DRN-4765439

The complaint

Mr L says Clydesdale Bank Plc, trading as Virgin Money, irresponsibly lent to him.

What happened

Mr L took out a credit card from Virgin Money on 6 September 2020. He was allocated a limit of £15,600. He transferred a balance of £13,291 on a promotional interest rate the following day and paid a £208.82 fee. His credit limit was increased to £20,600 on 16 December 2021.

Mr L says Virgin Money should not have lent to him. In summary, he was reliant on his overdraft and emergency borrowing. Proper checks would have shown this. He was moving money between loans and cards to survive – something he sees as a clear sign of financial difficulty. He eventually had to enter a debt management plan (DMP) and this debt is in that plan.

Virgin Money says the decision to approve Mr L's application was made using details provided by Mr L and information held by the credit reference agencies about the performance of other products Mr L held. This was then assessed against its lending criteria. The limit increase was offered after checking account conduct, utilisation and external credit performance. After these checks, it had no concerns the credit would not be affordable for Mr L.

Our investigator upheld Mr L's complaint. She said Virgin Money's checks were not proportionate and better checks would have shown the credit was not affordable for Mr L.

Virgin Money disagreed and asked for an ombudsman's review. It said:

- there were no cash advances in the previous and last three months before the application;
- at application, the Consumer Indebtedness Index showed 11, at the time of the limit increase this had fallen to 4 - this sits well within its threshold of 20. Similarly, the bureau score improved from 965 to 1082 at the time of the limit increase;
- it appears in June 2022 revolving debt started to rise, six months after the credit limit increase;
- it evidenced net disposable income of £421 using the customer's sole income and full mortgage, debt & basic expenditure commitment;
- in addition, we evidenced the financial associate stated by the customer in the household income: including the associate's income and commitments it showed a surplus net disposable income of £1720;
- overall debt levels for the household of 41% of income was not unreasonable;
- the investigator's comments made in relation to commitments in the bank statements seem to associate all household costs to Mr L, which seems unreasonable when there was another £40,000 coming into the household. The statements provided are only in the sole name so not reflective of the full household position;
- Mr L's current account was running within its overdraft limit with no unpaid excesses. There was no specific pressure seen such as short-term lending, credits paid in prior to pay day and there were frequent non-essential spends – so nothing to indicate a

customer under financial strain.
- There is nominal actual spend on the credit card (£119), with the customer utilising the remainder on the balance transfer to minimise interest on his debt, as most astute customers do.

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 have considered all comments both parties have made carefully, including Virgin Money's reply to the investigator's assessment, but in keeping with our role as an informal dispute resolution service – and as our rules allow - I will focus here on the points I find to be material to the outcome of Mr L's complaint.

Virgin Money needed to take reasonable steps to make sure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr L could afford to repay what he was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and Mr L's income and expenditure.

Certain factors might point to the fact that Virgin Money should fairly and reasonably have done more to establish that any lending was sustainable for Mr L. These factors might include Mr L's income, how much the monthly repayment could be (including interest and charges) and Mr L's wider circumstances.

This means in this case I need decide if Virgin Money carried out proportionate checks; if so, did it make fair lending decisions; and if not what would better checks most likely have shown.

I can see Virgin Money asked for some information from Mr L when he applied. It asked for his employment details and for his gross annual income. It verified this with a credit reference agency by checking his current account turnover. It carried out a credit check to understand his credit history and existing credit commitments. It asked about his household income and his residential status. It modelled his likely expenses and calculated he would have monthly disposable income of £421, so £171 after taking on this card with the agreed £250 monthly direct debit payment.

At the time of the limit increase it reviewed his account conduct, the utilisation of his existing credit and the management of his external credit.

From these checks it concluded Mr L would be able to afford the card with its initial limit of £15,600 and the increase to £20,600.

I am not satisfied these checks were proportionate given the value of the initial credit limit and the level of existing debt Virgin Money knew Mr L had at that time (£31,565). It seemed he was already spending 48% of his income on his unsecured credit commitments (assuming a 5% repayment rate for the revolving debt to ensure it was repaid in a reasonable period of time) and another 33% of his income on his mortgage. So I think it was important to carry out a fuller financial review using actuals to better understand Mr L's position.

I acknowledge there was other household income and a financial associate so this could be considered in the context of a contribution to living and housing costs. But I can't see Virgin Money took any steps to understand Mr L's actual outgoings as it needed to here, prior to even thinking about what contribution a third-party may have been making - after verifying what other commitments that third party may already have had.

In cases like this we look at bank statements from the three months prior to the application. I am not saying Virgin Money had to do exactly this but it is a reliable way for me to understand what better checks would most likely have shown. They show Mr L was persistently reliant on his overdraft facility – which exceeded his monthly salary. He also appeared to be responsible for the mortgage in full - there was no obvious and regular monthly credit from a partner to contribute to housing or living expenses. I accept this may be because they paid certain costs directly but this is unknown. Overall I find better checks would have shown Virgin Money that the credit was not sustainably affordable for Mr L.

In Virgin Money's response to the investigator it also focused on how Mr L's score and indebtedness index met its internal thresholds. But I would remind the lender that it is obliged to consider not just the likelihood of getting its money back – which such scores often measure, but also the impact on Mr L of making the repayments.

I disagree with Virgin Money's point that the statements show no sign of financial strain. Mr L was reliant on his overdraft facility, and even putting to one side the discretionary spend his housing, living and credit costs were too high for this loan not to go on to cause him financial harm.

He was not opting for a money transfer to repay his overdraft and so the payments to this card would be reliant on that facility – in essence, he would be borrowing to repay and not making his monthly repayments sustainably.

I accept the balance transfer was allowing Mr L to reduce the cost of some of his debt, but equally as the existing line of credit would remain open (on the card the balance moved across from) Mr L could reuse it. I haven't seen any evidence that Virgin Money sought any assurances that account would be closed.

Overall, for the reasons set out above, I find Virgin Money was wrong to open the account for Mr L and then, logically, to offer the credit limit increase in December 2021.

Putting things right

As I don't think Virgin Money ought to have opened the account, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. Therefore, Virgin Money should:

- Rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied.
- **If** the rework results in a credit balance, this should be refunded to Mr L along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Virgin Money should also remove all adverse information regarding this account from Mr L's credit file.
- Or, if after the rework there is still an outstanding balance, Virgin Money should work with the administrator of Mr L's DMP to agree the new payment amount. Once Mr L has cleared the balance, any adverse information in relation to the account should be removed from their credit file.

If Virgin Money has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly.

*HM Revenue & Customs requires Virgin Money to deduct tax from any award of interest. It must give Mr L a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

My final decision

I am upholding Mr L's complaint. Clydesdale Bank Plc, trading as Virgin Money, must put things righty as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 13 June 2024.

Rebecca Connelley
Ombudsman