

## The complaint

Mr D complains that Clydesdale Bank Plc trading as Virgin Money unfairly defaulted his credit card account.

## What happened

*In 2020, Mr D was severely impacted by Covid-19. His work was affected, and he was struggling financially. Also, he had a serious health condition and found himself homeless. Virgin money supported him with a Short-Term Forbearance Plan for his credit card account.*

*This was applied in May 2020 for 3 months and then extended by another 3 months. As Mr D was still in financial difficulty, he spoke to Virgin Money in November 2020. They offered him a 6 month payment plan which, pending a review, could be extended by a further 3 months.*

*Mr D says the plan was verbally communicated with a requirement to pay 1% (£122.01) of his balance, but only if he was in a position to do so. Also, no arrears, interest or charges would be applied.*

*However, Mr D had been misinformed. Virgin Money expected the 1% to be paid each month and stated this in a letter sent to Mr D on 28 November 2020. Mr D says he didn't receive the letter and, because of his accommodation issues, he relied on the verbal communication.*

*So, Mr D took payment breaks and Virgin Money sent arrears letters. Also, Virgin Money didn't undertake a review after 6 months and, because the arrears built up, they issued a default notice in September 2021. Mr D was unable to pay this and his account defaulted.*

*Mr D complained to Virgin Money as he felt the default was unfair. Virgin money disagreed and wouldn't remove the default. They did though accept the review hadn't taken place and that they had provided misinformation, so they credited his account with £50.*

*Mr D complained to our service. Our investigator said that even if the Virgin Money agent had been clearer in November 2020, and the bank had contacted him at the end of the six months, she wasn't persuaded he would have been able to maintain the payments. Also, as banks can default an account after three missed payments, she didn't think Virgin Money did anything wrong.*

*As Mr D remains dissatisfied this case has been referred to me to look at.*

**I issued the following 3 provisional decisions and received comments to each:**

### **Provisional decision 1 – issued 4 December 2022**

*I've considered the relevant information about this complaint. Before I issue my final decision, I wanted to give everyone a chance to reply. I'll look at any more comments and evidence that I get by 1 January 2023. But unless the information changes my mind, my final decision is likely to be along the following lines.*

*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. Having done so, I have come to a different view to the investigator.*

*As Mr D was severely impacted by Covid-19, I first considered the support offered by Virgin Money together with business guidance from the Financial Conduct Authority (FCA). Having done so, I'm satisfied that by offering the extended Short-Term Forbearance Plan and then an additional 1% 6 to 9 month repayment plan, Virgin Money followed this guidance and tried to help Mr D.*

*Noting that Virgin Money accept Mr D was given misinformation about paying 1% if he could afford to do so, I listened to all the calls and looked at file notes. I found it clear that this is what Mr D was offered. Furthermore, I could also see that he was informed that he wouldn't have to pay arrears at the end of the plan. Instead, these would be added to his balance which I found logical.*

*I then considered Mr D's circumstances together with the fact that Virgin Money had sent a letter which stated the contrary – that 1% had to be paid each month. Also, Virgin Money had sent Mr D arrears letters.*

*I found that Mr D was heavily reliant on verbal communication. This is because he was homeless, was frequently changing address and relying upon others to both hold and pass on his post. Also, he was vulnerable, had a serious health issue and his type of work meant he was on the road. So, for these reasons, together with call comments where he sounds convinced the verbal offer is in place and there had been a mix up over the way the arrears were being calculated, I'm persuaded that he didn't receive the letter dated 28 November 2020.*

*Also, Virgin Money recognise they made a misinformation error. This incorrect verbal offer was noted on their system and, perhaps because of this, I can't see that the correct position was explained to Mr D even when he made follow up calls. In addition, Mr D appeared surprised to receive the verbal offer, so he checked and received verbal confirmation. Also, Mr D had a further conversation confirming he wouldn't pay arrears. And the arrears letters said there was no need to make contact "If you have a payment arrangement on this account".*

*It may have been an unlikely offer, contradicted by a letter which Mr D would have likely received if he wasn't in a vulnerable position, but nevertheless it was an offer noted on Virgin Money's system. Also, there was an intent behind the offer. It was made upon Mr D's request for help when he described his position as "precarious" and explained this was because of a combination of Covid-19 and his irregular agency work at that time. Also, the offer was made after the representative undertook a detailed affordability check.*

*So, I'm satisfied it was a mistake, and I think Virgin Money should've honoured the verbal offer and not asked Mr D to pay the arrears and then default him, as the verbal offer meant it was highly likely arrears would occur. Also, as Virgin Money accept they didn't undertake the 6 month review they committed to, I think they should have honoured the offer for a further 3 months.*

*Although I think this would have been the fair and reasonable action, it wouldn't be fair to expect Virgin Money to hold an account open indefinitely without contractual payments. Also, it wouldn't be fair on Mr D if he found himself in the position where his account is reinstated*

*but, because of contractual payments being higher than 1% of the balance, he is then defaulted again, impacting his credit file for a longer period.*

*I could see that Mr D started to consistently make payments again after his account was defaulted in September 2021. This would have been in line with his commitment to pay his debt when the 9-month plan concluded. However, whilst Mr D says the amount has recently increased from approximately 1% of the balance, it will fall short of the contractual minimum payment.*

*So, although Mr D says he is now able to pay the contractual amount as he is in full-time employment, I have insufficient information on when Mr D's financial circumstances changed and whether they would allow him to both make and sustain contractual payments. So, whilst I'm sympathetic to Mr D's circumstances and don't think he should've been asked to pay the arrears or defaulted in September 2021, in the absence of this information I'm not asking Virgin Money to reverse the default.*

*However, I do think Virgin Money should compensate Mr D for their errors which have caused Mr D distress and inconvenience. And I consider £250 to be a more suitable amount of compensation.*

*My provisional decision*

*For the reasons I've given above, it's my provisional decision to partially uphold this complaint and I require Clydesdale Bank Plc trading as Virgin Money to pay Mr D £250 compensation.*

*This includes any amounts it has already paid in relation to this complaint.*

*I'll look at anything else anyone wants to give me – so long as I get it before 1 January 2023. Unless that information changes my mind, my final decision is likely to be as I've set out Above*

### **Provisional decision 1 - responses**

*Both parties responded before the deadline.*

*Virgin Money didn't comment but agreed to pay the additional compensation.*

*Mr D submitted additional information on his permanent employment which commenced in December 2021. Also, information on his income, expenditure, other credit cards and more stable accommodation arrangements. In addition, Mr D provided information on his savings together with plans to manage his credit card debts and secure permanent accommodation. Mr D also said he double checked his correspondence files and he never received the Virgin Money letter dated 28 November 2020. Also, he gave further information on the anxiety and stress he experienced because of Virgin Money's communication and management which he said is wrong and unfair.*

### **Provisional decision 2 – issued 23 December 2022**

*I've considered the relevant information about this complaint. Before I issue my final decision, I wanted to give everyone a chance to reply to my second revised provisional decision. I'll look at any more comments and evidence that I get by 13 January 2023. But unless the information changes my mind, my final decision is likely to be along the following lines.*

*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.*

*Thinking about everything again and, in light of Mr D's comments, I again considered whether the default should be lifted. Also, the level of compensation for the anxiety and distress caused.*

*For the reasons detailed in my above first provisional decision, I still think Virgin Money made a mistake. And, that they should've honoured a 9 month plan where payments weren't necessary, and arrears didn't accrue. If they had done so, Mr D wouldn't have been defaulted in September 2021.*

*When considering Mr D's payment record between September and December 2021, together with the likelihood of a short-term plan prior to him recommencing permanent employment, I think it more likely than not that he would have avoided a default prior to December 2021. And I'm satisfied that, since December 2021, he has been in a position to make contractual payments to Virgin Money. So, I think the fair and reasonable action here is for the default to be reversed and for Virgin Money to agree a way forward with Mr D.*

*Regarding the level of compensation, following a further review of the file notes, I'm persuaded that compensation should be higher than the £250. This is because Mr D was vulnerable, and I'm persuaded he was in a precarious position at the time of the mistake. Also, I'm satisfied that the mistake caused additional anxiety. In addition, it impacted on Mr D's health and wellbeing over a period of time. So, I think £500 compensation better reflects the distress and inconvenience caused here.*

*My provisional decision*

*For the reasons I've given above, it's my provisional decision to uphold this complaint and I require Clydesdale Bank Plc trading as Virgin Money to:*

- *Remove the default and any adverse information recorded between January 2021 and the date of the default*
- *Pay Mr D £500 compensation for distress and inconvenience, which includes any amounts it has already paid in relation to this complaint.*

*I'll look at anything else anyone wants to give me – so long as I get it before 13 January 2023. Unless that information changes my mind, my final decision is likely to be as I've set out above.*

## **Provisional decision 2 – responses**

*In my provisional decision, I gave Virgin Money and Mr D the opportunity to provide any comments or new information they might wish me to consider before I moved to a final decision. I didn't receive a response from Virgin Money, however Mr D pointed out the following:*

- *His consistent and increased payment history since the default occurred*
- *An unexplained balance anomaly in Virgin Money's correspondence of 25 September 2022 showing he owed £1787.10 less than the balance at default*
- *He hadn't yet received any compensation and, if he were to do so, he would require payment to his personal bank account or by crossed cheque*
- *The difficulties he's likely to now have getting a mortgage due to his age and stricter lending criteria*

- The impact on his future
- The “unbelievable relentless anxiety and stress” he had endured due to the default
- The default action prevented him making interest free balance transfers on both his Virgin Money account and another credit card.

### **Provisional decision 3 – issued 20 January 2023**

*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.*

*In the absence of any further response from Virgin Money, for the reasons explained in my above previous provisional decisions, I still think Virgin Money made a mistake here and shouldn’t have defaulted Mr D’s account in September 2021. So, I think the fair and reasonable action here is for the default to be reversed and for Virgin Money to agree a way forward with Mr D.*

*Regarding the level of compensation, I carefully considered Mr D’s comments together with our publicly available guidance on ‘compensation for distress or inconvenience’. Having done so, I think an award of £750 better recognises the considerable distress and inconvenience caused, as well as the impact on his health, well-being and personal circumstances which has been over many months.*

*I did consider Mr D’s point that he missed out on the zero interest rate deals with other lenders and, although I understand Mr D’s frustration here, it’s difficult to say if Mr D could have secured these. And considering Mr D’s payment and employment history since 2020 I think it’s probably unlikely. So, I don’t think it would be fair on Virgin Money to add this to the amount of compensation I’m awarding to Mr D.*

*My provisional decision*

*For the reasons I’ve given above, it’s my provisional decision to uphold this complaint and I require Clydesdale Bank Plc trading as Virgin Money to:*

- Remove the default and any adverse information recorded between January 2021 and the date of the default
- Pay Mr D £750 compensation for distress and inconvenience less any amounts it has already paid in relation to this complaint
- Clarify the outstanding balance, explaining the balance discrepancy in their letter dated 25 September 2022 and agree a way forward with Mr D

*I’ll look at anything else anyone wants to give me – so long as I get it before 6 February 2023. Unless that information changes my mind, my final decision is likely to be as I’ve set out above.*

### **Provisional decision 3 - responses**

I received a response from both parties.

Virgin Money clarified their understanding of the provisional decision but didn’t submit any new information or evidence. They did however comment that they felt the proposed compensation is excessive and should be closer to the £250 initially proposed.

Mr D feels that the compensation amount is insufficient and requested further consideration of the points he raised.

### **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.

For the reasons explained in the above provisional decisions I think Virgin Money made a mistake here and shouldn't have defaulted Mr D's account in September 2021. So, I'm still upholding this complaint.

Regarding the compensation, I reflected upon the points raised and further reviewed the publicly available guidance together with the Financial Conduct Authorities guidance on vulnerable customers.

However, I remain satisfied that the amount of £750 is a fair reflection for the distress and inconvenience caused here. The amount is a high award but, as explained in my provisional decision, I think it reflects the severe distress and inconvenience caused to Mr D, as well as the impact on his health, well-being and personal circumstances which has been over many months.

So, for the reasons explained in my last provisional decision, my final decision is that I uphold this complaint and I require Virgin Money to:

- Remove the default and any adverse information recorded on Mr D's account between January 2021 and the date of the default
- Pay Mr D £750 compensation (with an agreed method of payment) for distress and inconvenience
- Clarify the outstanding balance on Mr D's account and agree a way forward with Mr D

### **My final decision**

For the reasons I've given above, it's my final decision to uphold this complaint and I require Clydesdale Bank Plc trading as Virgin Money to:

- Remove the default and any adverse information recorded on Mr D's account between January 2021 and the date of the default
- Pay Mr D £750 compensation (with an agreed method of payment) for distress and inconvenience
- Clarify the outstanding balance on Mr D's account and agree a way forward with Mr D

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 17 March 2023.

Paul Douglas  
**Ombudsman**