

The complaint

Mr and Mrs K have complained about their mortgage they hold with Clydesdale Bank Plc trading as Virgin Money.

What happened

Mr and Mrs K hold an offset mortgage with Clydesdale that they'd taken out in 2005. The loan was set up on a repayment basis over a 19-year term. Under the terms of the loan there were additional features that could be requested, such as a payment holiday or a borrow back.

In December 2023 Clydesdale issued a complaint response letter which summarised the complaint into four bullet points:

- Mr and Mrs K hadn't previously been made aware of the redraw pot on their account.
- Mr and Mrs K didn't know why it had happened and they believed the money in the pot should be offset against their arrears.
- They would like their credit files amended as they believed it was Clydesdale's fault.
- Mr and Mrs K didn't believe their credit files should be affected by them not paying their mortgage due to the raising of various complaints.

Clydesdale didn't uphold the complaint. It explained how the redraw pot worked, that it wasn't money owed to Mr and Mrs K and that they weren't eligible to use the feature as their mortgage was in arrears. It also said it wouldn't consider amending Mr and Mrs K's credit files as they'd chosen to stop making their mortgage payments.

Mr and Mrs K referred the complaint to the Financial Ombudsman Service. They said, in summary:

- The first, third and fourth bullet point summaries were correct, but the second one wasn't. They said they told Clydesdale they didn't want to offset the money in the redraw pot against their arrears.
- They weren't asked if they wanted to raise a complaint, and Clydesdale totally ignored its own complaints procedure in terms of timescales.
- In the complaint response letter Clydesdale said it had provided an explanation of the redraw pot in the mortgage offer, but it didn't so it seems Clydesdale was brazenly lying.
- They had never knowingly overpaid their mortgage.

- There is no explanation of where the redraw funds have come from, and Mr and Mrs K didn't understand how Clydesdale could have an account with their money in it year on year without advising them of its existence and content.
- Conflicting information had been given about the amount in the redraw pot, with the complaint response letter saying it was around £2,360 whereas Mr and Mrs K had previously been told £2,700.
- Mr and Mrs K questioned whether the sum was the money from the previous incorrect linking of their offset accounts.

The complaint was looked at by one of our Investigators who first explained we couldn't consider anything related to a previous complaint Mr and Mrs K had referred to our service as that had been decided by one of my Ombudsman colleagues in May 2024.

In terms of the remainder of the complaint, our Investigator didn't uphold it. She:

- explained what the redraw pot was,
- said the mortgage arrears were correctly reflected on Mr and Mrs K's credit files, and
- said the lender had acted in accordance with the terms of the mortgage and its policies.

As Mr and Mrs K didn't agree the case 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 trust Mr and Mrs K won't take it as a discourtesy that I've condensed this complaint in the way that I have. Although I've read and considered the whole file, I'll keep my comments to what I think is relevant. If I don't comment on any specific point it's not because I've not considered it but because I don't think I need to comment on it in order to reach the right outcome. This service is impartial between, and independent from, consumers and businesses. What this means is that we don't represent either party, and I don't act under either's instructions or take directions on how a complaint will be looked at. For that reason, I won't be answering all Mr and Mrs K's points, nor will I be ordering Clydesdale to do so.

Before I go any further I need to be clear that I can't comment on anything relating to the 2015 remediation exercise as my Ombudsman colleague, in his decision in May 2024, said a complaint about that hadn't been referred to us in time.

It appears a lot of the confusion here is that the information is provided in various different formats, or doesn't appear at all in the information sent to Mr and Mrs K. I understand Mr and Mrs K are concerned that the redraw pot contains money that is owed to them due to previous errors on the account, but I can reassure them that's not the case.

It also hasn't been helpful that different terminology has been used, but to be clear the term 'redraw pot' refers to the amount that is available under the 'borrow back' feature that was set out in Mr and Mrs K's 2005 mortgage offer. Going forward I will refer to this as borrow back but, as I've said, they are the same thing.

The 2005 mortgage offer indicates the advice was given by an independent mortgage broker

acting on behalf of Mr and Mrs K, so I can't comment on whether or not Mr and Mrs K were made aware of this facility when they took the mortgage out as that would have been the responsibility of the broker. But Clydesdale did set out in the mortgage offer that there was a borrow back facility, so if Mr and Mrs K wanted to use that feature they could have contacted Clydesdale to request it. But the heart of this complaint isn't that Mr and Mrs K wanted to use the facility but were unaware of it, instead it is that they believe it is a sum of money that is owed to them.

The borrow back feature is something that was available to customers who had overpaid on their mortgage and/or had built up overpayments through offsetting. The amount available is the difference between the actual mortgage balance on that day, versus the amount that would have been outstanding on a 'normal' repayment mortgage, that is one that hasn't received any overpayment, or built-up overpayments through offsetting.

There is no separate account or log of this figure, it is a calculation Clydesdale's system would do any time a request is made for that figure. For that reason Clydesdale is unable to provide a statement or transaction list that sets out what that figure would have been each day, nor can we answer Mr and Mrs K's questions about why different figures have been given to them as Clydesdale simply doesn't have any stored information to show what the figure would have been at any given day in the past. That is entirely normal for this type of facility, and I wouldn't expect Clydesdale to hold a daily record of the figure.

Mr and Mrs K have said they hadn't knowingly overpaid their mortgage. But by using the offset facility they *were* overpaying. That's because for offset mortgages the mortgage interest is calculated on a daily basis, and it looks at the amount held in any linked savings account and compares that to the mortgage balance. That calculation reduces the amount of interest paid on the mortgage debt if a credit balance is held in the savings account, that can be anything from a small amount up to fully offsetting (where the level of savings is the same, or more, than the mortgage balance).

However, under the terms of the mortgage Clydesdale would still collect the full monthly payment due each month irrespective of any offset benefit. That meant that every month Mr and Mrs K had some money in their savings account they were, in fact, overpaying their mortgage. That's because the offsetting benefit meant a reduced amount – or no – interest was charged, but Mr and Mrs K still made their monthly mortgage payment as if the full amount of interest that would normally be due had been charged.

This meant more of the monthly payment (or all of it if the account was fully offset) came off the mortgage balance, reducing the balance quicker than if this was a 'normal' repayment mortgage with no overpayments or built-up overpayments through offsetting. That means the gap between Mr and Mrs K's actual mortgage balance on that day and the amount that would have been outstanding on a 'normal' repayment mortgage would widen and that extra amount would become available to be borrowed back.

However, whilst that amount would have been available to be borrowed back, it was already taken into account in the mortgage balance. To give an example, if a customer had a borrow back sum available of £1,000 and a mortgage balance at that time of £99,000, if they borrowed back that £1,000 their mortgage balance would now be £100,000.

To read that across to Mr and Mrs K's mortgage figures (and to be clear I haven't checked these figures are correct as I'm simply using them for illustrative purposes to show how the borrow back facility works):

- The offset mortgage account statement issued on 5 January 2024 shows the mortgage balance on 1 December 2023 was £5,380.08.

- The complaint response letter dated 7 December 2023 said £2,364.49 was held in the redraw pot (that is, was available to borrow back).
- If Mr and Mrs K had been allowed to borrow back the £2,364.49 (which I'm not saying they should be allowed to do), then they would have received £2,364.49 in their bank account to spend, but their mortgage balance would now be £7,744.57 (that is, £5,380.08 plus £2,364.49).

I understand Mr and Mrs K feel the amount available in the borrow back facility is due to the fact Clydesdale had previously not linked the offset account correctly, but I hope my explanation shows it is the opposite, that borrow back figure accrued because the accounts *were* offsetting correctly so Mr and Mrs K were overpaying their mortgage each month, even if they were unaware of that fact.

In relation to Mr and Mrs K's decision to stop paying their mortgage, I've little to add to what my Ombudsman colleague said in his decision earlier this year. The consequence of that decision to stop paying is that Clydesdale has reported the missed payments to the credit reference agencies. The moment Mr and Mrs K chose to stop paying their mortgage they were taking a big risk and this is one of the unfortunate consequences of that decision. It's not for Mr and Mrs K to decide to stop paying, and by doing so they have to accept what's now happened.

Clydesdale has a responsibility to report accurate information to the credit reference agencies, as it has done. There are no grounds for me to order Clydesdale to amend Mr and Mrs K's credit file information as it is a true reflection of the conduct of their account. If Mr and Mrs K want to add an explanation to their credit files, they can contact the credit reference agencies directly and ask to add a notice of correction, that way other lenders can read Mr and Mrs K's explanation for the situation when they are deciding whether or not to lend. But I can't order Clydesdale to remove the markers as they are an accurate representation of what happened.

I know Mr and Mrs K feel strongly about this but having considered everything very carefully I don't uphold this complaint.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs K to accept or reject my decision before 13 January 2025.

Julia Meadows

Ombudsman