

The complaint

Mr H complains that Clydesdale Bank Plc trading as Virgin Money ("Virgin") acted in an irresponsible manner when initially opening him a credit card account in June 2020, and later increasing his credit limit in February 2022.

What happened

Mr H applied for, and was granted, a credit card from Virgin in June 2020. He was initially given a credit limit of £8,200 of which £3,008 was used as a balance transfer and £3,900 as a money transfer. In February 2022 Virgin offered Mr H an increase to his credit limit. Mr H accepted the offer and his credit limit was increased to £9,200.

Mr H complained that the credit card should not have been provided to him at all. He said that he suffers from serious mental health difficulties and has been deemed unfit for work. He says he finds it difficult to meet the minimum payments he needs to make on his credit card. He has asked that Virgin writes off his remaining balance and removes any adverse information from his credit file.

Virgin didn't agree with Mr H's complaint. It said its credit checks when the account was opened didn't indicate that Mr H would face any difficulties with repaying the lending. And it said that further checks, before offering the credit limit increase, didn't show any significant worsening of Mr H's financial position, although it notes his position did worsen shortly afterwards. Unhappy with that response Mr H brought his complaint to us.

Mr H's complaint has been assessed by one of our investigators. He didn't think the checks Virgin had done before agreeing the credit card account had been sufficient. But he didn't think that better checks would have resulted in Mr H's application being declined. The information that Virgin received from the credit reference agency about Mr H's income, together with what it would have seen from better checks about his expenditure, would have suggested that Mr H could afford to repay his borrowing. But the investigator didn't think the limit increase should have been agreed as Mr H had told Virgin around six months earlier that he was facing some financial difficulties. So the investigator asked Virgin to reconstruct Mr H's credit card account as if no limit increase had taken place.

Virgin accepted the investigator's findings, and says it has made the requested corrections to Mr H's credit card account. Mr H didn't agree with the assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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 approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding Mr H's complaint.

The rules and regulations at the time Virgin first gave the credit card to Mr H required it to carry out a reasonable and proportionate assessment of whether he could afford to repay what he owed in a sustainable manner. This assessment is sometimes referred to as an “affordability assessment” or “affordability check”.

The checks had to be “borrower” focused – so Virgin had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Mr H. In practice this meant that Virgin had to ensure that making the repayments wouldn’t cause Mr H undue difficulty or adverse consequences. In other words, it wasn’t enough for Virgin to simply think about the likelihood of it getting its money back, it had to consider the impact of any repayments on Mr H.

Checks also had to be “proportionate” to the specific circumstances of the credit card application. In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit they are seeking.

In light of this, I think that a reasonable and proportionate check ought generally to have been more thorough:

- the lower a customer’s income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);
- the higher the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);
- the longer the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should’ve been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I’ve kept all of this in mind when thinking about whether Virgin did what it needed to before agreeing to lend to Mr H.

Virgin says that it gathered information about Mr H’s income, both from what he had declared and from a credit reference agency. And it further checked Mr H’s credit file to assess how much he was repaying to other creditors, and how he had managed credit in the past.

The balance and money transfers that Mr H requested from Virgin would be initially offered at 0% interest. That interest free period would run for periods of 24 and 12 months respectively. I think it would be reasonable for Virgin to base its lending decision on an expectation that Mr H would want to clear those balances within the interest free period. And the additional credit limit that Virgin provided would also allow Mr H to take some further borrowing. So the monthly repayment Mr H might need to make on that additional borrowing would also need to be accounted for in Virgin’s calculations.

I think the information that Virgin gathered might have caused some concerns. The income reported by the credit reference agency was significantly lower than had been declared by Mr H. And whilst the credit check showed Mr H generally ran his accounts well and had limited indebtedness, Mr H had asked for a balance transfer of more than £3,000. The credit check didn’t show outstanding balances of anywhere near that amount suggesting some

data might be missing or incomplete. So I think it would have been proportionate for Virgin to make some further enquiries about Mr H's actual financial circumstances.

But although I don't think the checks Virgin did before opening the credit card were sufficient, that in itself doesn't mean that Mr H's complaint should succeed. I'd also need to be persuaded that what I consider to be proportionate checks would have shown Virgin that Mr H couldn't sustainably afford the repayments he would likely need to make.

Our investigator asked Mr H to provide us with evidence of his financial circumstances at the time he applied for the credit card, so we could see what information Virgin might have taken into account before agreeing to lend to him. Mr H has only provided us with bank statements for one of his current accounts – his credit file shows at least three other accounts were open at that time.

The information shown on the bank statements Mr H sent to us is very limited. It doesn't show any evidence of any income he was receiving – whether from employment or benefits. Nor does it show much in the way of day to day living costs. I understand that Mr H was still living with his parents at the time so those costs might have been small. But without a complete picture of what his financial circumstances were like at the relevant time I can't say that if Virgin had completed sufficient checks it would've found that Mr H couldn't afford to make the required repayments on the credit card. So I cannot say that proportionate checks should have led Virgin to decline Mr H's application

Mr H got in touch with Virgin in June 2021 to explain that he was facing some financial difficulties. But, at that time, he refused Virgin's offer of assistance in the form of a payment plan as he was concerned about the impact it would have on his credit history. And it does seem that Mr H had been generally able to maintain his account in line with his contractual obligations up to that time.

But I haven't seen anything that would have made Virgin think that Mr H's financial circumstances had significantly improved by the time it offered him an increase in his credit limit. Mr H had continued to just make the minimum payments of his account over those months. Virgin has said it based its offer on data it received from the credit reference agency in December 2021. Although at that time Mr H's credit file didn't show any significant increases in his borrowing, that doesn't mean he remained able to meet his commitments in a sustainable manner. So I'm not satisfied it was reasonable for Virgin to increase Mr H's credit limit in early 2022.

Mr H has told us about the difficulties he faced, and continues to face, with his mental health, and the impacts those have on his decision making in relation to his financial commitments. But I haven't seen anything that makes me think those difficulties were something that Mr H made Virgin aware of either before his account was opened, or whilst it was operating. And I don't think they were something that Virgin should reasonably have discovered from what I would consider to have been proportionate checks. So whilst I have great sympathy for the problems Mr H faces, I don't think they would suggest wrongdoing on the part of Virgin.

So, in summary, I don't think it was unreasonable for Virgin to initially open the credit card account for Mr H. But I don't think it was fair for Virgin to increase Mr H's credit limit in February 2022. So Virgin needs to put things right as I set out below.

Putting things right

I don't think it was responsible for Virgin to increase Mr H's credit limit to £9,200. But, as I have found the granting of the initial limit to be fair, my redress is limited only to any interest or charges on borrowing above Mr H's original credit limit. As Mr H has had the benefit of any spending I do think he should pay that back.

I set out below my expectations of what Virgin needs to do in order to put things right. Virgin has said that it made these corrections in January 2024. If it is satisfied that it has correctly followed the instructions of the investigator, that I repeat below, then there is nothing further it needs to do in order to put things right. So Virgin should ensure that it has completed the following;

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied to balances above £8,200
- If the rework results in a credit balance, this should be refunded to Mr H along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Virgin should also remove all adverse information recorded after 4 February 2022 regarding this account from Mr H's credit file.
- Or, if after the rework the outstanding balance still exceeds £8,200, Virgin should arrange an affordable repayment plan with Mr H for the additional amount. Once Mr H has cleared the outstanding balance above £8,200, any adverse information recorded after 4 February 2022 in relation to the account should be removed from his credit file.
- Virgin should reduce Mr H's credit limit back to £8,200.

*HM Revenue & Customs requires Virgin to deduct tax from any award of interest. It must give Mr H a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

My final decision

My final decision is that I uphold a part of Mr H's complaint and direct Clydesdale Bank Plc trading as Virgin Money to ensure it has put things right as detailed above

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 30 May 2024.

Paul Reilly
Ombudsman