

## **The complaint**

Mr S has complained Clydesdale Bank plc, trading as Virgin Money, added a marker against his name to the industry fraud database.

## **What happened**

In 2022 Mr S went to a bank to open a new account. His application was rejected as there was a marker against his name on the industry fraud database, CIFAS. This marker had been lodged by Virgin Money.

Mr S went to Virgin Money and queried what they'd done and why.

They told him he'd opened an account in early 2019, which he'd then left overdrawn and had been the receipt of fraudulent funds. They believed they had sufficient evidence to lodge a marker with CIFAS.

Mr S had requested copies of his personal data from Virgin Money, including his calls to review the evidence that was held about him. He was unable to get all the answers he wanted from Virgin Money so brought his complaint to the ombudsman service.

As no evidence was initially forthcoming from Virgin Money, our investigator upheld the complaint and asked Virgin Money to remove the CIFAS marker and pay Mr S £500 for the distress caused.

Virgin Money then provided the required evidence. This included calls made by Mr S. Based on this evidence, our investigator changed her view and told Mr S that she wasn't going to ask Virgin Money to remove the marker.

Mr S subsequently accepted the phone calls were him and queried how the two unknown deposits of £1,600 and £1,100 into his account could have been withdrawn. He's asked an ombudsman to consider his 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.

Having done so, I've reached a similar outcome to our investigator. I'll explain why.

It is clear what the requirements are prior to lodging a marker. Specifically:

*"There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted.*

*The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police."*

So Virgin Money must be able to provide clear evidence that a financial crime was being

committed and Mr S was involved.

Despite Mr S believing that because of his difficult financial position in 2019 he was unable to open a bank account, he opened a basic bank account with Virgin Money in January 2019. The details used to open the account all match Mr S's personal details. There's then a short flurry of relatively low-value transactions with the account being left £96.90 in debt.

I have been able to review the evidence Virgin Money has now shared. This includes the phone calls. These have led Mr S to admit that the voice on different calls is his. That he is the person calling up Virgin Money to query the account being overdrawn in 2019 and again in 2022 after finding out about the existence of the CIFAS marker.

There's also a record of Virgin Money speaking to Mr S and asking him whether he's expecting a large deposit in February 2019. He says he was expecting his wages from his employer. Then two payments were received into his account. This money was not from Mr S's employer but from a customer of another bank who'd been the victim of a scam. Mr S also told Virgin Money he'd lost his debit card although there's no evidence this was ever the case. Nor did he follow this up.

Mr S has subsequently queried how money received into his account was then taken out. Virgin Money's records aren't clear about this because of the time that has passed. I suspect – based on the statement narrative – that these transactions, potentially transfers, were undertaken in branch. In which case the debit card would have been required, along with some ways of being able to identify Mr S.

Based on the evidence I've seen, I believe Virgin Money met the CIFAS requirements in lodging a marker. I won't be asking Virgin Money to do anything further.

### **My final decision**

For the reasons given, my final decision is not to uphold Mr S's complaint against Clydesdale Bank plc, trading as Virgin Money.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 August 2023.

Sandra Quinn  
**Ombudsman**