

The complaint

Mrs S complains that Clydesdale Bank trading as Virgin Money unfairly closed her current account and recorded a default on her credit file.

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

Mrs S had a current account with Virgin Money and an overdraft facility. Towards the end of 2019 Mrs S agreed a monthly reduction in her overdraft limit of £50.

In March 2020 Mrs S contacted Virgin Money and explained her income had been impacted by the pandemic and that she wanted to cancel the planned overdraft reduction. At this stage, Mrs M's overdraft limit was £1,400.

On 7 April 2020 Virgin Money wrote to Mrs S as her account balance was £7 over the agreed overdraft limit after it had applied interest. On 22 May 2020 Virgin Money sent Mrs S a letter that said her balance was £28 over the agreed limit and that she should either make a payment or call to discuss the account.

On 2 June 2020 Mrs S spoke with Virgin Money about her account and explained she'd been furloughed and was unable to pay towards reducing her overdraft limit. Mrs S has told us that Virgin Money failed to explain it could close her account if she failed to make a payment. Mrs S has told us that no mention of Virgin Money's intention to close her account and record a default on her credit file was made.

Virgin Money has told us that due to the length of time Mrs S' account was overdrawn without receiving a payment it took the step of closing her account on 27 July 2020. The process was completed on 3 August 2020. Virgin Money went on to record a default date of 21 September 2020 on Mrs S' credit file.

Around a week after Virgin Money closed Mrs S' account she contacted it and agreed a further repayment plan of £30 a month. Mrs S has explained Virgin Money failed to tell her the account had already closed when she called.

Several months later, Mrs S complained to Virgin Money after she found the default recorded on her credit file. Virgin Money didn't agree to remove the default or that it had treated her unfairly.

An investigator at this service looked into Mrs S' complaint. Overall, they thought Virgin Money had acted fairly and didn't ask it to take further action. Mrs M asked to appeal and said Virgin Money had gone back on its offer of support during the pandemic and that it hadn't made it clear that it intended to close her account. As Mrs S asked to appeal, her complaint has been passed to me to make a decision.

What I've provisionally 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.

Mrs S had already agreed a plan to reduce her overdraft limit when she experienced financial difficulties as a result of the pandemic. That meant Mrs S told Virgin Money she was unable to continue with planned overdraft reductions from March 2020.

On 24 April 2020 Virgin Money wrote to Mrs S as her balance was around £7 over the agreed overdraft limit. On 22 May 2020 Virgin money wrote to Mrs S and said her account was £28.89 over the agreed limit. Virgin Money's letter said Mrs S make contact within 30 days to discuss her account. I can see Mrs S spoke with Virgin Money within that 30 day period and explained she still wasn't in a position to begin overdraft reductions again as she was on furlough. At this point, Mrs S' balance was only £28.89 above the agreed overdraft limit.

Mrs S has told us that when she spoke with Virgin Money in June 2020 she wasn't warned her account was due to close on the basis it was around £70 over the agreed overdraft limit. And whilst I understand Virgin Money's letter said Mrs S needed to make a payment to bring the account back within the overdraft limit, I haven't seen anything that shows warned her if failed to make the payment it would lead to the account being closed when she called.

I also think it's fair to note that Virgin Money didn't close Mrs S' account in the 30 day period after its 22 May 2020 letter. The account remained open far longer, until August 2020. The statements indicate Virgin Money closed the account on 3 August 2020, but on 11 August 2020 a call handler agreed a payment arrangement with Mrs S who has confirmed she wasn't told her account was closed. The payment arrangement was for Mrs S to pay £30 a month from 31 August 2020.

The payment arrangement was confirmed in writing the following day. Mrs S made a payment of £57.50 on 12 August 2020. The complaint handler at Virgin Money told our investigator that Mrs S failed to make the first payment due under the payment arrangement. But I don't agree. The payment arrangement was discussed and agreed on 11 August 2020 and Mrs S made a payment (the first due under the plan) the following day. I can understand why Mrs S thought her account remained open and that a payment arrangement had been agreed.

Whilst I can see Virgin Money sent Mrs S a letter on 22 May 2020 letter her know it may close her account, I haven't seen anything that shows it sent a formal demand or default notice which would've made the situation very clear. Our investigator recently asked Virgin Money to supply copies of all the pre default correspondence it sent Mrs S, as required under the regulations. Virgin Money respond May 2020 letter. But that's not a formal demand or default notice.

As far as I can see, Virgin Money hasn't shown it sent Mrs S the closure and pre default letters it's required to issue under the rules. And I think that's also impacted how Mrs S viewed the situation. I appreciate Mrs S' account hadn't received a payment for several months before the decision to close it was taken, but I'm not persuaded Virgin Money acted fairly.

In my view, Virgin Money missed opportunities to clearly explain what was due and when Mrs S needed to make a payment by. Had it done so, I think Mrs S would've taken steps to bring her account balance within the agreed overdraft limit. I'm not persuaded Virgin Money made the consequences of failing to take action clear enough.

I recently asked Virgin Money to confirm whether it had considered offering support to Mrs S under the Payment Deferral Guidance that came out in April 2020. That guidance allowed businesses to provide breathing space for customers whose income was affected by the pandemic. Mrs S explained to Virgin Money that she was furloughed due to the pandemic. I see no reason why Virgin Money wouldn't have considered whether it could assist Mrs S under the Payment Deferral Guidance.

Virgin Money's response pointed to its contact notes and call recordings. But none of the information contained shows Virgin Money explored whether it could offer assistance under the Payment Deferral Guidance. Had it done so, Mrs S could've been given more time before Virgin Money took the step of closing her account and recording a default.

I also think it's fair to note that Mrs S did agree another payment arrangement with Virgin Money in August 2020, around a week after it says the account was closed. From what Mrs S has told us and the available information, it doesn't appear that anyone mentioned the closure of Mrs S' account to her on 11 August 2020 when she agreed the repayment plan. It was several months later that the issue arose when Mrs S found Virgin Money had applied a default dated 21 September 2020 on her credit file. It's not clear why the default date is around six weeks after the account was closed.

Mrs S says the default caused problems when trying to secure a mortgage. But I need to explain that even without the default, Mrs S' balance had exceeded her overdraft limit for several months without any payments being received. In addition, Mrs S also agreed payment arrangements that would be noted on her credit file by Virgin Money. So there would always have been arrears and over limit information recorded on Mrs S' credit file. But I agree that the circumstances under which Virgin Money applied its default were unclear and unfair.

I need to decide how to fairly resolve Mrs S' complaint. Where we find a business has treated a customer unfairly, we try to put them back into the position they'd have been in had no error been made. In this case, that's difficult as Mrs S' account was closed. But, as noted above, Mrs S was in the process of repaying the outstanding balance by way of overdraft reductions each month.

As a starting point, Mrs S should confirm whether she's in a position to start making repayments again, in line with the previous arrangement she had. If she's willing to do so, I think the fairest approach will be for Virgin Money to contact Mrs S and complete an income and expenditure assessment. If the results show Mrs S can afford repayments, Virgin Money should arrange to reinstate the account. Virgin Money should also take steps to amend Mrs S' credit file and remove the default.

If Mrs S isn't in a position to being repayments in line with her previous arrangement, I wouldn't expect Virgin Money to reinstate the account or remove the default from her credit file.

In my view, Virgin Money failed to clearly explain the process of closing Mrs S' account and recording a default. And I also think Virgin Money missed opportunities to assist Mrs S during a particularly difficult time. I can see this has caused a reasonable level of distress and inconvenience for Mrs S so I also intend to award £250 to reflect that.

I invited both parties to respond with any additional comments they wanted to make before I made my final decision. Amongst other things, Virgin Money said it couldn't reinstate Mrs S' account even if it purchased the debt back from the new owners.

I arranged for both parties to be contacted and said I intended to amend the settlement to reflect the Virgin Money's response. The new settlement said Virgin Money should buy the account back from its new owners, contact Mrs S to arrange an affordable repayment plan, remove the default from her credit file and pay £250 for the distress and inconvenience caused.

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.

In line with the provisional decision and comments I've made above about the revised settlement, I still think Mrs S' complaint should be upheld for the same reasons. Virgin Money responded to confirm it couldn't reinstate Mrs S' account and I accept that's the case. But I'm satisfied a reasonable alternative for Virgin Money to purchase the account back and take steps to discuss an affordable repayment plan with Mrs S. I also think the fairest approach is for Virgin Money to delete the default from Mrs S' credit file and pay her £250 for the distress and inconvenience caused.

My final decision

My decision is that I uphold Mrs S' complaint and direct Clydesdale Bank Plc trading as Virgin Money to settle as follows:

- Retrieve account from new debt owners and, within four weeks of settlement, contact Mrs S to discuss arrangements for an affordable repayment plan
- Amend Mrs S' credit file to remove the default
- Pay Mrs S £250 for the distress and inconvenience caused

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 5 September 2022.

Marco Manente
Ombudsman