

The complaint

Mr K complains about a cash advance fee applied to his credit card by Clydesdale Bank Plc trading as Virgin Money.

What happened

Mr K has a credit card with Virgin Money. Last year, Virgin Money issued revised terms and conditions in relation to the credit card and expanded the circumstances under which it will apply a cash transaction fee. Virgin Money advised that the new terms meant it would classify certain transactions as a cash advance and gave the following examples:

- Gambling and spread betting transactions
- International money transfers
- Paying off other borrowing (like making payments to wards a loan or mortgage or using your card to pay another credit card instead of doing a Balance Transfer)
- Adding money to a prepaid card, virtual card or e-money account
- Investment activity like binary or share trading

In July 2022 Mr K used his Virgin Money credit card to send a payment of £12,250 to someone with an account with a business I'll call P. When Mr K received his credit card statement he found a cash advance fee of £612.50. Mr K went on to raise a complaint and Virgin Money issued a final response. Virgin Money gave examples of transactions it considered in the same way as cash. Virgin Money also quoted sections of its terms and conditions. But the section quoted referred to foreign exchange fees and charges, not cash advance fees. Virgin Money didn't uphold Mr K's complaint and didn't offer to refund the cash advance fee he'd incurred.

An investigator at this service looked at Mr K's complaint and upheld it. They didn't think Virgin Money had reasonably explained that a payment like the one Mr K made to P would be classified as cash and incur a fee. The investigator asked Virgin Money to refund the cash advance fee and pay Mr K £100 for the distress and inconvenience caused. They also asked Virgin Money to remove any negative information it had reported to the credit reference agencies following the cash advance fee applied.

Virgin Money asked to appeal and provided systems evidence that showed the payment Mr K made to P was classified as "cash" and advised the cash advance fee had been correctly applied. As Virgin Money asked to appeal the investigator's view, Mr K's complaint has been passed to me to make a 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.

Virgin Money can change the terms and conditions associated with its credit card and I can see it contacted Mr K in advance of the changes to the way it classifies cash transactions. And, as I've quoted above, I can see Virgin Money confirmed certain transactions would be

treated as cash going forward when it contacted Mr K last year. With that being said, I need to decide whether the information Virgin Money gave Mr K in terms of the upcoming changes to the way it applies cash advance fees was sufficiently clear for him to have understood he'd incur a fee for using his credit card to send funds to a third party who had an account with P.

I've noted the terms information Virgin Money provided above. In this case, Mr K sent £12,250 to an account with P and Virgin Money says the payment fell under the new provisions for a cash transaction. Virgin Money's provided a systems screen print that show when the payment was processed, it was automatically categorised as cash, therefore incurring a cash advance fee. But I can understand why Mr K may not have understood that sending funds in this way would incur a cash advance fee. Mr K wasn't gambling or making an international money transfer. Nor was Mr K repayment other borrowing or making payments in respect of investing or trading. Whilst the transaction may have been used to make payment to an account that meets the definition of a prepaid card, virtual card or e-money account, I'm not persuaded Mr K would've been aware of the type of account the third party held with P.

I've considered whether the guidance provided in the updated terms information Virgin Money issues was sufficient for Mr K to have been aware the payment would incur a cash advance fee when making a payment to a third party. As I've said above, I'm not persuaded Mr K would've been aware of the specific basis of the account the third party held with P. And the information provided with the revised terms makes no mention of making payments to third parties via the credit card may be considered in the same way as a cash transaction. In my view, Mr K's claim he was unaware the payment would attract a cash handling fee is reasonable in the circumstances of his complaint.

In response to the investigator, Virgin Money's case handler said that whether a payment was classified as "cash" and provided payment systems evidence to show how the transaction was recorded. I agree the payment records show the transaction was classified as cash. But my view is that the information Virgin Money gave Mr K about when a cash advance fee would apply wasn't sufficiently clear. And had Mr K been aware that he'd incur a fee of £612.50 for making the payment, I'm satisfied he would've made other arrangements. In my view, the fairest way to resolve Mr K's complaint is for Virgin Money to refund the cash advance fee along with all interest, fees and charges subsequently applied.

Mr K's told us that Virgin Money recorded a missed payment on his credit file when he didn't clear the cash advance fee. Given the circumstances of Mr K's complaint, I'm not persuaded that's a fair reflection of what happened. So I'm also going to tell Virgin Money to remove any adverse information recorded on Mr K's credit file that is linked to the cash advance fee and associated missed payment.

Our investigator asked Virgin Money to pay Mr K £100 for the distress and inconvenience caused. I can see this issue has caused Mr K a reasonable level of trouble and upset. I'm satisfied that a payment of £100 fairly reflects the distress and inconvenience caused to Mr K so I'm going to proceed on that basis and uphold his complaint.

My final decision

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

- Refund the cash advance fee and any subsequent interest, fees and charges applied as a result
- Amend Mr K's credit file to remove any adverse information reported that is linked to

the cash advance fee and following missed payment

- Pay Mr K £100 for the distress and inconvenience caused

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 19 July 2023.

Marco Manente
Ombudsman