

The complaint

Mr B complains about Clydesdale Bank Plc trading as Virgin Money ("Virgin Money") and how they have dealt with an unarranged overdraft on his account with them.

What happened

Mr B had a basic current account with Virgin Money. The account didn't allow for any overdraft facility. In January 2021 the account went into an unarranged overdraft. In August 2022 Mr B complained to Virgin Money. He didn't think he should have been given this credit as the account didn't allow an overdraft. So there hadn't been any affordability assessment carried out. Mr B asked for the debt to be written off and for compensation for the impact the reporting of this situation had on entries on his credit file, from February 2021.

Virgin Money partly upheld the complaint. In their final Response letter ("FRL") dated 8 November 2022 it declined to investigate the unplanned borrowing on the account and how this had arisen. It said this was as it had already fully responded in an FRL dated 16 March 2021. In respect of both agreeing to a repayment plan and closing the account Virgin Money supported both these complaint points. It confirmed repayments had now been agreed for £60 per month. But it didn't think the late payment markers applied to Mr B's credit file since January 2021 were incorrect. It told Mr B these markers would still have been applied to his account even if a repayment plan was in place. It apologised for the delays in closing the account and credited £100 to his account for the poor service Mr B had received. Mr B didn't agree and referred the matter to us.

Our investigator thought although Virgin Money hadn't handled the repayment plan requests from Mr B appropriately it would have been appropriate for it to set one up in this case. But he did think Virgin Money should have defaulted the account sooner based on industry guidelines. So, he thought Virgin Money should correct the credit file to show the account defaulting in July 2021. He also thought the compensation should be increased by a further £50 to reflect the impact of the default errors and the increased stress and pressure this would have caused Mr B.

Mr B told us he fundamentally disagreed with the investigator. He disagreed with the premise of some of the findings firstly that any charges and fees could be charged as part of any conversion of the account in a formal arrangement. He disagreed with the amount of additional compensation awarded. Virgin Money accepted the outcome.

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.

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I know Mr B is concerned we've not looked at his case as a whole. So, I think it's important to set out at the beginning what I can and can't look at there. I won't be dealing with Mr B's

concerns about how the unarranged overdraft came into being and the fairness of that in this complaint. That's already been addressed by both the bank in the FRL of 16 March 2021 *and* this service in earlier complaint [REDACTED]. As a service we can't consider the same points twice.

In respect of the concerns I can consider, I've come to the same conclusions reached by the investigator for the following reasons.

- The situation in which the overdrawn balance occurred meant there was no initial lending decision by the bank. The nature of a basic account is that there is no provision of an overdraft, so there's no contractual provision for one or its repayment. So, there was no contractual monthly payment missed, rather the full amount was due. And, from what I've seen, Mr B couldn't immediately repay that.
- Irrespective of how the overdraft came about I'm satisfied Mr B contacted and tried to agree repayments with Virgin Money as early as March 2021. He sent multiple emails that weren't acknowledged. That must have been frustrating
- Like the investigator I don't agree that it was impossible to consider a formal arrangement to pay. But ultimately it was up to it was for Virgin Money to decide if payments Mr B offered were acceptable. And as the investigator has said reaching a new agreement *could* have meant the introduction of interest and charges. Whereas there was no provision for such charges on an overdrawn basic account as matters stood.
- When a customer is behind with repayments a bank shouldn't agree to a plan that requires a customer to repay in a way that's not sustainable to that customer. From what Mr B has told us about what he could offer, the amount owed and the time it would have taken to repay, based on ICO guidance and industry practice, it's likely this wouldn't have been a responsible way forward.
- Our investigators has already referred to the provision in the ICO's "Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies" on defaults so I shan't repeat it here. But on the information before me I think the default should have been applied earlier - and so would drop from Mr B's credit record sooner - than November 2022. It seems to me it should have been done six months after the overdrawn balance remained unpaid so in July 2021.
- Virgin accept there were delays in closing the account and customer service failing here and has agreed to pay the further £50 recommended. I know Mr B is concerned that 18 months of incorrect reporting has already been in place and any credit checks in that time would've given the wrong impression. I do understand. But I can only deal with what has actually happened rather than what *might* have happened. And I haven't seen evidence of any actual loss or detriment to Mr B over that period of time as a consequence of this entry on the credit file. So, I think the increased total compensation of £150 is a reasonable response here.

Overall, for the reasons I've given, Virgin Money should correct Mr B's credit file to show the account should have defaulted from July 2021 and pay the additional £50 compensation.

Putting things right

Clydesdale Bank Plc trading as Virgin Money should correct Mr B's credit file to show the account should have defaulted from July 2021 and pay the additional £50 compensation.

My final decision

My decision is that I uphold this complaint. Clydesdale Bank Plc trading as Virgin Money should pay Mr B a further £50 in compensation and correct his credit file to show the account defaulting from July 2021.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 4 July 2023.

Annabel O'Sullivan
Ombudsman