

The complaint

Mr G complains that Virgin Money plc failed to provide him with an alternative means of strong customer authentication (SCA) which he could conveniently use.

What happened

In 2019 Mr G opened an online banking account with Virgin Money. At first he was able to use this account without difficulty, but he became concerned that this would no longer be possible once Virgin Money implemented its new SCA procedures. These included sending a one-time passcode (OTP) by text message to a mobile phone number.

Mr G did not have a mobile phone, and had no intention of getting one, for three reasons. He is disabled and mostly housebound, and so he has no need for a mobile phone as he rarely ventures outside. He has poor mobile coverage in his area, so a mobile phone would be unlikely to have a strong enough signal when indoors. And he is hard of hearing, to the extent that his landline phone is set up with equipment which, instead of answering calls, saves them as voicemails which can then be converted into text.

Mr G asked Virgin Money to accommodate him by sending his OTPs to his landline or by email. But Virgin Money said it was unable to do this. Mr G complained that this was a failure to make a reasonable adjustment for him under the Equality Act 2010. When Virgin Money said there was nothing else it could do, Mr G brought this complaint to our Service. After that, Virgin Money offered Mr G a voucher with which to buy a mobile phone, so that he could receive OTPs on it, but Mr G rejected that offer due to the weak phone reception in his area. Later, in early 2020, Virgin Money began sending OTPs to landline numbers, which Mr G was able to use, but only with difficulty. This deterred him from logging on except once every couple of months.

Some time later, our investigator upheld this complaint. She said that the FCA guidelines said that firms should use more than one SCA procedure, which should include a suitable alternative to mobile phones for customers who cannot use them. She recognised that Virgin Money had eventually done this, but she also accepted that Mr G had still been struggling with this solution. Nor had that solution been implemented until a few months after telling Mr G that a mobile phone was essential. She recommended that Virgin Money pay him £300 compensation, and also that it improve its SCA procedures for people in Mr G's position; she pointed out that UK Finance had recommended that OTPs be emailed to customers who don't have mobile phones or who live in areas with poor coverage.

Virgin Money denied discriminating against Mr G. It said it had suggested existing alternative ways which Mr G could use to pass its SCA security checks, although it acknowledged that these might not be suitable for him due to his circumstances. It said it could also email the OTP to him, but currently this would only be possible if he phoned its call centre first. It was exploring the possibility of an OTP being requested by email, but that was not yet available. It accepted the recommendation to pay Mr G £300.

Because the investigator did not consider that response to be an unequivocal acceptance of her opinion, she referred this complaint for an ombudsman's decision.

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.

Since both parties have accepted that £300 is fair compensation, I will endorse this award without saying any more about it, and I will confine the rest of this decision to considering what else (if anything) Virgin Money should have to do to resolve this complaint.

I appreciate that Virgin Money has already suggested some alternative procedures which are already available. But it is clear that these are not really suited to Mr G's circumstances (and Virgin Money has already acknowledged that). His hearing is too poor for him to phone a call centre from his landline; his local area has inadequate mobile phone coverage; he cannot go to a local branch or to the post office. I daresay that Mr G could ask a trusted friend to help him, but that solution also has some obvious shortcomings: a friend might not always be available to help him at any given time, and Mr G may well resent the loss of independence this would involve. I would still encourage him to consider it, but I don't think that option is good enough to discharge Virgin Money of its obligation to find a satisfactory SCA procedure which Mr G can operate on his own.

Since the investigator's opinion, UK Finance has issued some more guidance about SCA: *UK Finance Industry Guidance on Strong Customer Authentication under PSD2* (in December 2020, although this may just be an update of the guidance it issued earlier). In paragraph 5.9, it said the following:¹

“In the context of payment service users who are not corporates, email OTP solutions may be particularly useful for issuers as a fall-back for customers for whom receipt of an SMS OTP is not possible, for example, because such customers do not have access to a mobile phone or sufficiently reliable mobile network coverage or because they are considered actual or potential 'vulnerable customers' ...”

So I don't think it is unreasonable to expect Virgin Money to offer an SCA procedure in which OTPs can be requested and provided by email, without needing to make a phone call or needing to rely on a mobile phone. I note that Virgin Money is already looking into doing this, but I don't know what the outcome will be or how long it will take. Also, I don't think it is within my remit to order Virgin Money to adapt its systems in such a specific way, or to do so by a particular date. That would be going beyond mere complaint resolution, and trespassing into the role of a regulator. Compelling Virgin Money to adopt a particular solution is really a matter for the FCA. (I can recommend it instead, but a recommendation is not binding.)

My final decision will, if Mr G accepts it, be legally binding on both parties, but if I order Virgin Money to offer Mr G the service I have just described by a particular deadline, that does not necessarily mean that a court would enforce that part of my decision by ordering specific performance. Instead, I can order Virgin Money to use its best endeavours to offer Mr G a new solution (whether that is the one I have just described or something else). That might be too vague for a court to enforce, but the FCA can also take its own enforcement action (if necessary), and might be better placed to decide what to do in the event that a satisfactory

¹ See

<https://www.ukfinance.org.uk/sites/default/files/uploads/pdf/UK%20Finance%20SCA%20Guidance%20Document%20-%20December%202020.pdf>

solution has not been reached within a reasonable time. So I will make an order in those terms.

My final decision

My decision is that I uphold this complaint.

I *order* Virgin Money plc to pay Mr G £300 (and to do so within 28 days of the day on which we tell it that Mr G has accepted this decision), and to use its best endeavours to provide Mr G with an alternative SCA procedure other than those which it has already offered him.

I *recommend* that Virgin Money plc provides to Mr G a new SCA procedure under which he can request a one-time passcode by email, and receive it by email, and that it does so as soon as it can.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 22 April 2021.

Richard Wood
Ombudsman