

The complaint

This complaint is about a mortgage Ms B and Mr Y hold with Clydesdale Bank Plc trading as Virgin Money (Virgin). The essence of the complaint is that they believe the interest rate they've been charged historically, and continue to be charged, is higher than was agreed when they took the mortgage out. Ms B and Mr Y say the agreed rate was to have been Bank of England Base Rate (BoEBR) plus a fixed margin of 2.25%, less a fixed loyalty discount of 0.25%.

This is a joint mortgage, and Ms B and Mr Y have brought the complaint together. However, all of our dealings have been with Ms B, on behalf herself and Mr Y.

What happened

Ms B and Mr Y's mortgage started in 2005, with a lender I'll call N. The mortgage offer from August 2005 shows that the mortgage was initially on a fixed rate of 4.89% running until October 2010. At that point, unless a new interest rate deal was agreed to take its place, the mortgage would revert to N's standard variable rate (SVR) for two years, and thereafter to SVR less 0.25%.

The mortgage is interest-only. The offer records that the mortgage was arranged on a non-advised basis. That is where a lender (here that was N) doesn't provide any recommendation and it is up to the borrowers to decide if the mortgage is suitable for their needs and circumstances.

Since the fixed rate expired on the main mortgage in 2010, no interest rate product has been attached (N had become a closed lender and stopped offering new rate products in 2008). That means that since October 2010, the mortgage has been charged interest either at SVR or at a rate that uses SVR as its reference point. The change to SVR in 2010 was confirmed by letter from N on 14 July 2010.

In September 2012, a tranche of N's mortgage accounts (including Ms B and Mr Y's) was transferred to Virgin. The first annual statement from Virgin shows that with effect from 15 September 2012, the interest rate being applied to Ms B and Mr Y's mortgage was 4.54%. This was at a time when Virgin's SVR was 4.79%.

Ms B and Mr Y started this complaint in December 2022. Virgin rejected the complaint, and it was passed to our service.

Our Investigator didn't think we could consider all of the complaint; she thought our remit was confined to looking into movements in the interest rate since December 2016 (six years back from the start of the complaint in December 2022).

When the Investigator then looked into movements in the interest rates Virgin had charged during the relevant period, she wasn't persuaded that Ms B and Mr Y had been treated unfairly. She also addressed a subsidiary point, that Ms B and Mr Y didn't believe there was any agreement between them and Virgin. She said that since taking over the mortgage in 2012, Virgin had operated it in accordance with the original agreement with N.

Ms B and Mr Y asked for the complaint to be reviewed by an ombudsman. By way of a decision dated xx April 2024, I confirmed that my power to consider this complaint is confined to the fairness or otherwise of the interest rate Virgin has charged since December 2016.

What I've decided – and why

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

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. But in doing so, we have to work within the rules of the ombudsman service, and the remit those rules give us.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, these are my conclusions, and the reasons for them.

The starting point here is the agreement Ms B and Mr Y entered into for the mortgage in 2005. The rate Virgin is permitted to charge during the period under consideration in the absence of a separate interest rate product is set by reference to its SVR, and not to BoEBR as Ms B and Mr Y believe. The rate Virgin is allowed to charge under the agreement it inherited from N is SVR minus 0.25%. That's what the 2005 mortgage offer said, and that is what Virgin has done during the period under consideration. Nothing in the available evidence gives me any reason to conclude that the agreement was varied at any time to provide for interest to be charged on the basis Ms B and Mr Y are claiming.

In the interests of fairness and completeness, I've considered the question of whether Virgin (or N before it) placed any barriers in the way of Ms B and Mr Y being able to exit the contract. Being on SVR (or a discounted rate using SVR as its reference point) meant that the mortgage wasn't, and isn't, subject to an early repayment charge in the event they repay the mortgage, whether that was the result of selling the mortgaged property or re-financing it with another lender.

I accept it's possible that there may have been difficulties for Ms B and Mr Y to do that as a result of their wider financial circumstances, and if that was the case, then I can understand their frustration. But it's not something I could fairly hold Virgin responsible for.

My final decision

My final decision is that I don't uphold this complaint or make any order or award against Clydesdale Bank Plc trading as Virgin Money.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and Mr Y to accept or reject my decision before 27 May 2024.

Jeff Parrington
Ombudsman

