial early repayment which is larger than one of your regular repayments you can ask us to reduce future repayments while keeping the term the same."

Mr and Mrs M maintain that they were never provided with a copy of this exact document, and have provided instead a copy of the signed terms of their loan, which includes the following:

"7. Early Repayment

You have the right under section 94 of the Consumer Credit Act 1974 to repay the sums due under this agreement early in full or in part at any time. If you wish to pay any amount early you must give notice to us in writing to your branch or to Direct Banking, Symington House, 7 North Avenue, Clydebank Business Park, Glasgow, G81 2NT, or visit us in branch or telephone us on 0800 202122. If you want to pay off all the balance, let us know and we will send you a settlement statement telling you what you need to pay and by when. If you want to pay only some of the balance, let us know that you are going to do that and make the payment within 28 days of telling us (or by the date you have told us if that is a later date).

If you wish to repay your loan more quickly by making additional payments over and above your regular monthly instalments then you must tell us this is what you want to do each time you make an additional payment in order that we can process these payments correctly and we will normally use the extra money to shorten the loan term. However, if you are making a partial early repayment which is larger than one of your regular repayments you can ask us to reduce future repayments while keeping the term the same."

It's notable that the clauses outlined in the Key Features document provided by Clydesdale and the loan terms provided by Mr and Mrs M are identical (with the exception of the telephone number), except that the loan terms don't include the second clause listed on the Key Features document – which is specifically the clause that outlines what is effectively an early repayment charge.

As such, it seems evident that this clause wasn't included as a part of the loan terms. And this may be because that clause was taken out of the loan terms at the point of sale specifically because Mr and Mrs M were seeking to take a loan that didn't include such a clause.

Given then that Mr and Mrs M asked for a loan that didn't include an early settlement charge,

and signed a loan agreement that didn't include any clause detailing such an early settlement charge, I find it difficult to conclude that Clydesdale have acted fairly towards Mr and Mrs M here by applying such a charge.

As such, my provisional decision here is that I'll be upholding this complaint in Mr and Mrs M's favour and provisionally instructing Clydesdale to reimburse the Early Repayment Interest charge of £82.65 to Mr and Mrs M, as well as to make a payment of £200 to Mr and Mrs M which I feel provides fair compensation to them for the trouble and upset that they've incurred here.

Both Mr and Mrs M and Clydesdale have confirmed that they're happy to accept my provisional decision. As such, I see no reason not to uphold this complaint in Mr and Mrs M's favour on the basis as outlined in my provisional decision. And I can confirm that I do uphold this complaint on that basis accordingly.

Putting things right

Clydesdale must reimburse the £82.65 Early Repayment Interest charge to Mr and Mrs M.

Clydesdale must also make an additional payment of £200 to Mr and Mrs M as compensation for the trouble and upset this matter may have caused.

My final decision

My final decision is that I uphold this complaint against Clydesdale Bank Plc, trading as Virgin Money, on the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M and Mr M to accept or reject my decision before 1 September 2022.

Paul Cooper
Ombudsman