

The complaint

B, a partnership, complains that Clydesdale Bank Plc (trading as Virgin Money) won't refund them for transactions that were made as part of a scam.

What happened

The background to this complaint is well known to both parties, and largely not in dispute. So I will mention it only briefly here. In February 2024 one of the partners of B, Mr L, was contacted by someone claiming to be from Virgin Money's fraud department. In the course of several calls, he was persuaded that B's account was in danger of fraud, and that he needed to transfer his funds to a safe account. After he made two transactions of £3,062.01 and £9,174.62, another partner in B contacted Virgin and it was discovered the entire situation was a scam.

Virgin contacted the receiving bank and were able to recover £8,154.89. B asked Virgin to reimburse them for the remaining losses, explaining how calls and texts Mr L had received seemed to genuinely come from Virgin. But Virgin declined to refund the remaining losses, arguing that the transactions were themselves not out of character for B's account and that they wouldn't have intervened to prevent them.

Unhappy with this B referred their complaint to our service. One of our investigators looked into it, but thought it was reasonable for Virgin to decline to refund the remaining losses. B disagreed, and as such the complaint has been passed to me to decide.

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 broadly the same conclusions as the investigator. I am sorry to hear the impact this has had on the partners in B. This was no doubt a very sophisticated scam perpetrated on them, and I've no reason to doubt their sincerity in what they've told us happened.

There doesn't seem to be any dispute that Mr L authorised the payments from B, albeit under false pretences. And he was permitted to transact on the account. So, the starting position under the relevant regulations – the Payment Services Regulations 2017 – is that Virgin should process the transaction as instructed. And there's nothing in the regulations to say that Virgin should be liable for any losses beyond that point.

Virgin were signed up to the CRM Code at the time – which says that the bank will voluntarily reimburse certain victims of authorised push payment fraud for their losses. But the code itself only applies to specific customers of the firms signed up to it. In this case the most relevant is a "microenterprise", which is defined as an enterprise that employs fewer than 10 people, and whose annual turnover and/or balance sheet doesn't exceed EUR 2million. I understand through B's conversations with our service that the number of employees can fluctuate as their work is seasonal. But typically, it averages over a year to

be more than 10 employees. So, for our purposes it wouldn't meet the definition of a microenterprise, and the CRM code wouldn't apply.

This leads me to consider what is fair and reasonable in the circumstances. Virgin have an obligation to monitor their customers' accounts for signs they may be falling to financial harm. If a particular payment, or sequence of payments, looks significantly high risk, unusual or out of character, then I may expect the bank to intervene – for example by blocking a payment until they've been able to discuss the reason for it being made. The hope here is that any fraud or deception is uncovered.

I'm not persuaded that the two payments made were so significantly unusual that Virgin should have declined to process them. The amounts are towards the high end of what has been paid before, but they don't stand out as incredibly out of place. The account held a healthy balance at the time, and these amounts didn't come close to using a large portion of the balance. And B's account had been used to make rapid series of payments previously. From the bank's perspective, I accept there weren't any clear indicators at the time that the payments were anything other than genuine.

I'm satisfied that Virgin contacted the receiving bank within a reasonable time after being notified of the fraud – and most of the funds could be recovered and returned to B. I've seen nothing to suggest that there were any delays by Virgin when trying to recover B's funds. Mr L has highlighted that calls and texts seem to genuinely come from a Virgin Money number. This is unfortunately a common feature of scams, in that fraudsters can spoof what number they are contacting you from. But I don't believe this is down to any failing on Virgin's part.

I've no doubt this was a very unpleasant experience for the partners of B, and I can sympathise that there were targeted by such a sophisticated scam. But I'm not persuaded there is a reasonable basis to hold Virgin responsible for refunding B's remaining losses. As such, I'm not asking them to do anything further.

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 B to accept or reject my decision before 7 March 2025.

Thom Bennett
Ombudsman