

The complaint

Mr L complains that Clydesdale Bank Plc trading as Virgin Money was irresponsible when it offered him credit.

What happened

Virgin Money opened a credit card account for Mr L in on 6 May 2021 with a credit limit of £9,300. This type of credit was an open-ended or running account facility. I understand that on opening the account Mr L transferred a credit balance of £2,000 to another card and took out a cash amount of £6,500, benefitting from an interest-free offer.

Mr L complained to Virgin Money in August 2023 that it had been irresponsible to open the account for him because he was in severe financial difficulty at the time. Mr L said he had large debts, including an overdraft and credit cards, and he suffered from a gambling addiction.

Virgin Money didn't uphold Mr L's complaint. It said it relied on information he'd provided along with information from his credit file, and there was nothing in the information it relied on to suggest that he was in financial difficulty. Virgin Money concluded that it acted correctly in opening the account for Mr L and providing him with £9,300 of credit.

Mr L brought his complaint to us. Our investigator assessed the complaint and didn't recommend that it be upheld. They found that Virgin Money didn't conduct proportionate checks before opening the account for Mr L but they didn't have enough information to find that Virgin Money had lent irresponsibly.

Mr L disagreed with our investigator's recommendation and asked for his complaint to come to an ombudsman to review and resolve.

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've also had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as Virgin Money, need to abide by. Virgin Money will be aware of these, and our approach to this type of lending is set out on our website, so I won't refer to the regulations in detail here but will summarise them.

Before entering into a credit agreement, Virgin Money needed to check that Mr L could afford to repay the credit out of his usual means, within a reasonable period of time, without having to borrow further and without experiencing financial difficulty or other adverse consequences. The checks needed to be proportionate to the nature of the credit, for example the amount offered, and to Mr L's particular circumstances.

Ultimately, Virgin Money needed to treat Mr L fairly and take full account of his interests when making its lending decision. CONC gave an example of contravening this as 'targeting customers with regulated credit agreements which are unsuitable for them by virtue of their indebtedness, poor credit history, age, health, disability or any other reason.'

With this in mind, my considerations are did Virgin Money complete reasonable and proportionate checks when it opened the account for Mr L to satisfy itself that he would be able to repay the credit offered within a reasonable period of time? If it didn't do this, what would reasonable and proportionate checks have shown? Did Virgin Money make a fair lending decision?

Having considered these questions, I've come to the same conclusion as our investigator did for broadly the same reasons. I've concluded that Virgin Money didn't conduct a proportionate check before lending to Mr L but, had everything gone as it should have, it would still have offered him credit and so he didn't lose out because of this error. I appreciate that this will be very disappointing news for Mr L and I hope the following clearly explains my reasons for not upholding his complaint.

When Mr L applied for his credit card account, Virgin Money recorded that he had a gross income of £53,400 and estimated he received around £3,300 a month net. It checked this figure using a credit reference agency tool which considered bank account turnover. Virgin Money also checked Mr L's credit file and found he had £13,235 of existing debt, around £9,500 of which had been taken out within the last year. Mr L's existing revolving credit balance was £7,700 and he spent £320 a month repaying this. There was no payment information showing for the non-revolving debt and no adverse information recorded.

Mr L said on his application that he paid £600 a month towards his mortgage/rent and Virgin Money estimated his other expenses to be around £1,010. Virgin Money concluded that the credit card repayments would be affordable for Mr L.

In some circumstances I could consider that the checks Virgin Money conducted were proportionate. However, in this case, considering the level of Mr L's existing debt and how recently this had been taken on, and the amount of credit it was now offering him, I think Virgin Money should have looked for further evidence of Mr L's finances to assess whether he could repay the credit within a reasonable period of time. Mr L had applied for a balance transfer but he'd also applied for a cash transfer, and so he was potentially increasing his overall debt.

Mr L provided bank statements for the account his income was paid into for the months before and after the account opening covering the period 6 February to 31 July 2021. To be clear, I'm not suggesting Virgin Money ought to have looked at Mr L's bank statements specifically, but it is the information I have and I think it's reasonable for me to rely on these to consider what a proportionate check might have revealed at the time.

The statements confirm that Mr L's income was around £3,250 a month on average prior to the account opening (on 6 May). Mr L spent about £500 a month repaying debt, including a loan, three credit cards and his overdraft interest, and around £1,000 on household expenses either directly or via his partner. Mr L also regularly spent money via an online platform for trading cryptocurrency – ranging from £150 in February to £2,500 (or £1,154 net) in April, and almost £900 in the first week of May.

The bank statements show that Mr L was reliant on his £4,300 overdraft to the extent that his wages didn't take him out of it and he reached his limit towards the end of each month just before his wages were paid. By the 6 May 2021 his overdraft had reached its limit again.

I think Virgin Money would have been concerned that Mr L was reliant on credit but for the fact that he regularly transferred £1,000 and more a month to another account referenced 'savings'. Mr L told us that he hadn't told his partner about his cryptocurrency usage and was saving the money to show them he was thinking about the future. I think it's likely he would have told Virgin Money this had it asked.

It's difficult for me to find that Mr L would not have been able to repay this credit within a reasonable period of time out of his usual means. The regulations state that repaying credit out of one's usual means can include savings. I don't know the extent of Mr L's savings but he had transferred £3,300 with this savings reference in the three months prior to opening the account. We asked Mr L for statements for his savings account but he was unable to provide these and he told us the account was now closed. He did tell us that he eventually used these savings to clear some of his debts.

I don't think further checks would have shown Virgin Money that the amount of credit it was offering would have been unaffordable for Mr L out of his usual means. And so, even if everything had gone as it should have, I think Virgin Money would have continued with the account opening. I can't reasonably conclude that it was irresponsible to have opened the account for Mr L with the information it had at the time.

I have also considered whether Virgin Money made a fair lending decision here and paid due regard to Mr L's interests when it offered him credit. Mr L shared with us that he was suffering from a heavy gambling addiction at the time and that he was using cryptocurrency sites to gamble. He said had a high level of existing debt and that offering him more credit severely impacted on his mental health. I am very sorry to hear of Mr L's difficulties and I hope that things are easier for him now.

I haven't seen anything that makes me think Virgin Money were aware, or should have been aware, of Mr L's specific difficulties at the time. As I've said, it seems from the bank statements I've reviewed that Mr L could have covered his spending on cryptocurrency had he not been saving such large amounts. I can't reasonably conclude that Mr L's spending patterns were causing him such obvious financial harm that Virgin Money should have declined to lend to him because the credit would have been unsuitable.

Mr L used his overdraft to a maximum of about £1,100 in the three months after the account opening and so it seems his reliance on this had reduced. He also continued to transfer considerable sums into his savings. Altogether, I can't conclude that Virgin Money got something wrong in this matter which impacted adversely on Mr L and so I am not upholding his complaint.

My final decision

For the reasons I've set out above, I am not upholding Mr L's complaint about Clydesdale Bank Plc trading as Virgin Money and don't require it to take any action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 26 June 2024.

Michelle Boundy
Ombudsman