

## **The complaint**

Ms A complained about the service she received from Clydesdale Bank Plc, trading as Virgin Money.

## **What happened**

Ms A had a credit card with Virgin. She made a balance transfer in 2019, following which the balance was zero.

On 29 June 2022, a new Virgin credit card was opened in Ms A's name. The balance was zero until a number of transactions in late September and early October. From then on, the statements on the account showed monthly payments due. Virgin also sent letters when no payments were received.

Virgin issued a default notice for the outstanding £1,130.09, and on 4 May 2023 it sent Ms A notice that it had terminated the agreement and required the full balance to be paid immediately. It said her credit file would be updated to reflect the default, and the account might be sold to a third party which would be responsible for recovering the debt.

On 25 May 2023, Ms A contacted Virgin. She said she had credit cards with several financial organisations, and she'd seen that three of them had started to reduce her credit limit. So she'd checked her credit file and had seen that a Virgin credit card had been opened in her name. She told Virgin that she hadn't opened this.

Virgin investigated. During this time, Ms A made several of calls to Virgin. She was promised return calls, but these didn't happen. When Virgin had investigated, it accepted that she'd been a victim of identity fraud. It wrote off the debt and recorded a protective CIFAS marker.

Ms A complained. She raised multiple points, including wanting to know how the fraudulent account had been opened, and how it passed ID checks, including the details of her bank. She wasn't convinced by Virgin's suggestion that her bank statements might have been intercepted in the post, because she had paperless statements. She believed someone within Virgin had committed the fraud. Under the data protection regulations GDPR, she asked for copies of all communication, known as a Data Subject Access Request (DSAR). She also said she believed there was a maiden name recorded on the account, and she wanted Virgin to tell her what that was.

In Virgin's final response letter on 3 July, it apologised that Ms A had been given incorrect information and hadn't received a call back. It said that as Ms A had been a victim of identity fraud, it had passed the relevant details to its credit operations team, which looked to put Ms A back in a pre-error position. It confirmed that it had reported the account to CIFAS on 6 June, and had written to Ms A about this.

Virgin also said that Ms A's bank details had been provided as part of the fraudulent application. But it said that it appeared that the primary objective of the fraudster was to obtain a credit card in Ms A's name rather than make immediate payments or transactions. And it said there was no evidence to suggest that Ms A's account had been compromised

internally, and it did not uphold this part of her complaint. It sent her copies of communications under her DSAR.

Virgin offered Ms A £100 for the part of her complaint which it had upheld, relating to giving her incorrect information and not calling back.

Ms A wasn't satisfied and contacted this service.

Our investigator didn't uphold Ms A's complaint. She said that the Consumer Credit Act 1974 states that a consumer shouldn't be held liable for a credit agreement taken out by an unauthorised party. She explained that this service would expect the bank to carry out a detailed investigation, and decide whether the application was authorised or not.

The investigator said that:

- Virgin had accepted that Ms A had been a victim of identity theft, and that it had reported this to CIFAS, and told Ms A it had done so;
- Virgin said that it had also had the fraudulent account removed from Ms A's credit file, and Ms A had provided the investigator with evidence which showed this had been done;
- In relation to the DSAR, Ms A had complained that she hadn't received what she wanted. But because the credit card application had been fraudulent, the data used hadn't been Ms A's and couldn't be shared. Virgin had emailed Ms A to explain this on 26 June;
- Ms A had said that she believed it had been a Virgin employee who had carried out the fraud. Virgin had said it took such allegations very seriously and had investigated, but had found no evidence that this had happened;
- Ms A had said that Virgin should have requested payment from her bank, as these details had been used to set up the fraudulent account. She said this would have meant she'd found out sooner. The investigator said that Virgin couldn't have done this, because it would have needed a request from the account holder to set up a payment method such as a direct debit mandate;
- Ms A had said that her credit limit with other banks had been reduced, and that this caused her distress as she'd been going to pay an energy bill with one and pay for a holiday on another. The investigator explained that this couldn't be taken into account when considering compensation from Virgin. She said that Ms A could contact the other banks and provide them with Virgin's final response letter to indicate that she'd been a victim of identity theft, and could then pursue this with her other banks.
- The investigator concluded that Virgin had fulfilled its obligations to Ms A. She said Virgin's offer of £100 for the parts of Ms A's complaint which it had upheld, was in line with what she'd have offered Ms A if Virgin hadn't done so.

Ms A didn't agree. She said:

- Virgin had told her it was her own name and address on the account, so she thought there wouldn't be any breach of data protection if Virgin disclosed letters sent out about the fraudulent account, because they'd have been addressed to her;
- She believed that as she had another Virgin credit card, the fraudulent application should have been picked up when it was made;
- She said Virgin had already disclosed to her that the fraudulent account included a mother's maiden name. She said she had a mother's maiden name on her genuine Virgin credit card. She believed this meant that if the maiden name on the genuine account matched that on the fraudulent account, it must have been internal fraud by a member of Virgin's staff and she wanted this service to look into that;
- Ms A also said that she'd provided a screenshot of what her credit file had previously been. She accepted that Virgin had removed the account, but her credit score was

still very low. Ms A said a lot of details had been overlooked. She said Virgin had failed to investigate the fraudulent account, and had kept reporting the account on her credit file without taking any further action.

Ms A asked for an ombudsman's 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.

Virgin accepted that Ms A was a victim of identity fraud, so that isn't an issue for me to consider. I've focused on Ms A's complaint points to this service.

It's accurate that a business can't disclose personal information relating to another individual. So, in relation to the account which Virgin accepted was fraudulent, it doesn't have to disclose everything on that account. That's because some of it related to the fraudster. If Ms A wishes to pursue this further, she can contact the Information Commissioner's Office. This regulates compliance with data protection laws, but Ms A should be aware that it doesn't award compensation.

Ms A believes the fraudulent application should have been picked up by Virgin when it was made. But not every fraudulent application can be immediately identified, and it doesn't make any difference that Ms A had an existing credit card with Virgin. Here, as Virgin pointed out in its final response letter, whoever opened the account didn't immediately make transactions on it. Often fraudsters will carry out transactions immediately, to maximise their gain before the account can be blocked. But that didn't happen here, which meant it was less likely that either Virgin or Ms A would flag the account as a potentially fraudulent one.

I don't agree that the presence of a correct mother's maiden name on the fraudulent account would mean that a Virgin employee was responsible. I haven't seen the mother's maiden name on either the genuine or fraudulent account, but it wouldn't make any difference to the outcome here. Fraudsters obtain information in many ways, and here someone also knew Ms A's name, address and bank details. A matching mother's maiden name wouldn't be the deciding factor to prove it was a Virgin employee who opened the account.

Credit scores are affected by multiple factors. It's not for me to determine what Ms A's credit score should be. All I can do is consider whether or not Virgin acted correctly in relation to the data it supplied to the credit reference agencies, once Ms A had contacted it to report the account as identity fraud. Here, Virgin removed the disputed account, as Ms A has accepted. Virgin also recorded a CIFAS marker on 6 June, which I find was within a reasonable time from when Ms A reported the problem to Virgin on 25 May.

Finally, I note that Virgin offered Ms A £100 compensation for any distress and inconvenience caused in relation to not calling Ms A back. I find that this was more than fair, and Ms A should contact Virgin if she now wishes to accept this.

### **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 Ms A to accept or reject my decision before 12 April 2024.

Belinda Knight  
**Ombudsman**