

complaint

Miss R and Miss P complain that Virgin Money plc didn't deal with their mortgage application fairly or reasonably. They want compensation and Virgin to change its processes.

background

Miss R and Miss P applied for a mortgage to Virgin in order to buy a property. They complained that it sent confirmation of the mortgage to the address before completion had occurred; this meant they didn't receive information about the first direct debit. Miss R and Miss P also complained that Virgin took nine days to send paperwork to them (including the time taken for the paperwork to go through the postal system).

Miss R and Miss P complained to Virgin. It said that its process was to send a letter confirming completion of a mortgage and the details of the first direct debit when the funds were released to the solicitor acting on the customer's behalf. Normally, such letters would arrive after completion as they were sent by second class post. Virgin offered £40 compensation to allow Miss R and Miss P to register with a fraud prevention agency to check if any data was mis-used.

Miss R and Miss P complained to us. Virgin said it hadn't been told that there would be a delay between the date when the solicitors needed the money and Miss R and Miss P moving into the property. The adjudicator's view was that Virgin sent the completion letter five days before completion. He noted that second class post should be delivered in two/three days (excluding Sundays), so it was always likely that the documents would arrive at the property before it was owned by Miss R and Miss P. While this service couldn't deal with possible data protection breaches, the adjudicator said Virgin had acted unfairly and unreasonably and should pay £40 to cover the costs of the registration with the fraud prevention agency, refund any bank charges incurred due to the first direct debit being made without warning (subject to evidence being provided), and pay £150 compensation for the trouble and upset caused.

Virgin disagreed. It said the delivery of post was outside of its control and the owner of the property shouldn't have opened the letter if it wasn't addressed to them. It also said that Miss R and Miss P should've been aware of the direct debit as they'd taken out a mortgage and their broker should've advised them about it. Virgin mentioned that it had changed its process and as a result it was unlikely that completion documents would arrive before completion in the future.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. This service can't make a business change its systems; all we can do is look at individual cases and ensure that consumers are put back into the position that they should've been in all along if possible. And this service doesn't deal with complaints that data protection legislation has been breached; that's the role of the Information Commissioner's Officer. We look at whether a business has treated an individual fairly and reasonably.

I have considered what Virgin said about the timing of when it used to send out completion documents to consumers, but it remains the case that it sent Miss R and Miss P's documents more than two to three days before completion was due to take place. Virgin had been told by the solicitor the completion date, and new owners don't move into properties before they own them. The response that the letter shouldn't have been opened by a third party misses the point entirely in my view; Virgin sent the documents at a time when if they were delivered in the normal time frame, they would arrive before Miss R and Miss P lived at the address. There's no information about who was living in the property before completion; it wasn't necessarily the seller. This meant the documents weren't sent to the residence of the customers. This wasn't fair or reasonable.

And it isn't the broker's role to tell consumers precisely what date and for how much the direct debit will be – that's the lender's role. The first direct debit for a mortgage is often for a different amount to the normal monthly figure and it's unfair and unreasonable to expect a consumer to guess the date and amount of a direct debit. The initial amount stated in the mortgage offer wasn't the amount stated in the direct debit letter.

Virgin chose to send the information to an address where Miss R and Miss P didn't yet live, and again that's unfair and unreasonable. It's fair and reasonable for it to refund any bank charges caused by its failure to properly inform Miss R and Miss P about the direct debit, provided evidence is provided. It's also fair and reasonable for Virgin to pay £40 to cover the costs of Miss R and Miss P's registration with a fraud prevention agency as they didn't receive the first set of completion documents and so could be the victims of fraud.

I don't think taking nine days to send another set of completion documents is unfair or unreasonable, given this period covered postal delivery. Virgin did treat Miss R and Miss P unfairly and unreasonably, and caused trouble and upset. Compensation for this should be paid, even though money never truly compensates for trouble and upset. I think £150 compensation is fair and reasonable, as it's clear Miss R in particular was very concerned about the risk of fraud and both consumers were upset about not knowing about the direct debit in advance and inconvenienced as a result.

my final decision

My final decision was that I uphold the complaint and Virgin Money plc should pay £190 compensation and refund the bank charges as outlined above to Miss R and Miss P. Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R and Miss P to accept or reject my decision before 2 August 2018.

Claire Sharp
ombudsman