

The complaint

Mr R complains Clydesdale Bank Plc trading as Virgin Money acted unfairly when it said it wouldn't write off the balance on a credit card he complained about.

What happened

In August 2022 Mr R phoned Virgin Money to question transactions on a credit card and why it was at its limit. Mr R said that the transactions were carried out by someone who was living with him at the time. He complained when Virgin Money said that it wouldn't write these transactions off as he knew the person who had carried them out, so it was a civil matter.

Virgin Money investigated Mr R's complaint and said that it hadn't done anything wrong, and that the issue was a civil matter between him and the person he says carried out the transactions. Mr R was unhappy and complained to us.

One of our investigators looked into Mr R's complaint and, in the course of doing so, considered that this was a complaint involving ID theft. Our investigator didn't ultimately think that Virgin Money had acted fairly and said that it shouldn't hold Mr R liable for the outstanding debt and should write off the remaining balance and remove any negative markers from his credit file.

Virgin Money was unhappy with our investigator's recommendations and asked for this complaint to be referred to an ombudsman. So, I was asked to consider this 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.

Last month I issued a provisional decision in which I said the following:

"There are some facts in this complaint that neither side appears to be disputing. For example, it appears to be common ground that the transactions Mr R has disputed were all carried out by a woman – who I'll refer to as "Z" in the rest of this decision – who was living with Mr R between May and August 2022. There are, however, a lot of facts that are disputed and, hardest of all, a lot of inconsistencies in what Mr R has said throughout this complaint. I'll explain in more detail what I mean.

Having listened to the original calls Mr R made to Virgin Money and our service, I'm satisfied that Mr R said that the card on which the transactions had taken place was his card and that he hadn't given anyone else permission to use it. I'm also satisfied that Mr R said he knew the card had a balance of £400 on it, but he couldn't understand how that balance had grown to £2,000. He also told Virgin Money that he recognised transactions to two well-known supermarkets. He's now saying, for example, that he never ordered the card, that he knew nothing about those transactions to two well-known supermarkets and that the first thing he knew about it was when he received a call from Virgin Money on 23 May 2022 to say that his

credit card – with a £2,000 limit – was on its way.

In light of multiple inconsistencies, I called Mr R and asked him to explain from scratch what had happened. Before asking him to do so, I explained that sometimes consumers tell businesses or our service what they think we need to hear worried that if they explain what's actually happened, they'll be found liable. That often isn't the case. Mr R did provide me with some additional detail – which was helpful – but his story essentially remains the same.

In this case, I could have accepted that it was Z's idea that Mr R took out a credit card for her to use – possibly to help with running the house, possibly not – as she had bad credit and very little money coming in. I could also have accepted that Z had an emotional hold over Mr R who was potentially quite vulnerable at the time. And I could have accepted that Z then used the card for purposes Mr R hadn't intended – she appears, for example, to have transferred £1,000 to herself and to have taken cash out of ATMs. But that's not what Mr R told me, Virgin Money or our investigator. He instead, for example, said he never applied for this card. But he also said that after the card arrived – and he was given it – he placed it in a safe. He told our investigator that Z didn't know the combination to that safe, but then told me that they both used it and she stored, for example, jewellery in there. The inconsistencies in Mr R's evidence – and what he told Virgin Money when he disputed the transactions – mean I can't say that Virgin Money has acted unfairly in this case."

I gave both parties an opportunity to reply to my provisional decision. Mr R did so – he sent several emails. In his first email he said they – in other words, Virgin Money – said it would take 10 days for the card to come and that it came on 25 May 2022 and Z had used every penny on the card within five days. In his second email he said that he had two safes – not one – and that Z initially used the other safe. In his third email he said he only knew about the transactions to the two well-known supermarkets as he says Z confessed to those transactions the day he confronted her. And in his final email he said that he'd used a different credit card to pay some expenses on 12 May 2022 and he wouldn't have done that if he knew he had an interest free credit card with Virgin Money.

As I said in my provisional decision, Mr R appears to be a hard-working and kind individual who's had a lot to deal with and who has almost certainly been taken advantage of by a female 20 years his junior. But I have to be fair to both sides, and even though I don't agree with Virgin Money's rationale – the fact that Mr R knows who carried out the disputed transactions isn't a basis in itself on which to refuse his claim – I don't disagree with the overall outcome. Mr R's comments on my provisional decision raise other potential inconsistencies and questions. For example, it's clear when he contacted Virgin Money that he was aware that £400 had been spent on the card, but the reason why he contacted Virgin Money was because the card was over its limit. I don't, therefore, think Z "confessed" to the supermarket transactions because Mr R did not appear to be concerned about those. His concern, instead, was all the other transactions that had taken the card beyond its limit. It's clear he didn't know what they were until he spoke to Virgin. And that any confrontation happened after that call rather than before. He used his other credit card before he says Virgin Money contacted him to say his credit card was on the way, so I don't see how that helps him. And finally, he hadn't mentioned having two safes before – only one – and I think it's likely that he wouldn't have needed two separate safes given the person who originally would have needed to store items too.

For the reasons I've just given, I remain of the view that Virgin Money hasn't acted unfairly in what is ultimately a case where a kind person appears to have been taken advantage of.

In my provisional decision, I also said:

“Virgin Money will have to decide what to do next, and if it decides to recover the outstanding balance will still have to treat Mr R fairly. But I don’t think it would be fair to say that it should write off the balance on the basis that the transactions weren’t authorised or consented to.”

Virgin Money might, in light of everything I’ve said, decide to write off the outstanding balance. But that would ultimately be a decision for it.

My final decision

My final decision is that I’m not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr R to accept or reject my decision before 28 July 2023.

Nicolas Atkinson
Ombudsman