

The complaint

Ms J, via a representative, has complained about what happened following a visit she made to a branch of Clydesdale Bank Plc trading as Virgin Money (Virgin) in which she attempted to register an Enduring Power of Attorney (EPOA). I'll only refer to Ms J in my decision.

What happened

In July 2023, Ms J visited the branch with her representative with the intention to register the EPOA with Virgin. Paperwork was completed in branch and Ms J left with her representative. Soon after, uniformed police officers visited Ms J at her home address following information that Virgin passed to them. They questioned Ms J and her representative separately about the EPOA, questioned neighbours, and made a referral to social services. After their investigation, the police then liaised with Virgin, and it was agreed to register the EPOA.

Unhappy with Virgin's decision to contact the police, the police visit itself, and the questioning of their neighbours, Ms J raised a complaint with Virgin. She said she found the whole thing distressing and was concerned about possible damage to her reputation.

Virgin responded to the complaint and didn't uphold it. They said sorry for the distress and embarrassment, but said they felt the need to invoke the banking protocol in line with their duty of care from what they observed within the branch visit that day.

Ms J was unhappy with this response and escalated the complaint within Virgin to their executive team. That team investigated the matter and responded saying their decision remained the same as that which was given in their final response letter.

Dissatisfied, Ms J brought her complaint to our service. Our investigator didn't recommend that the complaint be upheld. They summarised by saying they didn't think Virgin treated Ms J unfairly as they were acting within their responsibilities.

Ms J disagreed with this outcome and requested an ombudsman review her 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.

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, and while I recognise this will come as a disappointment to Ms J, I have decided not to uphold complaint for broadly the same reasons as the Investigator.

If I don't mention any specific point, it's not because I failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome. No discourtesy is intended by me in taking this approach. Ms J has

sent a significant amount of information both to this service and to Virgin and I'm grateful, but I have focused my decision on the key points.

One aspect I wanted to address early was the type of power of attorney that Ms J and her representative brought to the branch. Looking at the police log created from Virgin's referral, it mentions the representative was in possession of a Lasting Power of Attorney (LPOA) whereas the document in question was an EPOA which is a different type. I know Ms J has referred to this in her correspondence as an important point in this complaint, but I've not seen any evidence that shows that this mislabelling of the power of attorney influenced the actions of the police. In fact, I believe that they would have done exactly the same regardless of the power of attorney type given to them by Virgin.

Ms J has mentioned on a few occasions that she'd registered this EPOA with other financial institutions making the point that it was done without any issues, but I can't address this point as I can't comment on the procedures of other companies.

Turning to the EPOA itself, I note that Ms J has confirmed on a number of occasions that it was valid and should have been accepted. I wanted to make clear that there is no question over the validity of the EPOA document that Ms J brought to the branch.

Addressing the point that Ms J raised about the police visit being an 'intrusive interrogation', as has been said already, how the police conducted themselves at the visit is not something we can comment on or influence.

I'm sorry that the consequences of Virgin's referral to the police caused distress, embarrassment and worry about Ms J's reputation and I know Ms J feels strongly about this. Taking into account all the evidence, Virgin were within their rights to invoke the banking protocol without having to supply evidence or justify reaching any threshold.

Financial institutions including Virgin, and police forces have joined forces to fight back against potential fraud through a ground-breaking rapid response scheme called the Banking Protocol. This industry-wide initiative was developed by UK Finance in partnership with National Trading Standards. Virgin's requirement was to train its branch staff to spot any potential warning signs that someone may be about to fall victim to a scam and try to prevent this, among other things. After this, the staff can request a police response to the branch or customer address to investigate.

The approach demonstrates how Virgin and the finance industry is taking seriously its responsibility to protect customers from fraud, while working closely with partners in law enforcement. The banking protocol is in place because financial institutions have a duty to protect customers and their money to keep them safe from scams, fraud, and financial crime. The measures they employ can feel intrusive, but they are there to safeguard customers and their money.

While Ms J is likely to be unhappy with my decision, taking everything into account, I can't find Virgin have made any errors and I believe they have acted fairly and reasonably in their actions.

My final decision

For the reasons I have given it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 3 May 2024.

Chris Blamires
Ombudsman