

The complaint

G, a limited company, complains that Clydesdale Bank Plc trading as Virgin Money didn't do enough to prevent it being the victim of an email invoice interception scam. It also complains that Virgin Money have not obtained and shared with it the recipient accountholder's details.

G is represented in this complaint by Mr H, the company's director.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief summary here.

In January 2022 G was sadly the victim of an email interception scam. It received an invoice from its regular supplier, but unbeknownst to G at the time the invoice had been interfered with, and the account details changed. This meant that instead of sending the money to its supplier's genuine bank account, it transferred these funds to an unknown third-party account. Initially a 'test' payment of £10 was sent, a few days later a payment of £19,881.80 (the remainder of the invoice balance) was sent. When Mr H realised G had likely been the victim of a scam, he reported this to Virgin Money, who notified the recipient bank, TSB Bank.

Mr H complained, as he was unhappy with the service Virgin Money had provided and because he wanted it to accept culpability and refund G's full loss.

Virgin Money didn't agree that it needed to refund G's full loss. It said the payments wouldn't have flagged on their fraud prevention systems as G makes payments of similar or larger amounts frequently. It said when making the payment Mr H had selected 'Paying a Bill' for the £10 payment and 'Sending to family/friends' for the £19,881.80 payment. It said it presented online warnings for both payments, which were acknowledged by Mr H before the payments were made. It also explained why a refund was not due under the Lending Standards Boards Contingent Reimbursement Model Code (the CRM Code). However, Virgin Money did accept that there was a delay in it reporting the scam to the recipient bank, and to remedy its error it returned to G what funds would've been available for recovery had it reported the scam on the day it ought to have. Ultimately £10,442.49 was returned to G, but a loss of £9,449.31 remained. It also addressed a number of other concerns Mr H had raised about his experience as well as Virgin Money's business processes. It agreed that the service provided whilst handling the fraud claim could've been better, it apologised and made a compensatory offer of £350 in recognition of this, which Mr H rejected as he didn't consider it to be reflective of the time he'd spent trying to contact Virgin Money.

Mr H referred G's complaint to our service. One of our Investigators considered the complaint and didn't recommend it should be upheld. Mr H didn't agree and asked for an Ombudsman to review the complaint.

Mr H had also asked our service to consider G's complaint against TSB Bank, which resulted in G recovering an additional sum of £5,889.31. So, its outstanding loss now stands at £3,560.

During this time, an additional complaint point relating to Virgin Money's failure to obtain and disclose the recipient accountholders details upon receipt of a written request from G was also raised.

In October 2023 I issued a provisional decision in which I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr H has made several comments about our service being biased and siding with Virgin Money. But as I've tried to explain to Mr H there is never an easy way to deliver news that may not be welcomed or expected, and inevitably the nature of my role is such, that I will disappoint one party. Therefore I do understand Mr H's disappointment, but I'd like to assure him that we are an independent and impartial service – we do not take sides. And I've carefully considered all the evidence provided by both parties before reaching my intended decision.

I'm also required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time. But ultimately my role as an Ombudsman is to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case.

Whilst G's complaint has been with our service, Mr H has made lots of submissions in support of its complaint. I've reviewed all the material Mr H has submitted. But I'm not going to address every single point he has raised here. Instead, my intended decision will concentrate on what I think are the key issues. I'd like to assure Mr H no discourtesy is intended by this. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

Firstly, I want to be clear, that my findings here only relate to G's complaint about Virgin Money. I will not be making any findings in relation to Mr H's concerns about the actions of the recipient bank, TSB Bank. I note Mr H doesn't consider this a fair and reasonable approach. He says his position has always been that both complaints are intrinsically linked and should be considered together. He argues to not consider his points about TSB Bank would mean that I'm only considering half of the parties involved. And if this is our process, then it is flawed and should be changed. But my reasons for not commenting on TSB Bank's acts or omissions are twofold (1) G's complaint against TSB Bank has been settled and closed upon Mr H's acceptance of our Investigator's assessment (2) Virgin Money are not responsible for TSB Bank's acts or omissions, only their own, and under the rules which govern this service a complaint must be framed by the complainant against a firm, based on its own acts and omissions, and decided by an Ombudsman accordingly.

Mr H has raised (and I will address below) complaint points about ancillary issues such as customer service and Virgin Money's failure to share information about the recipient accountholder and its communication with TSB Bank. But ultimately what Mr H would like is for Virgin Money to refund G's outstanding loss. So what I need to decide is whether I can fairly ask Virgin Money to do so.

As a payment service provider, Virgin Money's principal duty is to process payments that its customer instructs it to make without undue delay. But I agree that this is not the end of the story. It also has regulatory and lawful obligations to be alert to various risks in relation to the accounts held with it. And it is the friction between such competing obligations where the crux of the matter is found. Naturally, with the benefit of hindsight it's easy to say that Virgin Money ought to have identified G's payments as being fraudulent. But in practice this isn't always possible and can be quite challenging as payment service providers like Virgin Money process thousands, if not millions of payments on a daily basis, and it would not be realistic or reasonable to expect them to stop and check each one. There is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. Whilst ultimately, it's a matter for Virgin Money as to how it chooses to configure its fraud detection systems and strike a balance between allowing its customers to transact and questioning transactions to confirm they are legitimate. I've thought carefully about whether in the circumstances of G's case Virgin Money ought to have had concerns and intervened before processing the disputed payments.

The prior activity of G's account with Virgin Money is an important consideration when considering whether these payments were sufficiently unusual or uncharacteristic such that Virgin Money should have paused the payments pending further enquiry, before allowing them through. And in the context of G's normal spending and account usage, I'm satisfied here, that it wouldn't be fair to say that the size of the payments should have appeared sufficiently unusual, uncharacteristic or suspicious to Virgin Money such that it ought to have intervened and contacted Mr H about them. I've reviewed G's previous account activity, and in the six months or so prior to the scam payments being made, I can see regular monthly payments for a comparable amount being made. I appreciate Mr H says that the disputed payments were made to a new payee and included the word "NEW" in the payment reference, something which Virgin Money's transaction monitoring systems should've picked up. But I don't agree. As I've said, there is a balance to be struck, and I don't think it is unreasonable to say there would have been a picture of G's account being used for transferring quite large amounts of money on a monthly basis, such that a payment to a new payee wouldn't in this case be sufficient to say Virgin Money ought to have been reasonably obliged to have intervened.

Mr H also argues that G's account is only used to make payments to other businesses, and if the recipient account was not a business account, this is something Virgin Money ought to have identified. He feels by not checking that the funds were being paid into a business account Virgin Money have failed to protect G. Firstly, the recipient account was not a Virgin Money account, it was held at another bank, TSB Bank. Details about TSB Bank's customers would not have been accessible or known to Virgin Money. And even if Mr H were to argue they were, I haven't seen any evidence that persuades me that Virgin Money had any knowledge of any inconsistencies in the details given on the payment instruction and those of the recipient account holder at the time of processing the payments.

In fact, under the Payment Services Regulations 2017 (the PSRs), it is the 'unique identifier' that defines a payment's destination. That expression essentially means the sort code and account number. And Regulation 90 of the PSRs (which I've set out later in my assessment) says that where a payment instruction is executed in accordance with the unique identifier, the payment order is deemed to have been correctly executed by each bank involved in executing the payment order with respect to the payee specified by the unique identifier. The checking of the name given on the payment instruction against the name of the recipient accountholder or identifying the type of account (business/personal) was not a requirement nor was it a part of the payment process at the material time. This is further supported by the Payment Systems Regulator more recently introducing a name checking systems for UK payments referred to as confirmation of payee (CoP). If matching a payee name or identifying the type of account being paid was already a part of the payment execution process, there wouldn't have been a need for this initiative to help combat fraud. And unfortunately, the CoP system had not been implemented by Virgin Money (nor was there a requirement for them to do so) at the time G's payments were made.

Mr H has also in his submissions referred to warnings which he has more recently been given when trying to make payments, along with emails and messages banks are sending highlighting the risks of fraud. He argues Virgin Money, by not carrying out such robust fraud checks at the time he was tricked into transferring money to a scammer's account, has failed to protect him. He believes had it done so, G's losses could've been averted. He says this makes Virgin Money culpable and liable. But it's important to note that whilst the obligations to be alert to fraud and scams are longstanding, it wouldn't be fair for me to apply today's standards and expectations retrospectively. The fraud landscape is continually evolving with new initiatives and mechanisms regularly being introduced to try to tackle and prevent fraud. So, a fair assessment of Virgin Money's actions requires me to evaluate these against what reasonably could've been expected of them at that time.

Overall, from what I've seen aside from the payments being made to a new payee, there was nothing else that was different about the payments Virgin Money had been asked to make. And in my opinion, it isn't a realistic expectation to say that Virgin Money should be stopping and checking every payment made to a new payee. So taking all the above into consideration I'm satisfied Virgin Money didn't unreasonably miss an opportunity to prevent G's loss.

In addition to the above, Mr H has shared information that he believes is relevant to G's complaint and a basis upon which Virgin Bank should reimburse its loss. This information consists of commentary about the Treasury supporting new laws that would see fraud victims who are tricked into sending their funds reimbursed, as long as they haven't been negligent. And the CRM Code, which is a voluntary code under which victims of fraud can be reimbursed. I appreciate Mr H would like to do all he can to recover G's outstanding loss, but I'm not persuaded that the above is applicable to the circumstances of G's case. I say this because the mandatory law changes referred to are currently a proposal, and have not come into effect, and at the time of G's payments Virgin Money were not a signatory of the CRM Code.

I've considered the point Mr H has made; that Virgin Money's intent to join the scheme and reimburse victims of fraud stretches beyond the arbitrary date at which they formally joined as members of the CRM Code. He also believes as G's payments fell within the interim period of when these matters were being formalised, Virgin Money should've considered reimbursing G's loss under the CRM Code – he argues by not doing so it has acted unfairly. Virgin Money have said they were not members of the CRM Code at the time of G being scammed. They became full members on 28 February 2022 and are not assessing any case retrospectively. I can, of course, understand why this feels grossly unfair to Mr H given that his payments were made only a matter of weeks before Virgin Money became signatories of the CRM Code and that he believes that had this matter been assessed under the CRM Code, G would have received a full refund. But a decision about whether claims will or won't be considered retrospectively under the CRM Code is a commercial matter for Virgin Money. And I don't think it's decision to apply it to payments on or after the date it became a signatory of the CRM Code is unreasonable. So, it follows that I don't think Virgin Money's basis for not considering G's claim under the CRM Code is unfair or unreasonable.

Part of G's complaint is that Virgin Money hasn't satisfactorily assisted it in the recovery of its losses.

Virgin Money's records show Mr H reported the scam on 8 February 2022. They accept that due to an error on their part this notification was not passed to their fraud team, which caused a delay in this being reported to the recipient bank. To remedy this, they returned to G's account the sum they would've recovered had they correctly sent notification on 8 February 2022. I've reviewed the recipient accountholder's statement and I am satisfied the available balance on 8 February 2022 was £10,442.49, which is the total sum Virgin money have paid G. Mr H believes that this should be backdated to 4 February 2022, and if there was a greater sum available for recovery, he should receive this as he tried to contact Virgin Money but was unable to speak to someone due to phone delays. Virgin Money do not agree, and there remains a difference of opinion on this point. But I don't consider it necessary to make a finding on whether Mr H contacted Virgin Money on the 4 or 8 February 2022 as it doesn't make a difference to the sum which Virgin Money could've recovered. As I've seen the recipient account statements and am satisfied the balance available for recovery on 4 February 2022 was the same as that which was available on 8 February 2022.

For completeness I've also thought about whether an interest award is payable by Virgin Money for the time between Mr H reporting the fraud and the recovered funds being returned to G. But I'm satisfied in these circumstances it doesn't need to, as I can see from Virgin Money's records that the delay in returning those funds to G (including the £13 discrepancy) was due to Virgin Money waiting for confirmation from TSB Bank of the amount which could've been recovered on 8 February 2023. And even if Virgin Bank had done everything perfectly, I'm not persuaded that this would've resulted in G receiving the recoverable sum sooner than it did. I say this because from what I've seen TSB Bank didn't return any recovered funds (which for Mr H's information were less than the sum Virgin Money returned to G) to Virgin Money till late March 2022, and after this had already been paid to G.

Mr H says he asked Virgin Money for copies of communication between itself and TSB Bank so that he could be satisfied that the sum G received back (recovered funds) was correct. He also asked that they share with him the accountholders details, with his reasons initially being that he needs to provide this information to the police and later being that he wishes to pursue the party who received G's funds. He is unhappy that privacy laws have been cited as the reason for why they can't share this information with him. He doesn't agree that a criminal should be, or even is, protected in this way.

I recognise that Mr H is unhappy that Virgin Money will not obtain and share with him information about the recipient accountholder. He has told me that the police would not investigate the matter without these details being provided—something which I found rather surprising. As quite often victims of crime do not know who the perpetrator is – and in such circumstances it would commonly be for law enforcement, not the victim, to investigate and identify a suspect. Also, a police investigation into a reported crime is an independent matter. It would've been for the police to contact Virgin Money. And I'm sure had Virgin Money been contacted by the police; it would've co-operated with their enquiries. But knowing how much this means to Mr H I can see why Virgin Money's refusal to obtain and share this information would be disappointing for him. And I can absolutely see how, to the victim of a scam, it would feel unfair that an individual who has acted dishonestly and criminally is protected by privacy rights. But Virgin Money is required to comply with privacy laws. And if it does not have a lawful basis for holding and processing personal data (which includes disclosing that information to a third party) it will be in breach of these.

Regulation 90 of the PSRs says the following:

“90.— Incorrect unique identifiers

(1) Where a payment order is executed in accordance with the unique identifier, the payment order is deemed to have been correctly executed by each payment service provider involved in executing the payment order with respect to the payee specified by the unique identifier.

(2) Where the unique identifier provided by the payment service user is incorrect, the payment service provider is not liable under regulation 91 or 92 for non-execution or defective execution of the payment transaction, but the payment service provider—

(a) must make reasonable efforts to recover the funds involved in the payment transaction; and

(b) may, if agreed in the framework contract, charge the payment service user for any such recovery.

(3) The payee's payment service provider must co-operate with the payer's payment service provider in its efforts to recover the funds, in particular by providing to the payer's payment service provider all relevant information for the collection of funds.

(4) If the payer's payment service provider is unable to recover the funds it must, on receipt of a written request, provide to the payer all available relevant information in order for the payer to claim repayment of the funds.

(5) Where the payment service user provides information additional to that specified in regulation 43(2)(a) (information required prior to the conclusion of a single payment service contract) or paragraph 2(b) of Schedule 4 (prior general information for framework contracts), the payment service provider is liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.”

In the circumstances of this complaint, I'm satisfied that Mr H entered incorrect unique identifiers for the purposes of triggering the banks' respective duties under Regulations 90(2) to (4). I say this because Mr H on behalf of G was trying to make a payment to its genuine supplier. The payment had been agreed and was expected. The emails between G and its supplier were intercepted, and bank details changed. So here I consider the suppliers legitimate bank details to be the correct unique identifier. I say this because – but for the interception and changing of account details – Mr H would've sent the payments to the supplier's legitimate details. Virgin money have questioned whether this was email interception, as the amounts on the invoice containing the changed details (which Mr H had shared with them) was different to the amount paid. I sought clarification of this point from Mr H, who shared further emails which collaborate his version of events. So I am satisfied that this is a case of incorrect unique identifiers being entered.

I'm aware and have taken into consideration that data controllers such as Virgin Money are required to comply with the principles under the Data Protection Act 2018 (DPA 2018) and UK's General Data Protection Regulation (UK GDPR). And if they do not have a lawful basis for holding and processing personal data (which includes disclosing that information to a third party) they will be in breach of DPA 2018 and UK GDPR, and any individual whose privacy rights have been affected may have a number of rights against them. I also accept that banks also owe their customers contractual duties of confidentiality. However, individual privacy rights are not absolute, and the organisation holding the data may have a lawful basis for providing it to a third party in a way that would otherwise be unlawful if the above exemption did not apply. Similarly, duties of confidentiality are subject to qualifications and don't apply where the law requires disclosure of the relevant information.

The regulations set out above require disclosure of data, so even where the relevant information contains data relating to individuals Virgin Money will have a lawful basis for disclosure – under regulation 90(4) which says if Virgin Money has been unable to recover all the funds, as is the case here, on receipt of written request from Mr H on behalf of G, it must provide all available relevant information in order for G to claim repayment of its loss.

Mr H says he verbally asked Virgin Money for this information and is willing to sign an affidavit. But the regulation is clear that such request must be written. And whilst I note Mr H questions whether Virgin Money were obliged to have informed him of this? Virgin money could also argue based on the reasons Mr H had initially given for why he wanted this information, and looking at the evidence he'd shared with them, reaching a conclusion that it couldn't share third-party information due to privacy laws and that regulation 90 did not apply is not unreasonable. Nevertheless, I can see on 4 May 2023 Mr H did send Virgin Money a written request, asking them to provide details of the recipient accountholder for pursual of G's outstanding loss. I can't see that Virgin Money have ever tried to obtain any information from TSB Bank. So I intend on directing Virgin Money, to request this from TSB Bank, and upon receipt share with G as required under regulation 90(4) of the PSRs which says: "... on receipt of a written request, provide to the payer all available relevant information in order for the payer to claim repayment of the funds". If there is a dispute as to whether Virgin Money has fulfilled its obligation under the direction, G will need to go to court and argue that our direction/regulation 90(4) entitles it to more than it has been given.

I think it's important I also highlight that payee bank accounts in fraud cases could be in hands of dangerous criminals/individuals with possible links to organised crime – or indeed a vulnerable person/innocent party or someone who themselves are also a victim. So, if on receipt of this information, Mr H intends to contact the payee, I strongly suggest he seeks advice – from the police or a solicitor – before attempting recovery of funds, and to leave any practical steps which need to be taken to the appropriate authorities.

This naturally leads on to the question of whether Virgin Bank's omission is a basis upon which I can ask it to refund G's outstanding loss. And I'm sorry to disappoint Mr H but I don't think it does. During one of our conversations Mr H made suggestions that Virgin Money's delay in responding to his request for this information has impacted his ability to recover G's outstanding loss. But I've seen no evidence to support this. Whether or not Mr H could've even recovered any money through civil means rests on so many unknown factors and/or variables that I can only base my conclusions on what I think is most likely, and whilst I accept the point Mr H has made about his persistency, on balance, based on what we've seen in scam cases, it's unlikely acting more promptly (in relation to obtaining and sharing the accountholder details) would've resulted in a higher recovery amount. So it follows that I can't ask Virgin Money to refund G's outstanding loss as I can't fairly conclude that it's omission was the cause of it.

And just because I don't think Virgin Money are liable or culpable for G's outstanding loss, doesn't mean that I'm inadvertently finding G liable. For absolute clarity I accept G has been the innocent victim of a scam, but this alone isn't a basis upon which I can ask Virgin Money to refund its outstanding loss. I can only do so if I find that Virgin Money's acts or omissions have fairly and reasonably caused its loss. And here for the reasons I've outline above I can't say they have.

Finally, Mr H has asked our service to consider whether the £350 compensatory offer made by Virgin Money is fair and reasonable, in light of the poor service and time he's needed to spend dealing with the matter, taking into account he is a "one-man band". Firstly, G is a distinct and separate legal entity. It is the eligible complainant. So I can only consider the impact on the entity itself, rather than the person bringing its complaint – here Mr H. G isn't an individual person, it can't experience distress, pain or suffering. But it can, of course, experience inconvenience and or damage to its reputation. And I do think in a scenario such as this where the company is made up of just one director, the inconvenience caused can have a greater impact than if the complainant were a larger company. So with all this in mind I've considered whether it would be fair and reasonable to direct Virgin Money to pay G more than the £350 compensatory award it has made for delays, poor service and lack of communication whilst handling G's fraud claim. Clearly Mr H is disappointed with how Virgin Money have handled matters, and I agree with him that it could've done a better job, but I think the offer it has made is a fair and reasonable way to resolve this aspect of G's complaint. So I won't be asking Virgin Money to pay anything more than the £350 it has already offered to pay. Of course, I have considerable sympathy for the situation in which Mr H has found himself. I know he needed to find additional funds to settle the payment with the supplier, and whilst Virgin Money had returned around half of G's loss, I appreciate there was still a deficit, which to a company like G was significant, and from what Mr H has said caused it to have severe difficulties. But ultimately, I think the majority of this stems from the actions of the fraudster – not Virgin Money, so it wouldn't be fair to ask it to compensate G for inconvenience it suffered as a result of another party's actions.

My provisional decision

For the reasons outlined above, but subject to any further information I receive from either Mr H or Clydesdale Bank Plc trading as Virgin Money I'm intending to uphold this complaint in part.

To put things right I intend to direct Clydesdale Bank Plc trading as Virgin Money to:

- Within 28 days of acceptance of the decision ask TSB Bank to provide it with all relevant information for the collection of G's lost funds; and within 56 days of acceptance of the decision provide G all available relevant information in order for G to claim repayment of the funds.*

- *Pay G £350 compensation if it hasn't already been paid."*

Virgin Money responded and said it has asked its Fraud Team to action the request with TSB Bank. It also shared an extract of G's bank statement to show that a compensation award of £400 was paid into G's account on 5 September 2022.

Mr H responded and naturally he was disappointed with my provisional decision. To summarise, he said he fundamentally disagreed and reiterated the reasons for why, in his opinion, Virgin Money ought to have done more, and why he believes it could've prevented G's outstanding loss. He said there is an absence of culpability and justice, G is the victim; and the scammers have profited and been allowed to *"escape with the swag"*. He still believes that G's complaint about Virgin Money and its complaint about TSB Bank should both be considered together; that G should receive a refund of its full loss (from one or both banks); and that the compensation award should be increased as the sum paid by Virgin Money is derisory.

Mr H also pointed out that he's not seen all the evidence that has been relied upon to reach the conclusion that the sum Virgin Money returned to G was what was available for recovery in the recipient account. He also questioned the validity of some of the things which I set out in the background of this complaint. In the interest of being fair to Mr H, before finalising my decision, I shared with him a redacted copy of the recipient account statement. I also set out for him where the information in the background came from.

Now that both parties have had an opportunity to comment, I can go ahead with my 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 am sorry to hear that G has fallen victim to a scam. Understandably Mr H wants to do all that he can to try and recover as much of G's loss as possible. But nothing he has said in response to my provisional decision has persuaded me to deviate from the outcome I've reached, as set out above.

I appreciate Mr H remains of the opinion that G's complaint about Virgin Money and its complaint about TSB Bank should both be considered together – and that one or both banks should reimburse G's outstanding loss. I note in his submissions, he says the reason for why he agreed and accepted the outcome reached in relation to G's complaint about TSB Bank was that he needed the money. He says acceptance was under duress, as without it TSB Bank wouldn't have made the payment. I can sympathise with the position Mr H found himself in, but this still doesn't change the fact that the complaint I'm considering here is against Virgin Money, not TSB Bank – and as I've set out in my provisional decision, under the rules which govern this service, a complaint must be framed by the complainant against a firm, based on its own acts and omissions, and decided by an Ombudsman accordingly. And here I have considered Virgin Money's acts and omissions as the remitting bank and G's payment service provider – and based on everything I've seen there isn't a basis upon which I can fairly and reasonably ask Virgin Money to pay G's outstanding loss.

Mr H says he has done nothing wrong, and that Virgin Money have a moral obligation to put the matter right despite the reasons I have given for why it doesn't need to. I understand that he thinks the outcome I've reached is unfair as: this is a *"David and Goliath matter"*; *"they feel little pain, I feel a lot of pain"*; and *"banks have the funds, profits and infrastructure ... This loss is huge to me and a drop in the ocean for them"*. But none of these are a basis upon which I can fairly direct Virgin Money to refund G's outstanding loss. I've also taken on board Mr H's comments about technology which exists that confirms recipients of emails only review them for a maximum of 10 seconds and his belief that this is a critical factor. But to be clear I'm not disputing or deciding G's blameworthiness – that is not the test. I accept that G has been the innocent victim of a scam, but this doesn't automatically entitle G to a refund from Virgin Money. I can only ask Virgin Money to refund G's outstanding loss, if I can reasonably conclude that its act, or omission was the cause of it, and for the reasons set out in my provisional decision I can't say that it was. I've also noted Mr H's concerns that the criminals have *"got away with the swag"* but my role does not extend to investigating the individual(s) that perpetrated the scam – that is a criminal matter and one for the police and courts.

Ultimately, Mr H's response to most of the explanations I've provided, and the reasoning I have given for the conclusions I've reached is that he simply doesn't agree. And where Mr H has provided a reason, he hasn't said or presented anything new that changes my mind, or that which I haven't already considered. So it follows that I have no reason to depart from the outcome I reached in my provisional decision.

I appreciate Mr H feels strongly that G's complaint should be fully upheld. I know my decision will be disappointing and isn't the answer he was hoping for. But I hope it brings some closure to this matter for him. He has expressed repeatedly that he holds a different opinion and doesn't agree with my conclusions. And that's ok. Mr H is in no way obliged to accept what I've said, in which case he remains free to pursue this matter on G's behalf by alternative means (if possible) should he wish to do so. He should consider taking independent legal advice if that's a course of action he intends to pursue.

Putting things right

As both parties have confirmed that the compensatory award has already been paid to G. To put things right Clydesdale Bank Plc trading as Virgin Money need to:

- If it hasn't already done so, within 28 days of acceptance of the decision ask TSB Bank to provide it with all relevant information for the collection of G's lost funds; and within 56 days of acceptance of the decision provide G all available relevant information in order for G to claim repayment of the funds.

My final decision

For the reasons given above, my final decision is that I uphold this complaint in part and direct Clydesdale Bank Plc trading as Virgin Money to take the actions outlined in the "putting things right" section of this final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask G to accept or reject my decision before 1 December 2023.

Sonal Matharu
Ombudsman