

The complaint

Miss L complains that Clydesdale Bank Plc trading as Virgin Money led her to believe her mortgage rate switch application had been accepted and would proceed without further requirements. The rate switch didn't proceed.

What happened

Miss L, an existing mortgage customer with Virgin, applied to switch to a new interest rate product, via a broker, around March 2021. The product recommended by the broker and applied for was a fixed rate of 1.71% until 1 July 2023. On 1 March 2021 Virgin provided a mortgage offer for that product.

Miss L says her broker contacted Virgin on 8 March 2021 and was told everything was in place to complete on 1 April 2021. However, the rate switch did not complete. Miss L says that was due to an error by Virgin and that she has paid a higher rate ever since and wants to be compensated for that. She says she did not receive a written mortgage offer from Virgin but believed everything was in hand between her broker and Virgin. And she thought the application had completed until she received a rate increase letter in February 2023, at which point she contacted her broker. It was also the broker's understanding that the mortgage had completed. So, Miss L complained to Virgin.

Virgin wrote to Miss L with its final response on 25 May 2023. It said it sent Miss L her mortgage offer, and that included the offer illustration, the tariff of charges and the offer acceptance form. And the mortgage offer contained instruction that the offer acceptance form needs to be signed and returned. So, if the acceptance form wasn't enclosed, Virgin said, Ms L should have notified it of that immediately. Virgin also said it has no record of a telephone conversation with Miss L's broker on 8 March 2021. And it said Miss L's overpayment in February 2021 wouldn't have impacted the issuing of the mortgage offer; the broker's procurement fee wasn't paid because the mortgage rate switch didn't complete; and the mortgage offer expired on 15 March 2021 as Virgin didn't receive acceptance from Miss L.

Dissatisfied with Virgin's response, Miss L asked us to consider her complaint. Our investigator didn't uphold Miss L's complaint. He said he wouldn't have expected Virgin to chase Miss L for the acceptance form as a broker was responsible for the sale. He didn't think Virgin had told Miss L's broker that everything was in place, and he didn't think Virgin acted unfairly by not completing the application without Miss L's acceptance form.

Miss L didn't agree. She said her broker has provided us with screenshot evidence of its system notes showing that it contacted Virgin on 1 April 2021. Miss L also said her broker told her Virgin uses a telephone system that doesn't always identify the numbers of inbound callers. She said she and her broker did all that could reasonably be expected to complete the rate switch.

As Miss L didn't agree with our investigator, her complaint has been passed to me for a 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.

To decide Miss L's complaint, I've thought about whether Virgin misled Miss L's broker about what was required to complete her mortgage rate switch application and whether it ought to have chased her for the signed acceptance form.

Following Miss L's response to our investigator's opinion, he asked Virgin to search again for records of telephone calls from specific numbers. I'm satisfied from its response that it did so and listened to call recordings of calls that may have related to Miss L. Having done so, it concluded that it received no calls from the broker and made no calls to the broker relating to Miss L on 8 March 2021. It has provided us with a copy of its contact log supporting its assertion that no contact was received or made relating to Miss L that day.

I've also considered the evidence provided by the broker – a screenshot of the broker's record relating to Miss L's application. The screenshot does contain an entry for 8 March 2021. However, it isn't clear from that whether it relates to a telephone call or whether it relates to contact with Virgin. Even if it did show that a call was made to Virgin on that day, there is an absence of notes to show what was discussed.

So, on balance, I haven't seen evidence to persuade me it's more likely than not Miss L's broker spoke to Virgin on 8 March 2021 about her rate switch application. And I've seen no evidence to indicate Virgin told Miss L's broker everything was in place for the application to complete.

I've considered the documentation Virgin says it sent to Miss L and her broker. I've seen a copy of the mortgage offer letter which includes – on page 2, with the main details of the new product – an instruction saying:

“Offer acceptance form

To accept this Offer and confirm that you're happy to go ahead with the Loan, you need to sign and return the Offer Acceptance Form we have sent to you with it.”

The mortgage offer appears to have been addressed correctly, though it says “Flat xx”, rather than just the number, which is how Miss L has stated her address on her complaint form to us. Miss L says she didn't receive the offer letter – and so also didn't receive the acceptance form either.

I don't think it's likely that the addition of the word “Flat” to her address would have prevented the letter from being delivered, particularly if the property is a flat and the remainder of the address was correct, including the post code. But, assuming Miss L didn't receive the mortgage offer, I've seen a copy of another letter, addressed to her broker. That informed the broker Virgin had sent the offer to Miss L and that she would need to sign the offer acceptance form.

I think, having sent Miss L her offer letter, sent her broker a letter confirming it had done so, and informed both parties of the need to sign and return the acceptance form, Virgin did enough to inform them of its requirements. And I think, given that this was a broker sale, it was reasonable for Virgin to assume:

- The broker would check with Miss L that she'd received the mortgage offer;
- The broker would check with Miss L that she knew she had to return the acceptance

- offer;
- If the broker didn't receive confirmation of the offer, it would question that with Virgin;
- When the broker didn't receive its procuration fee, it would question that with Virgin.

Given that Virgin pays a procuration fee for mortgages sold by brokers, I think it's reasonable that it expects brokers to contact their customers to ensure Virgin's requirements are met in time for applications to complete. So, in this case, I don't think it's unfair or unreasonable that Virgin didn't chase Miss L for the signed acceptance form.

In summary, as I haven't seen evidence to persuade me that Virgin told Miss L's broker nothing more was required, and I don't think it ought to have chased her for the acceptance form, I don't uphold her complaint.

My final decision

My final decision is I don't uphold Miss L's complaint about Clydesdale Bank Plc trading as Virgin Money.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 1 March 2024.

Gavin Cook
Ombudsman