

The complaint

This complaint is about a buy-to-let (BTL) mortgage Mrs and Mr C hold with Clydesdale Bank Plc trading as Virgin Money. They're unhappy that Virgin failed to execute a rate switch in the summer of 2021. Mrs and Mr C eventually executed a new rate switch in 2022, but paid interest at the standard variable rate (SVR) in the interim. They're seeking compensation for the extra cost.

What happened

The broad circumstances of this complaint are known to Mrs and Mr C and Virgin. I'm also aware that the investigator issued a response to the complaint, which has been shared with all parties, and so I don't need to repeat all of the details here.

Our decisions are published, and it's important that I don't include any information that might result in Mrs and Mr C being identified. Instead I'll give a brief summary of the main points, and then focus on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint.

Mrs and Mr C run a portfolio of BTL properties; the mortgage on one of them is the subject of this complaint, was on a fixed rate that was due to end on 1 July 2021. They arranged through their broker to apply for a new deal, and on 7 June 2021, Virgin issued the offer for the new rate, 1.74 % fixed for three years. The offer was posted to the broker, with an identical copy also going to Mrs and Mr C's registered home address. However, they had just moved, so Virgin re-issued the offer to their new address on 10 June 2021.

The new rate should have taken effect on 1 July 2021, but didn't. Instead, the mortgage reverted to SVR (which meant the rate charged went from 1.73% to 4.54%) and the monthly payment went up to around £835.

In April 2022, after receiving a series of notifications of changes in the SVR, it was established that the reason the new rate hadn't taken effect was that Virgin hadn't received a signed acceptance of the offer. Mrs and Mr C arranged a new rate of 2.55%, fixed for five years. Mrs and Mr C complained, and Virgin admitted that it hadn't included the acceptance form with the first offer, but said neither Mrs and Mr C nor their broker had contacted it about the omission. It offered Mrs and Mr C £150 compensation for their time and trouble, but otherwise rejected the main thrust of the complaint.

Our investigator thought Virgin's response to the complaint had been fair; Mrs and Mr C have asked for it to be reviewed and decided by an ombudsman.

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'll start with some general observations. Although I've read and considered the whole file, I'll keep my comments to what I think is relevant. If I don't comment on any specific point it's not because I've failed to consider it but because I don't think I need to comment on it in order to reach what I think is the right outcome in the wider context. My remit is to take an overview and decide what's fair "in the round".

We have no regulatory function; that's the role of the Financial Conduct Authority; nor are we a consumer protection body. We're an alternative dispute resolution body; an informal alternative to the courts for financial businesses and their customer to resolve their differences.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else. That means I don't have to address every individual question or issue that's been raised if I don't think it affects the outcome.

If the available evidence is incomplete and/or contradictory (or simply disputed, as here) we reach our findings on what we consider is most likely to have happened, on the balance of probabilities. That's broadly the same test that the courts use in civil cases.

On the first point, it's common ground, and accepted by all, that Virgin didn't include an acceptance form with either of the offers it issued in June 2021. As reviewing ombudsman, I have to assess not just what Virgin did - or failed to do - but also what impact that had. Just as importantly, I have to consider what Mrs and Mr C did - or failed to do - to mitigate that impact.

Whilst a product switch was eventually put through in mid-2022; a significant point in the case is about when Mrs and Mr C knew the 2021 switch hadn't taken effect. In a conversation with Virgin in May 2022, Mr C told it they became aware in January 2022, presumably on receipt of the first of a series of variable rate change notifications. It seems to me however that they should reasonably have realised something was amiss when their monthly payment went up to over £835 in July 2021. Mrs and Mr C have said that with such a large BTL portfolio to manage, they didn't notice, and that it was Virgin's responsibility to contact them or their broker when it didn't hear back from them with a signed acceptance.

I've given that argument a lot of thought, and whilst I can see why it would resonate with Mrs and Mr C, overall I don't find it entirely persuasive. It's not Virgin's responsibility to chase up every active offer to find out why it hasn't been accepted. But it is Mrs and Mr C's responsibility to manage their portfolio BTL business, including keeping track of the costs of running the business. Yes, I take their point that with so many properties to monitor, they missed the payment increase on this one in July 2021, and I'm not unsympathetic towards them on that point. But that rather illustrates the point that any business can make a mistake, just as Virgin did when it didn't include the acceptance forms with the June 2021 offers.

Mrs and Mr C's claim for redress is reliant on there being an unbroken chain of causation between the missing acceptance form and the time spent paying interest on SVR. I appreciate this won't sit well with Mrs and Mr C, but I'm not persuaded that chain exists. They're on record as saying they knew something was wrong in January 2022, but for the reasons I've explained, should have realised this in July 2021. Yet, they only acted to take the mortgage off SVR in May 2022. I think they could, and should, have done so as early as July 2021, and if they had, Virgin's omission would have been picked up and rectified without any financial impact to Mrs and Mr C.

In summary, all this means I can only fairly award Mrs and Mr C compensation for their time, trouble and upset due to Virgin not including the acceptance form with the offer. Virgin has

admitted its mistake and it's entirely right that it should have offered Mrs and Mr C compensation for the inconvenience they've been put to. So I've next considered if that offer is fair.

This is very much a subjective area; everyone reacts to and perceives things differently, especially "in the moment". But I have to assess things objectively. When I do that, I find an offer of £150 compensation to be fair in all the circumstances.

I said at the outset that I wouldn't be commenting on every single point, and I haven't. I have, as I said I would, confined myself to those matters that I consider have a material effect on the outcome. I'm impartial and I have to look at things objectively, sometimes taking a step back from the minutiae and focussing on the broader picture. That's what I've done. Having done so, I can't find in Mrs and Mr C's favour to the degree they believe I should.

My final decision

Clydesdale Bank Plc trading as Virgin Money has already made an offer to pay £150 to settle the complaint and I think this offer is fair in all the circumstances. So my final decision is that Clydesdale Bank Plc trading as Virgin Money should pay Mrs and Mr C £150. My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs and Mr C to accept or reject my decision before 11 April 2023.

Jeff Parrington

Ombudsman