

The complaint

Mr C complains that Clydesdale Bank Plc trading as Virgin Money irresponsibly gave him a credit card he couldn't afford to repay.

What happened

In August 2020, Mr C applied online for a credit card with Virgin Money. He was given a credit limit of £6,000. As part of the application Mr C asked for a balance transfer of around £4,800 to be made so that he could take advantage of a 0% interest free offer for 20 months.

Mr C complained to Virgin Money in July 2022 to say that it had been irresponsible to lend to him. He said that at the time of the application he held a significant amount of unsecured debt and was already struggling to meet the repayments on those debts. He said that had Virgin Money completed reasonable affordability checks it would have seen this credit card was unsustainable for him.

Virgin Money didn't think it had acted unfairly. It said it had completed appropriate affordability checks which didn't reveal any concerns.

I sent Mr C and Virgin Money my provisional decision on 3 November 2023. I explained why I thought the complaint should be upheld. I said:

Prior to granting credit to Mr C, Virgin Money needed to complete reasonable and proportionate affordability checks to ensure he could sustainably repay the borrowing. There isn't a set list of checks it needed to complete, but in deciding what was proportionate Virgin Money needed to take into account things such as (but not limited to): the type of credit, the credit limit, the size of any regular repayment (with regard to the rules and guidance in CONC 5.2A.27R and 5.2A.28G), the cost of credit and Mr C's circumstances.

As part of the application Mr C declared he was employed with an annual income of £35,000 and a household income of £65,000. He said that he wanted to open the credit card so he could take advantage of a 0% balance transfer offer. He said he wanted to transfer around £4,800 of debt from another credit card. He also declared that his monthly mortgage commitment was £270.

Virgin Money also completed a credit check to understand what Mr C's existing credit commitments were and how he was managing them. It could see that he held a mortgage and around £39,000 in other unsecured credit commitments. There were no records of arrears or missed/late payments towards his other credit commitments.

I note Virgin Money says that as Mr C was utilising a balance transfer his overall debt wouldn't increase. However, that isn't quite right as it was still providing him with a further £1,200 of credit on top of the balance transfer amount Mr C had requested. Further, there appears to have been no requirement on Mr C to close his existing credit card with the other provider in order to qualify for Virgin Money's credit card. So, Mr C's overall available credit was increasing by the full £6,000.

It is also important to highlight that this application was made at the height of the global coronavirus pandemic, a time when many UK workers were on furlough and experiencing income shocks. The financial services regulator had put in place special rules and guidance to lenders to give consumers financial assistance at this time, including the option of taking payment breaks.

It appears Mr C had taken advantage of those payment breaks for his mortgage and that this break was active at the time he applied for the credit card with Virgin Money. I think this ought to have been evident from any reasonable credit check Virgin Money may have completed as it would have been obvious his outstanding mortgage balance hadn't decreased.

Mr C taking advantage of a payment break suggests that although there was currently no adverse information recorded on his credit file, he was likely struggling financially. Given this and the large amount of unsecured credit Mr C held, I don't think Virgin Money's affordability checks were proportionate or reasonable. I think it should have done more to verify Mr C's income and ask him more about his regular committed expenditure as there was a good possibility further borrowing could cause him financial difficulty.

I can't be sure exactly what evidence and information Virgin Money would have seen if it had completed proportionate checks. In the absence of anything done by Virgin Money, I've relied on copies of Mr C's bank statements from around the time of the application. I'm not saying Virgin Money had to request statements as part of any check, but I think these give a good indication of what Virgin Money will most likely have found out about his financial circumstances.

I've seen Mr C's monthly income at the time was around £1,650 per month. This is much lower than the £35,000 annual income he had declared. I think any reasonable attempt to verify his income would have revealed this discrepancy to Virgin Money and caused them some concern, particularly because of the large amount of unsecured credit Mr C had at the time.

I've seen that Mr C's contribution to regular household bills and other essential living costs were around £1,000 per month (including his contribution towards the mortgage when it was being paid). On top of this Mr C was responsible for repaying at least three other credit cards and a personal loan which had monthly repayments of around £450. All of this combined exceeded his monthly income prior to Virgin Money granting him further credit.

Even if I accepted the balance transfer amount wasn't new credit, as I've said above there was still at least £1,200 of additional credit Virgin Money were providing. As Mr C was already overindebted, this further credit was provided irresponsibly. I think had Virgin Money completed reasonable and proportionate checks, it would most likely have seen that Mr C was not in a position to be able to afford further credit. I therefore think Virgin Money acted unfairly in granting the credit card.

I've noted that Virgin Money says that Mr C's inability to repay the credit card stemmed from a change in circumstances. While I accept Mr C told Virgin Money that he'd lost his job in 2022, I think this likely exacerbated his financial difficulty, rather than prompted it. From everything I've seen, Mr C was already overindebted when he applied for the Virgin Money credit card and he continually refinanced a personal loan with another provider after taking out this card to try and manage his credit commitments.

Lastly, while Mr C did pay off the credit card in full, he's told me this was done by borrowing money from family. I've not seen anything to make me doubt that, especially as it was done not long after he told Virgin Money he had lost his job. I find it unlikely he would have been able to do this without borrowing money from somewhere.

It isn't possible to completely undo the effects of the lending. Mr C has spent money on the credit card so my starting position is that he should pay back what he borrowed. However, as I don't think Virgin Money should have granted the credit, I don't think it would be fair for it to benefit from that decision to lend. It should therefore refund all fees, interest, charges and insurances that were applied to the account. As Mr C has since cleared the debt, any refund should be treated as an overpayment by Mr C and Virgin Money should add interest on those refunds at 8% simple per year from the date he cleared the balance to the date of settlement. It should also remove any adverse information from his credit file.

Mr C had nothing further to add. Virgin Money disagreed with my provisional decision. In summary, it said:

- There is no industry regulation to instruct customers to close their existing credit cards accounts when making a new application. Mr C has to take responsibility for his own finances. My suggestion was inappropriate.
- It has concerns about the suggestion that Mr C's bank statements show his income was much lower than he had stated on his application and considers Mr C deliberately provided false information when applying for the credit card.
- It said that while Mr C may have taken payment breaks on his mortgage during the coronavirus pandemic, it is not uncommon for mortgage customers to take payment breaks on their mortgage and this doesn't necessarily mean they are experiencing financial difficulty. If Mr C had taken advantage of a payment break on his mortgage, this wouldn't have resulted in adverse reporting on his credit file.

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.

Having done so I've come to the same conclusion I reached in my provisional decision and for broadly the same reasons. However, I'll respond to the additional points Virgin Money has made and explain why these don't change my view on what a fair and reasonable outcome ought to be.

Virgin Money appears to have misunderstood the intention behind my comment concerning closure of Mr C's existing credit card facilities. The point I was trying to highlight was that Virgin Money ought not to have assumed that Mr C's credit commitments weren't going to increase simply because he opted to make a balance transfer. This is because it had no reasonable basis to assume he was going to close his existing facilities, meaning he continued to have access to the same amount of credit as before, plus the additional £6,000 Virgin Money was lending to him. Therefore, his overall exposure and access to credit was increasing by the full amount Virgin Money was lending to him.

I've noted Virgin Money's concerns about what Mr C declared as his income. However, I should stress that Mr C declared an annual income figure on the application, not a monthly one. I've only seen what income was coming into his bank account. It's possible £35,000

was his true annual income, but that there were a number of deductions made from his pay. I don't have enough information to say for certain, so I don't think Virgin Money can fairly say Mr C had knowingly provided false information.

In any event, I don't think it makes any difference to the outcome here even if he had provided an incorrect income figure. I say this because I'm satisfied Virgin Money didn't complete reasonable and proportionate affordability checks before lending, and if it had, it would most likely have uncovered this discrepancy in his monthly take home pay which would have ultimately led to it not lending to Mr C. My role here is to consider whether Virgin Money acted fairly and reasonably when lending, and for the reasons I've set out here and in my provisional decision, I don't think it did.

Lastly, I accept that any payment break provided to Mr C on his mortgage during the coronavirus pandemic wouldn't have resulted in adverse information being reported on his credit file. However, it would have shown that Mr C wasn't making his regular repayments as the amount he owed on his mortgage would have gone up each month rather than down (as interest would have continued to accrue). Given the context of when this payment break took place (during the global pandemic) and the amount of unsecured debt Mr C already had, I don't think Virgin Money acted reasonably in not making further enquiries about his financial circumstances before lending.

While it's possible the payment break had nothing to do with Mr C having difficulty managing his finances, I think it was far more likely that it was, and this warranted further scrutiny from Virgin Money before granting him access to a further £6,000 of unsecured debt. As I've set out already, I'm satisfied reasonable and proportionate affordability checks would likely have led to it discovering that Mr C couldn't afford further borrowing. I'm therefore satisfied it made an unfair lending decision when opening this credit card account.

My final decision

For the reasons given above, I uphold this complaint and direct Clydesdale Bank Plc trading as Virgin Money to:

- Re-work the credit card refunding all interest, fees, charges and insurances (not already refunded).
- As the credit card has now been paid off and closed, this means Mr C has paid more than he should have. Any overpayments should be refunded to him, along with 8% simple interest per year from the date Mr C paid off the credit card to the date of settlement.
- Virgin Money should also remove any adverse information recorded against the credit card from Mr C's credit file.

If Virgin Money considers tax should be deducted from the interest element of my award it should provide Mr C with a certificate showing how much it has taken off, so he can reclaim that amount, if he is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 18 December 2023.

Tero Hiltunen
Ombudsman