

The complaint

Mr H has said that as he received a statement with no interest charges he assumed he was not being charged interest on his two buy-to-let ("BTL") mortgages he holds with Clydesdale Bank Plc trading as Virgin Money. He says the interest only terms ended in 2018 and due to negative equity he was unable to remortgage the properties, so he's been trying to reduce the outstanding balances since then, but the only statement he received showed incorrect information in that it didn't include the interest being charged.

To resolve matters Mr H wants the interest to be removed up until the point in February 2023 that he was told interest was being charged behind the scenes. He also wants a transparent statement of his balance and the interest charged, and for the business to change its system so that its staff have full transparency and can help its customers.

What happened

In 2006 Mr H took out these mortgages through an independent mortgage broker to purchase two BTL properties. Both mortgages were taken out on an interest only basis with ten-year terms. One mortgage was for £80,000 (plus £449 fees) to be secured on a property that Mr H was buying for £117,250. The other mortgage was for £88,000 (plus £449 fees) to be secured on a property that Mr H was buying for £124,000.

Both mortgages were taken out on a lifetime tracker rate for the life of the loans. The rate was described as being a variable rate which is 0.79% above the Bank of England's variable base rate, which gave an interest rate (at the time the mortgage offers were issued) of 5.29%.

The mortgage offers say:

'Interest will be calculated on the outstanding balance from day to day and charged to the account in arrears on each of the dates in each year on which the Bank usually charges interest and also on demand by the Bank for repayment of the outstanding balance and on final repayment. Where cheques or amounts are credited to an overdrawn account, the balance will not take into account these credits until they are cleared.'

'Following any demand by the Bank for repayment of the outstanding balance, interest will continue to accrue on the amount so demanded at the same rate and in the same manner as set out above until payment in full is received by the Bank, even after a Court Judgement has been obtained.'

The mortgage terms ended in 2016, and Mr H was granted a two-year extension on each which ended in 2018.

On both accounts, from August 2018 Mr H started making monthly overpayments, starting with payments of £750 a month (to each), increasing to £1,000 a month from May 2019. The monthly payments increased up to £1,500 a month until from April 2020 they decreased to £250 a month, gradually increasing again from October 2020 and then from November 2021 Mr H was paying £700 a month to each, increasing to £800 a month from May 2023. To be

clear those are the total monthly payments to each account, not the amount of the overpayments on top of the monthly payments.

The annual statements issued in August 2019 showed interest accruing on the accounts (at around £80-£85 a month for account ending *001 and around £90-£95 a month for account ending *995) until January 2019 but after that no interest debits were shown.

Mr H raised this complaint in January 2023.

Virgin Money responded to the complaint on 24 May 2023. It said it had placed Mr H's account on what it referred to as stop accrual, meaning that interest isn't added to the principle balance to stop the debt from increasing. It said, in line with the terms and conditions of the mortgage, interest will continue to be charged as the debt is outstanding and it didn't uphold that part of the complaint. It said, in reference to a letter Mr H said he'd received in 2021, it had no record of such a letter and Mr H had been unable to provide a copy and so it couldn't uphold that part of the complaint. It apologised for the delay in responding to the complaint and paid £100 compensation for that.

In August 2023 we answered a different complaint from Mr H which related to Virgin Money declining his request for a further term extension. We didn't uphold that complaint, and after that was closed Mr H referred this second complaint to us at the end of October 2023.

Mr H told our Investigator he would have made different financial decisions if he had been made aware that interest was still being charged on these two BTL mortgages. He said he has a lot of debt all competing for his money, and faced with statements showing no interest charges and conversations with staff who said the interest had been frozen to help him out, he paid down other debt first. He said his redundancy payment (in late 2020) could have gone to paying part of the mortgage balance so he could get a new mortgage elsewhere.

Our Investigator didn't uphold the complaint. He said that although it wasn't clear from the mortgage statements that interest was still being charged, Virgin Money was still entitled to charge interest until the debts were repaid and the stop accrual had meant the interest was no longer compounding, so acted in Mr H's favour. He said that Mr H had told Virgin Money many times over the years that he was trying to reduce the balance of the mortgages and so he wasn't persuaded that it was likely, on balance, that Mr H would have paid more had he known about the interest charges.

Mr H didn't agree with the outcome our Investigator reached. He said when he was made redundant he used some of his redundancy payment to repay money he owed to his sister, which was interest free. He said had he known he was being charged interest then he would have paid that money off these mortgages instead, which would have allowed him to switch mortgage providers at that time.

Our Investigator wasn't persuaded to change his assessment of the case. He said the notes showed Mr H was aware the mortgage terms had ended and he faced repossession, talking at one time of using the funds from his wife's pension to reduce the debts, and that evidence doesn't reconcile with Mr H's testimony that he chose to repay an interest free loan from his sister instead of reducing his mortgage balances to a level where he had options available to him.

As an agreement couldn't be reached the matter was passed to me to decide.

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 understand Mr H has now received documents to show his balance and the interest charged, and in relation to his request that we tell the business to change its system so that its staff have full transparency and can help its customers - that's not something I'm able to do. Our role is to resolve disputes between an individual and a business about a specific financial product. We don't tell businesses how to act in more general terms, such as to change its systems to help other customers.

Mr H's original mortgage terms ended in 2016 and he was in negative equity so was unable to sell or remortgage the properties. So in 2019 Virgin Money made the decision to suppress the interest on the accounts (which is what it refers to as stop accrual). I'll explain what that means.

Because Mr H was struggling to redeem his mortgages once the terms had ended, one particular thing that was done to help him was to stop adding interest onto the main mortgage accounts as otherwise he'd be paying interest on interest - known as compound interest. Instead Virgin Money carried on calculating the interest in the background, as it was still due, but as it wasn't applied to the accounts it didn't attract interest itself. This is known as simple interest.

In effect, in order to prevent interest accruing on unpaid interest, Virgin Money 'ring-fenced' the interest in separate accounts, so that it didn't attract further compound interest. This also meant any payments Mr H made after that point went towards repaying the capital. Ultimately, it meant Mr H was charged less interest than he would have been otherwise.

To be clear, I'm not making any findings about the decision by Virgin Money to suppress interest on the accounts, merely explaining how it worked to add context to this complaint.

The terms of the mortgages are that interest will be charged until the debts are fully repaid. That's normal and as I would expect, and I see no grounds to order Virgin Money to do anything different here.

Mr H has said that he would have allocated funds he had available – namely his redundancy pay – differently had he known his mortgage accounts were still interest bearing. I understand from the contact notes that Mr H was made redundant at the end of 2020, and he's said he used his redundancy pay to pay back money he owed to his sister as he'd received a statement from Virgin Money showing he wasn't being charged interest.

I acknowledge the statement issued in September 2019 (for the period running up to 30 August 2019) showed no interest charges after January 2019 (and then the one in 2020 showed no interest charges) but I don't think that was enough for Mr H to fairly assume interest had just stopped being charged without checking with Virgin Money. Mr H was in regular phone contact with Virgin Money so it would have been easy enough for Mr H to check in any of those calls what the situation was if he was making financial decisions based on that assumption.

I must also keep in mind that since 2016 Mr H had been actively trying to reduce his balances as much as possible as his mortgage terms had ended and he was in negative equity. Over the years Mr H had been asking how much more time he had to remedy the situation and was told Virgin Money couldn't give any more term extensions past August 2018, so he knew the money was already overdue and that Virgin Money could start action to take possession of the properties if the debt wasn't repaid in full.

He told Virgin Money over the years that he was looking into options like taking money from

his pension or his wife's pension, or borrowing money from his father. And I can see from a contact note on 4 September 2020 Mr H was told he needs to be looking at an exit strategy as the bank may not offer forbearance any longer. The notes in December 2020 indicate Mr H said he was looking to reduce the balance on both accounts so he could remortgage, and then in April and July 2021 he said he wasn't yet able to refinance due to the balances on the mortgages and that he was using the redundancy money as income replacement.

From this it seems clear Mr H was aware the priority was to reduce the mortgage balances as much as he could so he was in a position to refinance, so irrespective of whether or not interest was being charged it seems he would have known that he should pay any available funds he had – such as his redundancy pay – to the mortgage accounts, rather than repaying his sister – a debt for which he has said he wasn't getting charged interest.

In addition Virgin Money sent a letter to Mr H for each of the accounts in October 2021. Those letters said:

“We made a mistake, but we’re fixing it

We’ve realised that the interest rate on your mortgage hasn’t been updated correctly since your mortgage term ended on 01/08/2018. We’re sorry about this and want to let you know what we’re doing to put things right.

What happened?

When your term ended, your mortgage was on our Base Rate Tracker which, at that time, was set at 1.29%. As there is still an outstanding balance, we should have continued to update the interest rate on your mortgage whenever the variable rate went up or down. Unfortunately, this didn’t happen and you’ve been charged the incorrect amount of interest.

How we’re fixing this

We’ve worked out that you paid less interest on your mortgage because of this - as it was our error, we won’t be asking you to pay this. Your current outstanding mortgage balance is still [balance].

What happens next

The Base Rate Tracker of 0.89% will be applied from 26/10/2021, and your new minimum monthly payment will be [monthly payment]. On this variable interest rate, your rate and payments may change in line with your terms and conditions until your balance is paid off in full.

When your mortgage term ended, your Direct Debit ended too, so please make these payments in another way, such as standing order or online transfer.

Until the balance is repaid, we can still apply our rights under the mortgage.

Help is at hand

It’s important you get in touch regularly to discuss how you plan to repay the outstanding balance.

Please give us a call on the number below to talk through your options.

If you’ve got any questions, you can get in touch on 0345 850 2325. We’re here 9am to*

5pm Monday to Friday and we'll do everything we can to help."

Mr H, in his complaint call in January 2023, said the letter told him Virgin Money had, in error, not charged interest, but going forward would be charging it. But from the text above it can be seen that Virgin Money said it was charging interest, just at the incorrect interest rate. When Mr H received this letter in 2021 I would have expected him to have queried it at the time if his belief was, as he said in 2023, that he wasn't getting charged any interest at all and had made some financial decisions on that basis.

These mortgage accounts were many years overdue in terms of repayment and were priority debts. Had Mr H disclosed to Virgin Money, as he should have done, that he had a lump sum available then I'm satisfied it would have told him that money should be paid to the mortgage accounts, rather than to a non-interest bearing unsecured loan from a family member. In addition, as I've set out, Mr H was aware of the importance of reducing these balances as much as he could and the consequences – possible repossession – of not doing so.

Having considered everything very carefully I'm not persuaded Virgin Money did anything wrong in continuing to charge interest (albeit on a non-compounding basis outside of the main mortgage accounts) as the debts were still outstanding. I'm also not persuaded I can hold Virgin Money liable for Mr H choosing not to pay extra amounts to these mortgage accounts when he had that sum available to him. Mr H was clearly told in October 2021, by letter, that his accounts had always been interest bearing, and would continue to be, albeit historically the wrong interest rate had been used. Putting all that together there are no grounds for me to order Virgin Money to waive any interest charged on these mortgages.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 28 June 2024.

Julia Meadows
Ombudsman