

The complaint

Mrs P complains Clydesdale Bank PLC trading as Virgin Money (Virgin) refused to accept her monthly payment offer to her credit card account, at a time she was experiencing financial difficulties.

What happened

Mrs P says due to a change in her financial circumstances she could no longer afford to pay the minimum payments on her credit card account and offered Virgin £100 per month. Mrs P says Virgin refused to accept her offer and continued to charge her interest and charges and sent threatening letters. Mrs P says Virgin are refusing to help her and she can only afford £100 per month which is being eaten up by the interest.

Mrs P wants Virgin to agree to a payment plan at £100 per month and refund the interest from when she first logged her complaint in December 2021.

Virgin says Mrs P's credit card account went into arrears after the expiry of her 0% promotional offer in August 2021. Virgin says it offered Mrs P a hardship plan rather than the £100 per month she offered, as her income and expenditure showed a deficit, but this was declined by her.

Virgin says as a result Mrs P's credit card account defaulted and was sold to a third-party debt management company. Virgin says it had correctly written to Mrs P regarding her arrears and default and has done nothing wrong.

Mrs P wasn't happy with Virgin's response and referred the matter to this service.

The investigator looked at all the available information and upheld the complaint. The investigator says Virgin should have defaulted Mrs P when it became aware she couldn't afford the payments to her credit card account and because it didn't, this resulted in further interest and charges being applied to her credit card account. The investigator asked Virgin to refund any interest and charges from the point it became aware of Mrs P's financial difficulties and to back date the default to this time.

The investigator says Mrs P should now liaise with the debt management company to manage her account going forward, as he didn't feel it was unreasonable for Virgin to sell the debt once it had defaulted.

Virgin didn't agree with the investigator's view and asked for the matter to be referred to an ombudsman for a final decision.

I sent both sides a provisional decision, where I said:

I've considered all of the 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 outcome to that of the investigator and I will explain how I have come to my decision.

I was sorry to hear of Mrs P's personal and financial issues and that must have been a difficult time for her.

When looking at this complaint I will consider if Virgin acted fairly when it defaulted Mrs P's credit card account and sold the debt to a collection agency, even though Mrs P had offered to make monthly payments to them.

Virgin has provided this service with comprehensive details of the course of events here and while that has proved helpful, I won't be commenting on every piece of information received, as I don't think it's necessary in order to come to a full and impartial decision. That's not to say I haven't considered everything – I have.

It's reasonable to say this isn't a straight-forward matter and I am satisfied Virgin did initially try to help Mrs P here, when it learned of her financial problems following a telephone call in early November 2021.

Having listened to that call it becomes clear, following a comprehensive income and expenditure discussion, Mrs P wasn't in a position to make the payment plan of £100 per month she was offering Virgin. As a responsible lender I wouldn't expect it to accept a payment plan that could put unreasonable financial pressure on a consumer in those circumstances. What happened here was Virgin's agent explained to Mrs P given her financial circumstances, the only option it had was to put her in a "hardship plan" meaning the interest and charges would be frozen and she could pay what she could comfortably afford each month or nothing at all.

The agent also made clear to Mrs P this would result in arrears continuing to accrue and for the potential of the credit card account going into default and ultimately the account being sold to a debt management company. At this point Mrs P says she was concerned that her credit card debt would be sold to a debt management company, having had a poor experience in the past. Virgin's agent then suggests to Mrs P she could speak with a named debt management charity for further advice and would provide her with 30 days breathing space if she wanted to go down that route – Mrs P accepted this and was told to call back within 30 days. This was followed up in writing by Virgin on 4 November 2021.

I can also see Virgin wrote to Mrs P on 4 December 2021 asking her to contact them.

From the information I have seen I can't see any evidence that Mrs P made further contact with Virgin within the timescales agreed, nor that she sought advice from a debt management charity as she agreed she would.

I have seen over the months following other letters from Virgin asking for Mrs P to contact them and that it had attempted to call her. So, it's not clear why Mrs P didn't get back to Virgin to discuss her options, it seems Mrs P simply wanted to continue to make the £100 per month to her credit card account, but of course that wasn't something Virgin had agreed to, or was sufficient to meet her minimum monthly payments. So, with that in mind I can't say Virgin acted unfairly when it issued the arrears notices, default letters and then sold the debt to a debt management company, when it did. I have also seen correspondence to Mrs P confirming to her this was a course of action it might take – so I can't say Mrs P wasn't made aware of that.

As I said earlier this isn't a straight-forward matter and I have no doubt that Mrs P was going through a difficult time emotionally and financially, but it's also reasonable to say Mrs P did have the opportunity to follow up the telephone call she had with Virgin in early November 2021, but I can't see she ever did that.

While I understand the points the investigator makes, I don't support his view Virgin should have defaulted Mrs P at the point she told it of her financial problems, I wouldn't expect that to happen until a minimum of three-monthly payments had been missed and in any event that may not have been in her best interests at that time, as she told Virgin she was going to speak to a debt management charity.

While Mrs P will be disappointed, I am satisfied Virgin did offer support to her as it provided two 30-day periods of breathing space and offered further support by way of a hardship plan. In addition, Virgin attempted to contact her on a number of occasions both by telephone and in writing- taking this into account, I can't see it could have done much more than that here.

I understand Mrs P has now engaged with the debt management company and she has told this service it has been helpful, which is a positive step forward. So, taking everything into account I won't be asking anymore of Virgin here.

Mrs P has responded to my provisional decision, so the case has been passed back to me to make a final 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.

I gave both Mrs P and Virgin until 28 June 2023 to accept or reject my provisional decision. Virgin have made no further comments, but Mrs P has raised various points concerning my provisional decision, that I will now address.

Mrs P says Virgin never called her and it was her calling them. While I understand the point Mrs P makes here, I can only consider the evidence provided to this service. I can see from various correspondence sent by Virgin, it confirms it had been trying to contact Mrs P and importantly in those letters asks her to contact them to discuss the situation on her account. Despite this there's no evidence to suggest Mrs P ever telephoned Virgin to specifically discuss the hardship plan that was previously offered to her, from the time she spoke to Virgin in November 2021, and before the credit card account was defaulted.

It's reasonable to say if Mrs P had held further discussions about her financial situation after the 30-day breathing space was provided, an arrangement could have been put in place to freeze the interest and charges as Virgin had previously agreed to do as part of the hardship plan – but that didn't happen.

Mrs P says she did take advice from a debt charity and provided a reference number to Virgin. While I'm not disputing Mrs P may have spoken with the debt charity, what's important here is there's no evidence to show that charity or Mrs P provided Virgin with any concrete details of what was being proposed, so it could consider those options. Afterall, Virgin would of course need to agree to any such proposals.

So here, while Mrs P may not agree Virgin had offered her a plan that would have frozen interest and charges, but she decided not to take up that offer, partly due to her concerns about being passed to a debt collection agency. Given no firm alternative proposals were given to Virgin, despite it putting in writing to Mrs P what the consequences might be, I can't say Virgin acted unreasonably here when it finally defaulted Mrs P's credit card account and placed it with debt collection agent as it previously said it would. It's worth mentioning even if the debt charity had provided a proposal to Virgin, that's not to say it wouldn't have placed the account with debt collection agents in any event.

Mrs P has made the point she was going through a difficult time following her separation and says, “*so I probably didn’t communicate as best as I could have*”. While perhaps that is understandable here and I have sympathy with Mrs P’s situation at that time, this has meant Virgin haven’t been provided with the information and proposals it needed to put in place any other alternatives to her other than what it had already offered under the hardship plan. So here, I can’t hold Virgin responsible for the lack of any direct proposals from her or the debt charity regarding her financial situation at that time.

As I have said previously, I’m pleased to see Mrs P is now communicating with the debt collection agents and a suitable plan has been put in place, which hopefully will put Mrs P on a stronger financial footing going forward.

Taking all of this into account, while Mrs P will be disappointed, I see no reason to change my provisional decision, so my final decision remains the same.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs P to accept or reject my decision before 26 July 2023.

Barry White
Ombudsman