

Complaint

Miss H is unhappy that Clydesdale Bank plc trading as Virgin Money ("Virgin Money") didn't reimburse her after she fell victim to a scam.

Background

In August 2023, Miss H fell victim to a scam. The precise details are unclear but, as I understand them, she was looking for a job and was contacted by someone on a social media platform. They offered her a role which involved carrying out tasks online. Unfortunately, and unknown to Miss H at the time, that person was a scammer.

Miss H's recollections as to how this scam unfolded are opaque and have, at times, been inconsistent. On 30 August, and before any payments had been made, Miss H called Virgin to ask why a card payment she'd attempted to make to a cryptocurrency platform hadn't been processed. An employee of the bank explained that it had a policy of not allowing card payments to cryptocurrency platforms. She was told that, if this was something she wanted to do, she'd need to find an account with another bank.

The following day, she made a small card payment to an account with a separate business that I'll refer to as R. A little under £16,000 was transferred from her account with Virgin Money over a period of nine days. I understand that, as part of the employer's fake verification process, she shared identification documents with the person who'd contacted her. She was given access to an online platform, but also asked to download several apps to her device. These included an app for R, as well as several apps for cryptocurrency platforms.

When discussing what had happened with an employee of the bank, Miss H provided some background information on how the scam unfolded. She said that the scammers sent her a link which she followed, and this allowed an account with R to be opened. She says that she didn't know that she was opening an account with R – she simply thought it was an extension of the platform she was using to carry out the tasks. She conceded that she made some of the earlier payments but that the remainder were taken without her permission.

The payments took place between 31 August and 8 September 2023. On 5 September, Miss H was apparently experiencing technical problems with her online banking app, and so she called Virgin Money to attempt to make a payment by telephone banking but wasn't able to do so. She's also confirmed that, during this period, she received text messages from Virgin Money which sought to check whether she'd authorised a particular transaction. She says that she responded 'yes' because she thought this related to a different, and legitimate, transaction.

Once Miss H realised that she'd fallen victim to fraud, she notified Virgin Money. It looked into things, but it said it wasn't liable because Miss H had made the payments to an account with R that was in her own name. There had been no financial loss at the point the money left her account with Virgin.

She wasn't happy with the response from the business and so she referred her complaint to

this service. It was looked at by an Investigator who didn't uphold it. Miss H disagreed with the Investigator's view and so the complaint has been passed to me to consider and come to a final decision.

Findings

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

Under the Payment Services Regulations 2017, the basic position is that Virgin Money can hold Miss H liable for the disputed payments if the evidence suggests it's more likely than not that she made or otherwise authorised them. I've carefully considered the evidence that's been provided by both sides. Having done so, I'm persuaded that it's fair and reasonable for Virgin Money to hold her liable for these payments.

Virgin Money has supplied technical evidence which shows that the transactions were properly authenticated and that her security credentials were used to make them. Miss H has said that she thinks fraudsters took control of her account in order to make these payments. But the information shared with me by Virgin Money shows that the same device that authorised these payments had been allocated the same unique identifier on its system as Miss H's genuine phone, matched the make and model, used the same version of the same operating system and was accessing the internet via an IP address located in roughly the same part of the country as she lives.

It's also significant that, when Miss H called Virgin Money on 5 September, she told the call handler *"I would like to transfer £4,000 over to my [R] account please."* This isn't consistent with the version of events she shared with us. Miss H told us that she didn't knowingly have an account with R but it's clear, by this point at least, that she recognised that she did and was knowingly transferring money to it.

Overall, I'm persuaded that the evidence shows it's more likely than not that Miss H did authorise these payments, even though she's fallen victim to a scam.

Other issues

Virgin Money was expected to be on the lookout for uncharacteristic account activity that might have been an indication that Miss H was at risk of financial harm due to fraud. On spotting such activity, I'd expect it to take some steps to protect her from that risk. Virgin Money did eventually freeze her account because it was concerned about potential fraud. It's likely this would've prevented her from suffering any subsequent losses to the same scam. It could be argued that it could've intervened sooner than it did. But in any case, given that Miss H denies making the payments, I think that, even if it had provided her with a warning, it's difficult to argue that it would've made a difference.

I don't say any of this to downplay or diminish the fact that Miss H is the victim here. I have a great deal of sympathy for her and the position she's found herself in. However, my role is limited to looking at the actions and inactions of the bank and I'm satisfied it didn't do anything wrong in not agreeing to refund her losses.

Final decision

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 12 June 2024.

James Kimmitt
Ombudsman