

The complaint

Miss S says Clydesdale Bank Plc, trading as Virgin Money, irresponsibly lent to her.

What happened

Miss S took out a credit card from Virgin Money in December 2021. She requested a limit that would allow a balance transfer of £12,100 and a money transfer of £500. She was given a credit limit of £4,200.

Miss S says she could not afford this credit card, and when she contacted Virgin Money about her problems with the repayments it did not respond. She adds that she has serious mental health problems and severe anxiety, this has made them worse.

Virgin Money says it made a fair lending decision based on the information Miss S provided and the data it received from one of the credit reference agencies. It said it had sent Miss S an income and expenditure form by email and post in order to look at a reduced repayment plan, but Miss S had not returned a completed copy. However, it apologised for its delayed response to Miss S's complaint and offered £50 compensation.

Our investigator upheld Miss S's complaint in part. He said Virgin Money's checks were not proportionate and better checks would have shown the credit to be unaffordable for Miss S.

Virgin Money disagreed with this assessment and asked for an ombudsman's review. It said it seems Miss S did not make accurate declarations when she applied. It also allocated a lower limit than she asked for based on its checks and lending policy.

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.

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account when considered Miss S's complaint.

Virgin Money needed to take reasonable steps to make sure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Miss S could afford to repay what she was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and Miss S's income and expenditure. Certain factors might point to the fact that Virgin Money should fairly and reasonably have done more to establish that any lending was sustainable for Miss S. These factors might include Miss S's income, how much the repayments were, the frequency of the borrowing and how long Miss S had been indebted.

This means in this case I need decide if Virgin Money carried out proportionate checks; if so, did it make a fair lending decision; and if not what would better checks most likely have

shown. I will also consider if Virgin Money acted unfairly towards Miss S in some other way.

I can see Virgin Money asked for some information from Miss S when she applied. It asked for her gross annual income and housing costs. It verified her declared income with a credit reference agency using current account turnover. It carried out a credit check to understand her credit history and existing credit commitments. From these checks it concluded Miss S would be able to afford a card with an opening limit of £4,200.

I am not satisfied these checks were proportionate in the circumstances of Miss S's application. Miss S was on a relatively low income and was, at the time, spending a significant proportion of this income on her credit commitments. So I think Virgin Money needed to carry out a fuller financial review before lending.

I note it argues that its card allowed Miss S to transfer in existing debt and benefit from a promotional interest rate so it was financially beneficial for her – but this does not change my finding. I accept this would be the case initially for a portion of the debt, but Miss S was applying for an open-ended line of credit with a range of interest rates. And as the credit limit allocated allowed for just a partial balance transfer she would not be able to close the other card. So the lender's decision opened up more credit to Miss S. I find Virgin Money need better assurances this would be affordable for Miss S.

I have reviewed Miss S's bank statements from the three months prior to her application. I am not saying Virgin Money had to do exactly this but it is a reliable way for me to understand what better checks would most likely have shown the lender. And I think Virgin Money would have realised there was a high risk that increasing Miss S's indebtedness would result in financial harm for her. I say this as it would have learnt Miss S's income was lower than she had declared at around £1,120 per month (not £1,381 as it used). So she was already spending over 40% of her income on credit (assuming a 5% repayment of balance on her revolving debt to allow for payment of interest and capital). I think Virgin Money, as a responsible lender, would have been concerned by this information and made a different lending decision. I anticipate Virgin Money would re-iterate that she was taking out its card for the balance transfer offer, but for the reasons set out in the previous paragraph that does not alter this finding.

It follows I find Virgin Money was wrong to lend to Miss S.

In its response to our investigator's assessment Virgin Money said that as Miss S's application contained two falsehoods (her current level of credit and income) it will register this as first party fraud. But there could be a number of plausible reasons why these discrepancies occurred. I would remind it that it needs to have more than just a suspicion or concern. It needs to be able to show that it has reasonable grounds to believe that fraud or a financial crime had been committed or attempted, backed up by evidence which would support it being reported to the authorities.

I have then considered if Virgin Money acted unfairly towards Miss S in some other way. She says it ignored her when she contacted it for help, and didn't respond to her complaint in a timely manner. Virgin Money says following her contact in June 2022, it tried to respond on 17 June 2022 to ask for more information about her circumstances but was unsuccessful. Its Specialist team then updated her account on 18 June 2022 saying as she was currently up to date with payments it would contact her again in 3 months' time, but if she was struggling prior to this then to get in touch. In September 2022, her account was still up to date and she made her monthly minimum payments until October 2022.

Virgin Money says it emailed Miss S on 16 December 2022 with an income and expenditure form so it could decide if there was a suitable payment plan. As it did not hear back from

Miss S it says it sent the income and expenditure form again, by email and post, on 20 January 2023. At the time of the final response letter it still had not received a completed form. So in this respect I do not find Virgin Money ignored Miss S as she recalls.

I note it agreed however that it was slow to respond to Miss S's complaint. For this it offered £50 compensation. As we cannot review complaint points that relate to complaint handling (this is not a regulated activity so we have no power to investigate it) I can only advise Miss S to contact Virgin Money directly if she now wishes to accept its offer.

I am sorry Miss S has suffered so much as a result of her financial difficulties and I hope she now has the support she needs. StepChange (tel: 0330 055 2198) and MIND (tel: 0300 123 3393) are organisations that can provide free assistance with debt management and mental health support respectively if not.

Putting things right

As I don't think Virgin Money ought to have opened the account, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. But I do think Miss S should pay back the capital she has borrowed as she has had the benefit of that money.

Therefore, Virgin Money should:

- Rework the account removing all interest, fees, charges and insurances (which have not already been refunded) that have been applied.
- If this results in Miss S having made overpayments these should be refunded to Miss S along with 8% simple interest (calculated from the date of overpayment to the date of settlement)*.
- If this will result in an outstanding balance, Virgin Money should agree an affordable repayment plan with Miss S bearing in mind its obligation to treat her fairly and with forbearance as appropriate. Miss S will need to complete an up-to-date income and expenditure form.
- Once Miss S has cleared any outstanding capital balance, any adverse information in relation to the account should be removed from her credit file.

*If Virgin Money deducts tax from the interest element of this award, it should provide Miss S with the appropriate tax certificate so she can submit a claim to HMRC if applicable. If it intends to apply any refund to reduce the outstanding balance it must do so after deducting the tax.

My final decision

I am upholding Miss S's complaint in part in that I find it made the wrong lending decision. Clydesdale Bank Plc, trading as Virgin Money, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 1 April 2024.

Rebecca Connelley
Ombudsman