

The complaint

Mr P has complained Clydesdale Bank plc, trading as Virgin Money, won't refund £8,900 for disputed cash withdrawals.

What happened

Mr P opened a new account with Virgin Money in February 2023. A £5,000 loan from a credit provider (who I'll call V) was paid in along with £6,000 from another bank account (with S) that Mr P holds.

Mr P phoned Virgin Money twice on 6 and 8 February as he'd not received his card and PIN. Five withdrawals were made at two different branches over six days amounting to £8,600. Three cash machine withdrawals were then made on 14 February totalling £300.

Mr P complained to Virgin Money that he'd not made these transactions. Virgin Money investigated but wouldn't refund Mr P.

Mr P's representative brought his complaint to our service and said Virgin Money had also registered a fraud marker on the industry fraud database, CIFAS, stating that Mr P had misused the facility.

Our investigator reviewed the evidence. He confirmed the person within branch making cash withdrawals wasn't Mr P, however he felt that Mr P had authorised these withdrawals. He noted that Mr P didn't log into his new account at all during the period of the disputed withdrawals but coincidentally logged in within an hour of the final blocked cash machine withdrawal.

Mr P's representative confirmed an ombudsman decision was required. Mr P didn't understand how Virgin Money wouldn't have requested additional ID to ensure that cash withdrawals in branch were properly conducted.

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 the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The regulations which are relevant to Mr P's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund

customers if they didn't make or authorise payments themselves.

To help me come to a decision, I've reviewed the evidence Virgin Money provided as well as what Mr P has told us.

I don't believe these transactions were carried out by anyone else without Mr P's authorisation. I say this because:

- Mr P's card and PIN were sent out separately on 2 February. It's unlikely both envelopes would have been delayed or intercepted separately. I'm aware that Mr P has told us his mailbox could be accessed but noting Mr P's address, he's not on any major thoroughfare.
- I'm aware of issues around the loan from Vanquis which Virgin Money told us was taken out using fraudulent information although I note Mr P denies this. He's continued to make payments towards the loan which he took out for home improvements.
- Our service has been provided with CCTV images. I believe these show the person making the cash withdrawals in two different Virgin Money branches between 9 and 14 February was not Mr P. However that alone wouldn't mean this was nothing to do with him.
- Virgin Money has procedures for cash withdrawals in branch. These means that withdrawals under £2,000 do not require additional ID other than card and PIN. This was present for all five withdrawals. All withdrawals were coincidentally for amounts under £2,000.
- An unknown third-party would not have risked going into two branches over six days making small withdrawals. This allows more than enough time for Mr P in normal circumstances to have logged onto his account and noticing these.
- Mr P didn't log into his account once during the period of the cash withdrawals. However after the last attempted cash machine withdrawal at 15:56 on 14 February, which was blocked due to insufficient funds, Mr P logged onto his account 41 minutes later.
- At no stage was any account balance checked by the person holding Mr P's card and PIN. I'd have to wonder how they were confident enough to know that there were sufficient funds in Mr P's account to allow withdrawals of nearly £9,000.
- I'm aware Mr P believes the CIFAS marker was placed by Virgin Money. Virgin Money has confirmed they've not put a CIFAS marker on Mr P's record so I believe any CIFAS marker related to Mr P was put there by another institution.

Overall I'm satisfied there's sufficient evidence to show Mr P authorised these transactions. I won't be asking Virgin Money to refund him.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 20 November 2023.

Sandra Quinn
Ombudsman