

## **The complaint**

Mr B has complained Clydesdale Bank plc, trading as Virgin Money, added a fraud-related marker in his name to the industry fraud database, CIFAS.

## **What happened**

In July 2023 Virgin Money closed Mr B's account. They'd received an alert from another bank about money paid into Mr B's account from an impersonation scam. As Virgin Money could see funds being paid to another payment service with all the correct authentications being used, they believed Mr B had been part of the fraud. They closed his account and lodged a fraud marker with the industry fraud database, CIFAS.

Mr B had held his main account with another bank and his salary had been paid into that account. This was closed. Mr B subsequently found he was unable to open another bank account. His mother – as Mr B was only 18 – complained to Virgin Money on his behalf. Virgin Money wouldn't remove the marker.

Mr B's mother brought his complaint to the ombudsman service on his behalf. Mr B explained he'd been the victim of a scam after losing a phone. He'd been called by someone pretending to be from Virgin Money and passed over codes and debit card details. He'd also downloaded a money transfer app on instruction and passed those codes over as well. This enabled money to be paid into Mr B's Virgin Money account which was then transferred to the money transfer app.

Our investigator believed Virgin Money hadn't given Mr B an opportunity to explain what had happened. She asked them to remove the fraud-related markers. She also noted the impact this had had on Mr B, losing his bank account and job, and asked Virgin Money to pay him £300 for the trouble caused.

Mr B accepted this outcome. Virgin Money didn't. They were unconvinced by Mr B's story and asked an ombudsman to review this complaint.

## **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.

Having done so, I've reached the same outcome as our investigator. I'll explain why.

It is clear what the requirements are prior to lodging a fraud-related marker. Specifically:

*“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted.*

*The evidence must be clear, relevant and rigorous.”*

So Virgin Money must be able to provide clear evidence that an identified fraud was being committed and Mr B was involved.

There's also a requirement that Virgin Money should be giving the accountholder an opportunity to explain what was going on.

I've seen the evidence provided by Virgin Money. This confirms the money paid into Mr B's account was fraudulently received and the payments being made from Mr B's account.

However overall I'm not satisfied Virgin Money's evidence is sufficient to lodge any fraud-related markers. I say this because:

- Mr B has told us that when he opened up his Virgin Money account, he had been intending to use it to save extra bits of money from his wages and money from his main account.
- After losing his phone (Mr B had two phones – a personal and work-related one), Mr B was duped by someone who persuaded him to hand over security details of his account and load a money transfer app. Mr B was young at the time and was prepared to go along with what was asked of him.
- I'm not sure Mr B realised the seriousness of what was happening. Partly I suspect because of his financial naivety but also as his Virgin Money account was barely used, he wasn't massively worried about it. And I can also see he never shared what had happened with his mother but now accepts this was a mistake.
- I've seen evidence about the funds paid into Mr B's account. These were the result of someone being scammed. There's no doubt this money wasn't his.
- There's no evidence that Virgin Money contacted Mr B to discuss what had happened. I appreciate what they've said about not sharing their fraud investigations with customers, but this doesn't take into account the requirement on them to give Mr B an opportunity to explain himself under the fraud-related markers guidelines. This was a mistake and may well have brought this issue to a close much earlier.

Stupidity and youth are no defence against fraud. Unfortunately it's not unusual for 18-year-olds to lie in moments of confusion and embarrassment. And I'm not convinced that lying alone is adequate reason for a CIFAS marker to be lodged.

I've considered whether Mr B has told us the whole truth about what has gone on here. It's certainly the case that he could have been a more willing participant in what happened. However I think this is not the case. I also note there's no evidence Mr B benefitted financially in any way.

### **Putting things right**

Like our investigator, I don't believe there's sufficient evidence to show Mr B was involved in the fraud that happened on his account. It's therefore fair and reasonable to ask Virgin Money to remove any fraud-related markers that they may have added to Mr B's record.

Our investigator has asked Virgin Money to pay him £300 in total. I considered whether a lower amount – £150 say – would have been fair and reasonable instead. However I have decided to stay with the £300. I say this as although Mr B could have explained what had happened much earlier and this may have led to this case being resolved earlier, there's no doubt that fraud-related markers have a major impact on young individuals and Mr B's main account was closed and he had to give up his job. These are serious impacts.

Mr B has told us this has had an emotional and physical impact on his mother who's

supported him through this. I'm sorry about this and can appreciate, as a mother of a young adult myself, what she must have gone through. Our rules don't allow me to consider any additional compensation because of the impact on his mother although I don't dispute this will have been the case.

### **My final decision**

For the reasons given, my final decision is to instruct Clydesdale Bank plc, trading as Virgin Money, to

- remove all fraud-related markers from Mr B's record; and
- pay Mr B £300 for the trouble caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 11 July 2024.

Sandra Quinn  
**Ombudsman**