

## **The complaint**

Mr A and Mrs U complain that Clydesdale Bank Plc trading as Virgin Money (Virgin) didn't tell them they could apply for a new deal 120 days before their existing deal expired. They also complain that Virgin didn't let them know there was a cut-off date for the application if they wanted the new product to start on the first of the following month.

As most of our dealings have been with Mr A, I'll mainly refer to the complaint as being brought by him throughout this decision for ease.

## **What happened**

Mr A and Mrs U have an interest only mortgage with Virgin which they took in late 2017. The rate was fixed until 1 January 2023. On 31 August 2022, Virgin wrote to Mr A and Mrs U to remind them their current five-year deal at 1.79% interest was ending. This meant they would change to the Standard Variable Rate (SVR) from 1 January 2023, which was 5.49% at the time of the letter. The letter told them if they wanted to review alternative options including new product deals, they should visit Virgin's website.

Mr A called Virgin on 5 October 2022 to ask about new product deals. Mr A was told he needed to have an appointment with a mortgage adviser as there was less than five years remaining on the interest only mortgage term. An appointment with a mortgage adviser was scheduled for 4 November 2022, and Mr A was told interest rates from the day of that call would be honoured if he kept the appointment. Mr A cancelled his appointment with the mortgage adviser on 3 November 2022.

On 2 December 2022, Mr A called Virgin to ask about making an overpayment to his mortgage. He said he wanted to reduce his debt as the interest payments would now be substantial. The adviser told him he could make an overpayment of up to 10% of the value of the debt at the start of that year without incurring an Early Repayment Charge (ERC), but from 1 January 2023 if he was on the SVR there would be no ERC and there wasn't a limit on any overpayment.

Virgin wrote to Mr A and Mrs U again on 9 December 2022 as a reminder their interest rate would be changing, and their direct debit would be automatically updated to take payment at the SVR. It said if they had any queries about the options available such as product transfers to visit Virgin's website or call.

On 16 December 2022, Mr A contacted Virgin again as he had made a test payment of £10 and wanted to check it had been received. The agent asked Mr A if he had arranged a new product and said he strongly urged Mr A to put something in place. Mr A was unable to speak to an adviser at that time.

Mr A called back on 23 December as his independent financial adviser was trying to complete a product transfer but could only set one up to start on 1 February 2023. Virgin told Mr A he had missed the cut off date to transfer to a new product for 1 January 2023, and the documents would have needed to have been returned before 18 December 2022 to do this.

Mr A made multiple overpayments to his mortgage between 23 December and 4 January totalling £130,000. Mr A and Mrs U's mortgage switched to the SVR on 1 January 2023.

Mr A's financial adviser applied for a product transfer which was accepted and effective from 16 January 2023 with an interest rate of 4%. Mr A and Mr U's's first monthly payment on the new product deal was 1 February 2023.

On 6 February 2023, Mr A complained to Virgin that he wasn't advised he could change deals from 1 September 2022 or that 18 December 2022 was the cut off to arrange a new deal for 1 January 2023. He said the SVR in January was unaffordable and he was forced to use savings to reduce the debt which he hadn't wanted to do before retirement.

Virgin sent its final response letter on 21 March 2023. It didn't uphold Mr A and Mrs U's complaint. It said Mr A and Mrs U were advised in August their rate was ending in December, and they had failed to take action. It said its website advised customers they could take action up to 120 days before the expiry date.

Mr A didn't accept this and referred his complaint to our Service where one of our Investigators looked into the complaint.

Our Investigator thought the complaint should be partially upheld. He thought Virgin had missed opportunities to explain to Mr A there was a cut-off date to transfer to a new product for 1 January 2023. However, he explained that Mr A had used the opportunity of being on the SVR in January to make large overpayments, so he didn't think it would be fair to start the new product from 1 January. Our Investigator thought Virgin should pay £100 to compensate Mr A and Mrs U for missing the chance to confirm these dates to them.

Our Investigator also noted that Mr A could have found out he could apply for a new deal from September if he'd gone on Virgin's website or asked on a call. He wasn't persuaded that Mr A would have applied for a new deal as early as September, as Mr A didn't attempt to apply for a new deal until the week before the existing fixed rate was ending and he'd cancelled an appointment with the mortgage advisor.

Virgin accepted our Investigator's view, but Mr A didn't accept this. He said, in summary, he was told in 2021 he could only apply for a new deal 90 days before the product expired and if Virgin had told him he could apply from 1 September 2022 he would have done so. He said he waited to apply for a new product until December because of the economic climate following changes in government policy towards the end of September. Mr A said it was never his intention to make the large overpayments from his inheritance, but he had no choice but to reduce his debt when he was going on to the SVR in January. He thought, if not for Virgin's mistake, a new deal would have started on 1 September 2022, without him using his inheritance to make overpayments.

As Mr A didn't agree with our Investigator, the complaint has been passed to me to consider and make a final 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.

Mr A has responded to our Investigator in detail making a number of points he says supports why this complaint should be upheld. I want to reassure him that I've read and thought about everything he said. I may not address each and every point. That's not because I haven't thought about it, it simply reflects the informal nature of this service. Instead, I've focussed

on what I consider to be the crux of the complaint – whether Virgin should've told him that he could secure a new rate sooner than he did and whether he's lost out financially as a result.

Virgin wrote to Mr A and Mrs U in August 2022 to remind them their fixed rate deal was ending in December, and they would be moving to the SVR following that. It's not the lender's responsibility to provide any recommendations or advice in these circumstances, but I think it was fair and reasonable for Virgin to remind Mr A and Mrs U that their deal was coming to an end and to give them enough time to explore their options, seek any necessary advice and apply for a new product if that is what they chose to do.

I understand that over the period of Mr A and Mrs U's deal was due to expire, there was a lot of uncertainty and changes in the economic climate, with interest rates increasing rapidly. I can empathise with Mr A and Mrs U that this would be a difficult time to switch to a new product and they wanted to wait to see how things settled. But it's important not to look at this situation with the benefit of hindsight and I need to think about the information and options that were available to Mr A and Mrs U at the time.

Mr A thinks the reminder letter should have clearly told him he could apply for a new deal from 1 September 2022. He thinks because it didn't and interest rates increased significantly after September, he's missed out. I think although Virgin didn't explicitly say they could apply for a new product from 1 September, it did let them know on 31 August 2022 their deal was ending and they could review new products online and advised Mr A and Mrs U to visit the website for further information.

Mr A and Mrs U are responsible for making their own decisions about their mortgage and Virgin had let them know where they could find out information to apply for a new product. It was up to Mr A and Mrs U to take action and decide how to proceed before their deal ended. I think Mr A and Mrs U had the opportunity to apply for a new product in September and had been given the information to do this, but they chose not to start taking action until nearer the time of the deal expiring. I don't think Virgin made an error here.

Mr A has said Virgin told him in 2021 he could only apply 90 days before the product expired, and I have no reason to doubt his account of this. But businesses' policies can and do change. There was no requirement at the time for a lender to allow a consumer to take a new product a certain amount of time before the existing rate was ending. This is a concession Virgin was making.

Mr A has said he doesn't use websites so wouldn't have seen online that he could apply 120 days before his product expired. However, even without using websites, I think Mr A could have called Virgin following receipt of the August letter to check when he could apply for a new product if that was something he was thinking about doing, and if he had done this, I think he would have been told he could apply from September. I can't say Virgin has made an error by Mr A and Mrs U not finding out more information about applying for new products earlier than they did. So, I don't agree Virgin has acted unfairly and that a new product should have started in September 2022.

Even if I were to agree that Virgin should've told Mr A that he could apply for a rate sooner, I'm not persuaded he would've done. I say this as when he did call, an appointment with an advisor was booked for him. And he cancelled this appointment. Mr A has also told us that his financial advisor told him to wait to see if rates would settle down. So, I can't safely say that even with complete information about the various dates of when he could take action, he would've done anything sooner. And any decisions he made on advice from an independent advisor aren't the responsibility of Virgin.

Our Investigator thought that Virgin made a mistake by not letting Mr A know there was a

deadline to apply for a new product starting on 1 January 2023. I also agree Virgin could have done more to make Mr A aware of this. But I'm not persuaded that had it done so, Mr A and Mrs U would've acted differently. I'll explain why.

I've listened to all of the calls Mr A had with Virgin in October and December. During the call in October 2022, the next steps were explained and an appointment with a mortgage adviser was arranged. I think it was clear Mr A was looking at his options to apply for a new product before 1 January 2023 and acting reasonably Virgin should have let him know there was a deadline this needed to be done by. I certainly think by the time of Mr A's calls in December it was clear the deadline to apply was fast approaching, Virgin could've mentioned the deadline to Mr A when he was weighing up how to proceed.

I appreciate Mr A was also having discussions with Virgin about moving to the SVR in January in order to make large overpayments on his mortgage, but it wasn't clear how he'd decided to proceed yet and Virgin could have done more to make the deadline clear.

That said, even if Virgin had let Mr A know he needed to apply for a new product before 18 December 2022, I'm not persuaded he would've taken action sooner for the reasons I've already set out. He didn't apply until the middle of January 2023 in the end. He'd been very strongly advised in one call with Virgin to take action soon, but he didn't. And he'd already cancelled an appointment with a Virgin advisor. I'd also note that Mr A had an independent mortgage advisor working on his behalf at this time. I'd expect this advisor to be aware that lenders have deadlines and to check what they are and to make sure that any applications were submitted within these time scales. I can't hold Virgin responsible for this if the advisor didn't check these deadlines.

Mr A missed the deadline for a new rate to start on 1 January 2023. He then went on to make significant overpayments of £130,000 against the mortgage balance without incurring any ERC as he was on the SVR. If Mr A and Mrs U had applied for a new rate before 18 December 2022 to be in place for 1 January 2023, they would not have been able to make such large overpayments without incurring a significant charge. They would not have been able to reduce their debt in the way they have, and their remaining interest payments on their outstanding mortgage balance would be much higher than they are now.

I know Mr A says he didn't want to make this payment and felt forced to. But I think it was in fact Mr A's decision to wait to see what rates would do that meant he felt forced to make this payment. As I've set out above, Mr A could've taken a lower rate had he proceeded with the appointment booked in November, but he chose not to. And this is the reason why he ended up paying a higher rate of interest and decided to pay down a large amount of the mortgage.

I do agree that Virgin did have chances to tell Mr A there was deadline for submitting an application to have the new rate in place for the start of the following month. I've set out why I don't think Mr A would've acted differently. But I agree this has caused him some degree of distress and frustration. It resulted in him making further calls to Virgin and his financial adviser and feeling like he had missed an opportunity. I'm satisfied that the £100 compensation suggested by our Investigator is fair and reasonable to reflect the distress and inconvenience caused specifically by Virgin's mistake.

### **Putting things right**

For the reasons I've explained, Clydesdale Bank Plc trading as Virgin Money should pay Mr A and Mrs U £100 compensation for not telling them that they could secure a new rate sooner than they did.

**My final decision**

I uphold this complaint and direct Clydesdale Bank Plc trading as Virgin Money to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and Mrs U to accept or reject my decision before 29 March 2024.

Rob Deadman  
**Ombudsman**