

Complaint

Mr W has complained that Clydesdale Bank Plc (trading as “Virgin Money”) irresponsibly provided him with a credit card, which it then increased the credit limit on.

Background

Mr W was provided with a credit card, which had an initial credit limit of £4,000.00 in August 2021. The credit limit was increased to £7,000.00 in February 2023.

One of our investigators reviewed what Mr W and Virgin Money had told us. And she thought that while Virgin Money didn’t do anything wrong when initially providing the credit card, it ought to have realised that it shouldn’t have increased Mr W’s credit limit to £7,000.00 in February 2023. So she partially upheld Mr W’s complaint and recommended that Virgin Money repay all of the interest added to Mr W’s credit card on balances above £4,000.00.

Virgin Money disagreed with the investigator’s view. So the case was passed to an ombudsman for review.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr W’s complaint.

Having carefully considered everything provided, I’m partially upholding Mr W’s complaint. I’ll explain why in a bit more detail.

Virgin Money needed to make sure that it didn’t lend irresponsibly. In practice, what this means is Virgin Money needed to carry out proportionate checks to be able to understand whether Mr W could afford to repay before providing Mr W with his credit card.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower’s income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we’d expect a lender to be able to show that it didn’t continue to lend to a customer irresponsibly.

I’ve kept this in mind when determining whether the checks Virgin Money carried out were reasonable and proportionate.

Why I don't think it was unfair for Virgin Money to have initially provided Mr W with a credit card which had a credit limit of £4,000.00

Mr W was initially provided with a credit card which had a limit of £4,000.00. As this was a revolving credit facility, Virgin Money was required to understand whether Mr W could repay around £4,000.00 within a reasonable period of time.

From the information provided, I understand that Mr W was asked to provide a declaration of his income which was cross-checked against information that Virgin Money received from credit reference agencies on the amount of funds going into Mr W's main bank account each month. And Virgin Money carried out a credit check, which it has provided an output of the results of, in order to understand what his existing credit commitments were.

Virgin Money's credit checks suggest that Mr W had nine active accounts and didn't have any significant adverse credit information – such as defaulted accounts or county court judgments – recorded against him.

It also says that when reasonable repayments to Mr W's existing credit commitments together with what he declared for his rent and a reasonable estimate of his other living costs were deducted from his income, he had sufficient funds left over to repay what he would owe within a reasonable period of time, if he had used the entire £4,000.00 available to him.

I've thought about what Virgin Money has said.

What's important to note is that Mr W was provided with a revolving credit facility rather than a loan. And this means that Virgin Money was required to understand whether a credit limit of £4,000.00 could be repaid within a reasonable period of time, rather than all in one go. I accept that the monthly payments required to repay £4,000.00 within a reasonable period, weren't so obviously low that it wouldn't take much information on Mr W's circumstances to determine that Mr W could afford this.

However, in this instance, I'm mindful that Virgin Money understood what Mr W's payments were to his existing credit commitments, had an idea of what his rent was and was reasonably entitled to be confident about the income that he declared. Furthermore, there wasn't anything in the credit check results to indicate that Mr W was experiencing difficulty either. So I think that it was reasonable to conclude that Mr W could afford to make the required payments.

Given the information provided indicated that Mr W could afford to repay £4,000.00 and the third-party information supported this being the case, I don't think that reasonable and proportionate checks would have extended into Virgin Money doing anything further here.

As this is the case, I don't think that Virgin Money did anything wrong when initially providing Mr W with a credit card which had a credit limit of £4,000.00 - it carried out proportionate checks and reasonably relied on what it found out which suggested the repayments were affordable.

I'll now consider the credit limit increase to £7,000.00 which Virgin Money agreed in February 2023.

Why I think that Virgin Money ought to have realised that it shouldn't have increased Mr W's credit limit to £7,000.00

I understand that Virgin Money increased Mr W's credit limit to £7,000.00 from £4,000.00 after he made an application using his mobile banking app in February 2023. Virgin Money hasn't been particularly clear about what checks it did at this stage.

It has referred to carrying out a silent check of Mr W's credit file with a view to detecting anything adverse and checking his indebtedness. But it isn't clear to me what a silent check of Mr W's credit file involves and in its response to our investigator's view, what Virgin Money has done is simply resubmit the headline results of the credit check it carried out when it accepted Mr W's initial application in August 2021.

Nonetheless, in its initial submission, Virgin Money provided a file entitled CLI data. The information in this file suggests that Mr W may have had 22 active credit accounts (up by 13 in the 18 months since Mr W's credit card account was initially opened) and that he owed £16,323.00. But there isn't anything in this information to indicate what Mr W would have to pay each month towards these commitments. I don't know whether this included what Mr W owed on his Virgin Money account and I've not been provided with any details of his repayment record on his card either.

Furthermore, I can't see any output of Virgin Money having rechecked Mr W's income or having taking steps to reconfirm what his living costs were at this stage. As this limit increase took place some 18 months after Virgin Money initially asked for this information, I don't think that it was reasonable to simply assume that this information hadn't changed.

Indeed, having considered the paucity of the information that Virgin Money has provided on the credit limit increase, it seems to me that it expects me to accept that its checks before providing this limit increase were proportionate, because it says it was. And I'm afraid that without the evidence to back this up, I'm not prepared to simply accept this.

In my view, in order for Virgin Money's checks to have been reasonable and proportionate, I would have expected it to have had a reasonable understanding of Mr W's income, the broad make up of his credit commitments and also have an understanding of Mr W's regular living costs. And I think that it would have been reasonable and proportionate for Virgin Money to have known this before offering this credit limit increase to £7,000.00.

As I've not been provided with sufficient evidence with persuades me that Virgin Money did have such an understanding of Mr W's circumstances, I don't think that the checks it carried out before agreeing to increase Mr W's credit limit to £7,000.00 were reasonable and proportionate.

As I'm satisfied that reasonable and proportionate checks weren't carried out before Mr W's credit limit was increased, I can't say for sure what such checks would more likely than not have shown. Nonetheless, I still need to decide whether it is more likely than not that proportionate checks would have told Virgin Money that Mr W would have been unable to sustainably repay £7,000.00 within a reasonable period of time.

As I've explained, I think that Virgin Money needed to have a reasonable understanding of Mr W's income, the makeup of and payments to his existing credit commitments and an understanding of his regular living costs before increasing Mr W's credit limit to £7,000.00. Having looked at Mr W's income, payments to existing credit commitments and his regular living expenses, I'm satisfied that Mr W is unlikely to have been able to make the required payments to repay a credit limit of £7,000.00.

What I've seen and what Virgin Money has been provided with copies of, from around the time, suggests Mr W was borrowing from a number of payday type and high-cost lenders. And a significant proportion of his income was taken up by his existing living costs and

repayments to his existing creditors. The information provided also shows the main reason why Mr W's finances were the way that they were and why this was likely to have a significant adverse impact on his ability to sustainably make his repayments.

I don't think that Mr W was in a position where he is likely to have had the funds to make the payments that would have been necessary to repay £7,000.00 within a reasonable period of time, while also maintaining his existing commitments and without suffering significant adverse consequences.

Bearing all of this in mind, I'm satisfied that reasonable and proportionate checks would more likely than not have demonstrated that Mr W would not have been able to repay £7,000.00 within a reasonable period of time and certainly without borrowing further.

In these circumstances, I find that reasonable and proportionate checks would more likely than not have alerted Virgin Money to the fact that Mr W couldn't afford to sustainably repay a credit card which had a limit of £7,000.00 in February 2023. And so Virgin Money didn't act fairly and reasonably when it increased Mr W's credit limit to £7,000.00 in February 2023.

Mr W ended up paying and is still being expected to pay interest on a credit card limit increase which shouldn't have been provided. So I'm satisfied that he lost out because of what Virgin Money did wrong and that Virgin Money should now put things right.

In reaching my conclusions, I've also considered whether the lending relationship between Virgin Money and Mr W might have been unfair to Mr W under section 140A of the Consumer Credit Act 1974.

However, I'm satisfied that the direction set out below will result in fair compensation for Mr W given the overall circumstances of his complaint. I'm also satisfied that, based on what I've seen, no additional award is appropriate in this case.

Fair compensation – what Virgin Money needs to do to put things right for Mr W

Having carefully considered everything, I'm satisfied that it would be fair and reasonable, in all the circumstances of Mr W's complaint, for Virgin Money to put things right in the following way:

- rework Mr W's account to ensure that from February 2023 interest is only charged on the first £4,000.00 outstanding - to reflect the fact that the credit limit increase to £7,000.00 should not have been provided. All late payment and over limit fees should also be removed;
- if an outstanding balance remains on Mr W's account once all adjustments have been made, it should contact Mr W to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mr W's credit file, it should backdate this to when it shouldn't have provided the credit limit in the first place;
- if the effect of all adjustments results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr W along with 8% simple interest† on the overpayments from the date they were made until the date of settlement. If no outstanding balance remains on Mr W account after all adjustments have been made, then Virgin Money should remove any adverse information it (not any third party) has recorded from Mr W's credit file.

† HM Revenue & Customs requires Virgin Money to take off tax from this interest. Virgin Money must give Mr W a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained, I'm partially upholding Mr W's complaint. Clydesdale Bank Plc (trading as "Virgin Money") Bank Plc should put things right in the way I've set out above.

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

Jeshen Narayanan
Ombudsman