

## The complaint

Ms I complains about the way Clydesdale Bank Plc trading as Virgin Money has handled her request to extend the term of her interest only mortgage.

She complains that Virgin Money has discriminated against her because of her age, and also about the customer service she's received from it since 2021.

## What happened

Ms I took out an interest only mortgage with Northern Rock in 2006 over a 10 year term. The mortgage was sold by a broker. In 2011, the mortgage term was extended to 2021. The mortgage was later transferred to Virgin Money.

In February 2021 Ms I asked Virgin Money for a term extension as she was pursuing a complaint about the mis-sale of the mortgage. After she didn't receive a response, she complained.

Virgin Money issued a final response letter on 20 April 2021. It apologised for not responding to Ms I's letter she'd sent in February and paid her £100.

Ms I complained to Virgin Money again in November 2021 as she said her multiple requests to extend the mortgage term had been unanswered.

Virgin Money issued a final response letter on 18 November 2021. It said it was not obliged to offer Ms I another mortgage or extend the term, and said Ms I had been told that it could not offer what she wanted. It said it had told Ms I that she should update it when she knew the outcome of the mis-selling claim, and it could explore options at that time. It had given Ms I an example that it could look at a further 10 months to repay the mortgage, but apologised if Ms I felt that was a definite agreement. It also said it had provided feedback about it not responding to Ms I's emails and letters from May and October 2021.

In December 2021 Ms I told Virgin Money she would need to extend her mortgage term by at least another five years to pursue her mis-selling claim.

On 12 October 2023 the mortgage still hadn't been repaid and so Virgin Money instructed solicitors who wrote to Ms I informing her of Virgin Money's intentions to start repossession proceedings if the mortgage balance wasn't redeemed before 20 October 2023.

Ms I complained to Virgin Money again on 17 October 2023 raising the following points:

- It was unfair for Virgin Money to only allow her three days to repay her mortgage. She referenced the Disability Discrimination Act.
- The solicitors' firm acting on behalf of Virgin Money in the repossession proceedings is the same firm that dealt with the conveyancing when the mortgage was sold. She said this meant there was a conflict of interest.

Ms I was also trying to arrange a new mortgage to redeem the mortgage with Virgin Money.

Virgin Money sent its final response letter on 15 November 2023. It said it would not be revisiting any previous complaints that it had responded to. It said it didn't agree there was a conflict of interest with the solicitors it was using, but that would be up to the solicitors to establish, and it had made them aware of Ms I's concerns. It also said it was not obliged to offer Ms I a new mortgage or extend the mortgage she currently has, but it was sorry it was unable to offer any further options. It said it was pleased Ms I had been able to obtain a mortgage with a different lender, but there had been reasonable time since the mortgage term ended to get that arranged. It asked Ms I to update it by the end of November on the progress of the mortgage completion.

Ms I redeemed the mortgage in March 2024 when she took out a lifetime mortgage.

Ms I contacted our service in April 2024 and asked us to look into her concerns about how Virgin Money had treated her. She told us she suffered from chronic post-traumatic stress disorder, anxiety, and depression, which had all been made worse by Virgin Money's actions. Virgin Money said it didn't give consent for us to look at any complaints that had been addressed in previous final response letters, as those complaints hadn't been referred to our service within the six month time limit.

One of our Investigators looked into things, and whilst she empathised with Ms I's circumstances, she said we could only consider Ms I's complaint points that hadn't been addressed in the 2021 final response letters. She said we could consider the complaint addressed in the 2023 final response letter. After investigating those complaint points, she didn't think Virgin Money had treated Ms I unfairly.

Ms I asked for her complaint to be passed to an Ombudsman.

I issued a decision that said our service only had the power to consider the following parts of Ms I's complaint:

- That Virgin Money unfairly declined her requests for a term extension on the basis of age discrimination.
- The letter she received from Virgin Money's solicitors about repossession action was unfair.
- There was a conflict of interest regarding the solicitors' firm that contacted her about the repossession as they'd done the conveyancing for the mortgage when it was taken out.
- The customer service and harassment she says she's received from Virgin Money from 18 November 2021 onwards.

I said the rest of Ms I's complaint was outside our service's jurisdiction and so we couldn't consider it. I will now issue my decision on the merits of Ms I's complaint.

### **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.

#### Ms I's request for a term extension

The term of Ms I's mortgage ended in September 2021. At the time, she had no way of repaying the balance of around £150,000. She had explained that she didn't want to sell her home, a large part of that was because of her health conditions. She was pursuing a mis-sale complaint at the time, which she pursued through the courts after it was dealt with by our service. And she was hoping to receive a substantial pay out from that claim that would

have allowed her to repay the mortgage with Virgin Money.

I can see from the contact notes and the information Ms I has sent us that she was open and clear about her intentions and plans with Virgin Money throughout this period. She had made it aware of her vulnerabilities and how her health conditions impacted her life. She kept it updated with the progress of her complaint, and later legal claim, and Virgin Money allowed some time for Ms I to see that through without taking any further action, whilst also encouraging her to explore alternative options to raise the funds.

Ms I asked Virgin Money to extend the term for five years to allow time for her to receive the settlement from her mis-sale claim, and other legal action she was taking against a solicitor. Virgin Money declined the request. It said it did so on the basis that Ms I didn't have an acceptable repayment strategy that met its criteria. I've thought carefully about whether that was fair.

Whilst Virgin Money is entitled to set its own lending criteria and apply that to Ms I's application to extend her mortgage term, the regulator's guidance makes it clear that lenders can still agree to extend the mortgage term if it's considered reasonable forbearance and is in the borrower's best interests. It must also treat borrowers fairly and reasonably. So for example, if a borrower is unable to repay their mortgage at the end of its term, but they have a clear plan as to how they're going to repay it in one or two years' time, it might be considered reasonable for the lender to extend the mortgage term to align with the borrower's plans. But I'm not persuaded it would have been reasonable forbearance to extend the mortgage term for a further five years in Ms I's case. I say that because whilst she felt she had a plan as to how she would repay the mortgage - once her legal claims had been settled in her favour - she wasn't guaranteed to receive those settlements. She didn't feel able to sell her home and so the only other realistic option, which she did end up taking, was a new mortgage with a different lender.

I appreciate Ms I also didn't feel able to apply for a new mortgage with a different lender, as she finds it very difficult to deal with figures and money. But in her circumstances, unfortunately I don't think she had any other options. Whilst it couldn't have been known at the time Ms I applied for the term extension, her application for judicial review was rejected by the courts, and so she hasn't received any of the large settlement figures she was hoping for. That was always going to be a possibility. She didn't feel able to sell her home, and based on the information she's provided, I don't think that would have changed in five years' time when Ms I would have been older, considering the health conditions she unfortunately suffers from. Ultimately, I don't think it would have been in Ms I's best interests to delay the decision she had to make about how she would repay her mortgage. She was able to get help from a broker with the new lifetime mortgage to ease the burden by as much as possible, and she no longer has the worry of how her mortgage will be repaid at the end of the term.

During the complaints process Ms I has said that Virgin Money has discriminated against her on the basis of her age under the Equality Act 2010. I've thought carefully about what Ms I has said, but having done so, I'm not persuaded Virgin Money has treated her differently or unfairly because of her age. I'm satisfied Ms I's age wasn't a relevant consideration in Virgin Money determining whether she was eligible for a term extension. I've seen its lending criteria, and Ms I's request for a five year term extension still would have kept her within its upper age limit for lending. Ms I's application didn't meet Virgin Money's lending criteria for other reasons. I've explained above why, even if Virgin Money had set its criteria aside and considered what would have been reasonable forbearance in Ms I's best interests, I don't think it would have made a difference to the outcome it reached.

Overall, I'm persuaded Virgin Money acted fairly and reasonably when it declined Ms I's

request for a term extension.

### Was Virgin Money acting fairly when it started legal action?

Despite the fact that Ms I's mortgage term ended in September 2021, as she was keeping Virgin Money updated with her plans and the legal claims she was pursuing, it wasn't until June 2023 when Virgin Money explained it was considering starting legal action to repossess Ms I's property. Considering the circumstances, I think it was reasonable of Virgin Money to look at taking further steps to recover the balance due on Ms I's mortgage. The term had ended almost two years ago, and despite Ms I's attempts, she hadn't got any further forward with her plans to redeem the mortgage using settlements from legal claims.

In July 2023 Ms I told Virgin Money she would update it the following month on the progress with the legal claim, but by October it hadn't heard from her. It had attempted to contact her without success, and so it passed the mortgage account to its solicitors to write to her about repossession action. Ms I was aware that Virgin Money was considering taking legal action and had asked her to update it. It had tried to contact her before passing the account to solicitors without success, and so I don't think it was unreasonable for it to go ahead and instruct its solicitors to write to Ms I.

I do appreciate that the letter was sent to Ms I on 13 October 2023, and it asked her to make full repayment of the balance by 20 October 2023 – which wouldn't have left Ms I much time to make arrangements by the time she received the letter. But this letter was sent over two years after the mortgage term had ended, so she had had time to repay it. And the letter did also say that if Ms I was not in a position to clear the balance in full, she could put forward an alternative proposal that Virgin Money would consider. That is in fact what happened. After Ms I received the letter, she told Virgin Money she was taking out a mortgage with another lender, and Virgin Money agreed to pause legal action to allow that mortgage to proceed.

Ms I has said that Virgin Money was discriminating against her on the basis of her disability. Ms I had made Virgin Money aware of her health conditions and the way they impacted her, but I haven't been able to see any evidence that she'd asked them to make reasonable adjustments to the way it communicated with her. It knew she would prefer not to take out a new mortgage with a different lender due to her having difficulties with figures and money, and that she didn't want to sell her home because of her health conditions. It was also aware that she can find phone conversations difficult, and occasionally a solicitor would engage with Virgin Money on her behalf. But despite that, Ms I also frequently contacted Virgin Money by phone herself to provide updates and discuss the mortgage account.

So I'm satisfied that Virgin Money didn't unfairly fail to make adjustments for Ms I. And I don't think it treated her unfavourably because of anything arising from her disabilities either. It took account of her conditions when allowing her additional time following the end of the term to find a way to repay her mortgage, and I think that was fair.

I understand it would have been distressing for Ms I to receive the solicitors letter sent in October 2023, but I'm not persuaded that by instructing its solicitors to send that letter, Virgin Money was acting in a way that was unfair or unreasonable, taking into account what it knew about Ms I's health conditions and how they affected her. Ms I has referred to that letter as a repossession order, but it wasn't. It was a letter informing her that Virgin Money would start legal action if the mortgage balance remained unpaid in the absence of an acceptable proposal being put forward. Ms I made a proposal that Virgin Money was happy with, and the legal action was stopped at the time.

I'm also not persuaded that Virgin Money was acting unfairly when it instructed that particular firm of solicitors. Ms I has said there was a conflict of interest as it was the same

firm that had done the conveyancing for the mortgage, and she had complained about how the mortgage was sold. Virgin Money took on board Ms I's concerns and relayed them to the solicitors. Virgin Money is entitled to choose which solicitors' firm acts for it when dealing with legal matters. I'm not persuaded it ought to have questioned whether that firm was appropriate given it set up the mortgage in the first place. I don't think it had any reason to believe that would lead to a conflict of interest. It passed the concerns to the solicitors for them to decide themselves if they felt there was a conflict. And I think that was appropriate in the circumstances.

Overall, having carefully considered the information and evidence sent by both parties, I'm not persuaded Virgin Money was acting unfairly or unreasonably when it instructed solicitors to write to Ms I.

#### The customer service Ms I received from Virgin Money

Aside from the specific points I've addressed above, Ms I has also raised concerns about the general customer service she's received from Virgin Money, including harassment. I won't go into detail on every individual point she's raised, but I want to assure her I have considered what she's said and looked into how Virgin Money has handled things overall. Although I haven't considered what happened before November 2021 as that is out of our service's jurisdiction.

Having done so, I'm not satisfied Ms I has received poor customer service from Virgin Money during the period I've been able to consider. I understand it would have felt daunting to receive phone calls and letters about her plans for repaying the mortgage. But I haven't seen anything in the contact history that was inappropriate or unfair. Virgin Money recognised that Ms I was trying to do what she could to repay her mortgage balance, but it wouldn't have been reasonable for it to allow that situation to continue indefinitely whilst Ms I was pursuing her own legal action. I'm satisfied that Virgin Money did take account of Ms I's individual circumstances and allowed forbearance for a reasonable period of time. While that was going on, it was reasonable for Virgin Money to contact Ms I periodically for updates on progress. I haven't seen any evidence that it harassed her. I think Ms I was probably left upset by some of the conversations she had with Virgin Money when it told her it wouldn't be able to extend the mortgage term, but I don't think that means it's provided poor customer service.

Overall, I'm not satisfied Virgin Money has treated Ms I unfairly, and so I'm not upholding this complaint.

#### **My final decision**

Considering everything, for the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms I to accept or reject my decision before 18 December 2024.

Kathryn Billings  
**Ombudsman**