

The complaint

Mr G complains that Clydesdale Bank Plc trading as Virgin Money mismanaged the agreed resolution to his complaint about his Individual Savings Account (ISA) causing him stress and costs.

What happened

Mr G encountered difficulties with Virgin's administration of his account from May 2022, including issues with its platforms, staff, documents and instructions going astray or ignored. He said this cost him time and expense whilst he was coping with illness. Mr G said this was exacerbated by Virgin's branch not resolving matters and his having to deal with head office.

Virgin assured Mr G it would take corrective action, including that the savings account would be backdated to 1 June 2022 and payment of compensation. Mr G's wife called Virgin in May 2023 to clarify that the account would mature on 1 June 2023 when Mr G could expect to transfer funds without penalty. Mr G said on this understanding he transferred the money believing the account would operate as if it had been in place from 1 June 2022.

Virgin messaged Mr G on 4 May; *'As this account has been withdrawn from the market, you are now unable to pay further funds into your account until it matures on 24 October 2023'*. Mr G may not have seen this message as the next day (5 May 2023) he emailed Virgin to say he would, *'now instruct transfer of my ISA to into the account paying 3.85% on the same basis agreed with my wife that the account is back to 1 June 2022 and will run to 1 June 2023 whereon the funds can transfer without any penalty what so ever to another account'*.

Mr G said that Virgin, by applying an October 2023 maturity date, had turned the ISA into a 16-month account, before a penalty-free transfer could be made. He said he wouldn't have agreed to this if it had been made clear. Mr G complained to Virgin again on 5 May 2023 that he felt misled and unable to make savings decisions. He wanted the penalty refunded and payment for loss of interest, time and worry. Virgin said it hadn't stated the ISA would mature in June 2023 and said Mr G had agreed to the terms and conditions of the account.

Virgin's executive Complaints Department emailed Mr G on 5 May 2023 to say, *'Once the transfer has taken place should you wish to then transfer on you can do this penalty free on maturity. The product maturity date is the 24 October 2023. You have previously been provided with this however we have attached the Key Product Information for your ease of reference. We cannot amend a product maturity date and no agreement has been made to allow any withdrawal prior to maturity on a penalty free basis.'*

Virgin's response didn't satisfy Mr G and he referred his complaint to our service. He said he had reflected his understanding of his wife's call and the agreement that the account would mature on 1 June 2023 on the declaration to set up the account. He said Virgin shouldn't have resolved his previous complaint if it disagreed with his declaration. Mr G said this has caused him new stress, and expense and Virgin had effectively reduced interest by penalising a transfer to a better account from 1 June 2023.

Our investigator didn't recommend the complaint be upheld. She said Virgin attempted to make good on Mr G's previous complaint by paying him compensation and a transfer to an ISA with backdated interest from June 2022. Mr G said it was made clear that he'd be able

to transfer his funds penalty free in June 2023, but the investigator said Virgin hadn't agreed this would be without a penalty in June 2023, as that wasn't what the account offered.

The investigator said Virgin hadn't agreed on Mr G's wife's call that funds could be transferred in June 2023 without a penalty though it was clear this was what Mr G wanted. She said it was clear neither party was fully understood by the other.

Mr G disagreed with the investigator. He said Virgin agreed to backdate the account to run to 1 June 2023 and if it hadn't agreed then it shouldn't have paid the compensation. He said it wouldn't be fair to expect anyone to remember all the terms and conditions of the accounts and as the investigator found that neither party fully understood, it was unfair he should suffer the detriment.

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.

Virgin upheld Mr G's previous complaint about the poor handling of his ISA and agreed a resolution with him. Mr G's current complaint concerns the arrangements Virgin put in place to resolve his ISA account issue which he says are different to what was agreed.

I haven't considered Mr G's original complaint, but have focussed on Virgin's actions to resolve this to see if they were as set out to Mr G, and to see if Virgin has treated him fairly.

Meeting Virgin's requirements for opening the ISA account took some time, but Mr G eventually opened the new ISA in October 2022, with the account maturing after 12 months - in October 2023. From the terms and conditions, I can see that withdrawals from the account made before the maturity date would incur a penalty. And so, by applying an early withdrawal penalty to this account, Virgin adhered correctly to the terms and conditions.

I have then looked at the communications and agreement between the parties to see if Mr G might reasonably have expected a variation of the terms and conditions of the account from what Virgin had said. In other words, to see if it was reasonable for him to expect the new ISA to mature in June 2023, following which he would be able to transfer out penalty free.

I agree with the investigator that during her call of 2 May 2023, Mr G's wife set out their expectations of resolving the complaint, and in the main these appear to accord with Virgin's. And, Virgin's member of staff agrees that once the account has matured Mr G can transfer his funds to another account without incurring the penalty. In answer to Mr G's wife's question about the maturity date, Virgin's member of staff said she would have to check – at no point in the call did she say the ISA would mature in June 2023.

It's obvious from the call that Mr G's wife wanted and expected the ISA to mature in June 2023, but at no point does Virgin confirm this. In fact on 4 May 2023 Virgin's 'Savings Operations' messaged Mr G (as above) that the account will mature on 24 October 2023. This was the day before Mr G's email instructing Virgin to set up the ISA. In his email Mr G said the ISA, '*will run to 1 June 2023 whereon the funds can transfer without any penalty what so ever to another account*'. Mr G said Virgin should have abided by this 'signed agreement' which clearly stated that penalty-free withdrawal could be made from 1 June 2023. Mr G said he had acted upon the agreement, and it would be unfair for Virgin to neglect this now.

Notwithstanding that Virgin takes customer instructions from the ISA application form rather than an email, it had by this time informed Mr G the ISA would mature in October 2023. This was also the position set out in the terms and conditions of the account and we expect consumers to familiarise themselves with the significant points of these. Mr G was not acting in the absence of information about the maturity date and at no point did Virgin confirm to him or his wife that his ISA would mature in June 2023.

We expect regulated financial firms to provide clear and not misleading communications about their products and services to enable consumers to make an informed choice. And so, it would have been helpful if Virgin had confirmed the maturity date during the call with Mr G's wife, but it's member of staff wanted to be certain, and Virgin confirmed this very soon afterwards and before Mr G tried to set the maturity date as June 2023. From what I have seen, I think Virgin did provide adequately clear information about the maturity date and the terms of Mr G's ISA.

Mr G decided to withdraw his funds before October 2023 as he wanted better interest rates, even though he had been made aware that the ISA hadn't matured, and he would incur a penalty. Although Mr G disagreed about the fairness of the penalty, it was his choice not to wait a bit longer until the ISA matured before withdrawing his funds without penalty, and so I don't think it would be fair to require Virgin to refund the penalty that applied in these circumstances.

I realise Mr G will be disappointed with this decision, but I think Virgin did enough to set out how the ISA would work and has therefore treated him fairly.

My final decision

For the reasons I have given it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 30 April 2024.

Andrew Fraser
Ombudsman