

The complaint

Ms D complains Clydesdale Bank Plc – trading as “Virgin Money” – hasn’t refunded two transactions that she’s disputed and didn’t stop them going out in the first place.

What happened

Ms D has an account with Virgin Money and an account with another bank – who I’ll refer to as “B” throughout the rest of this decision.

Ms D says B contacted her in February 2022 to say that it had identified some unusual transactions on her account which it wanted to check were hers. Ms D says they weren’t, and they were all stopped. Ms D says she then checked her Virgin Money account, saw six transactions that she didn’t recognise and contacted Virgin Money straightaway.

Ms D says that only two of the transactions – totalling just over £1,300 – went through. But she was unhappy Virgin Money hadn’t contacted her and had let them go through. She complained to Virgin Money and asked it to refund the transactions in question. Ms D says she received no response, so she complained to us after eight weeks.

One of our investigators looked into Ms D’s complaint. Following our involvement, Virgin Money accepted that it took too long to investigate Ms D’s complaint and credited her account with £175 in compensation. But it also said that the evidence showed the transactions Ms D was disputing had been accepted via her mobile banking app so they wouldn’t be refunded. Our investigator ultimately didn’t agree, saying that the evidence Virgin Money had sent didn’t show that Ms D had authorised the two transactions when the evidence was taken as a whole. So, our investigator recommended Virgin Money refund them along with interest. Virgin Money didn’t reply to our investigator’s recommendations, so an ombudsman was asked to consider this complaint. That’s what I’ve done.

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.

Virgin Money has accepted that it took too long to investigate Ms D’s complaint – and it has paid her £175 in compensation for the distress that it feels this caused Ms D. That’s not an issue that Ms D appears to feel particularly strongly about now. She’s more annoyed about the fact that Virgin Money allowed the two transactions she’s complained about to go through, particularly in light of the fact that her other bank – B – contacted her to check whether or not similar transactions were genuine. There might be a good explanation for this – we’d only expect a bank to flag a transaction that was unusual and that will, in part, be based on the account’s previous activity. That means, for example, that a transaction is less likely to be flagged if transactions of a similar size are normal for that account. And that might vary from account to account. In any event, the more important issue here, in my opinion, is whether or not Ms D should have been held liable for the two transactions that went through. So, I’ll turn to this now.

Virgin Money has held Ms D liable on the basis that the two transactions that went through were authenticated using her mobile banking app – it's sent us evidence to demonstrate this. But in response Ms D has explained what happened that day, including where her mobile phone was, what security it had on it and what other items were with her mobile phone. I'm satisfied, based on what Ms D has told us, including what happened to her account with B:

- that her accounts could have been compromised that morning – she was in a meeting all morning at work and her mobile phone, wallet and a notebook were all in one place;
- that she has explained how she discovered her accounts had been compromised; and
- that she contacted Virgin Money straightaway to report what had happened.

Our investigator put what Ms D had told to Virgin Money and asked for its comments. They did so because they didn't think, in light of what Ms D had told us that Virgin Money had shown that the transactions were made with Ms D's knowledge or authorisation. Virgin Money didn't reply to this additional information. So, our investigator issued their recommendations. And then referred this complaint to decision as Virgin Money didn't reply to those either.

We still haven't heard back from Virgin Money. More importantly, I agree that in this particular case, based on everything that I've seen, that Virgin Money hasn't shown that a third party didn't make these transactions without Ms D's knowledge or authorisation, and that it should, therefore, refund them. Nor do I think Ms D was grossly negligent.

Putting things right

I agree, given what I've just said, that Virgin Money should refund both transactions.

My final decision

My final decision is that I'm upholding this complaint. I require Clydesdale Bank Plc to refund the two disputed transactions totalling £1,302.99 along with 8% simple interest from the date of payment to the date of settlement in full and final settlement of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 23 May 2023.

Nicolas Atkinson
Ombudsman