

## **The complaint**

Mr P is unhappy about the service he has received from Clydesdale Bank Plc trading as Virgin Money ("VM") in relation to a Data Subject Access Request (DSAR). In particular, he is unhappy that it failed to make reasonable adjustments when fulfilling this request.

## **What happened**

On 21 September 2023 Mr P raised a DSAR with VM. Mr P requested VM to send him information via USB and all correspondence and notes on A4 sized paper and asked that the information is provided in chronological order, easily accessible and in a comprehensible format.

Mr P had previously advised VM that he has a visual impairment and so required documents issued in large print or format. VM had already issued some documents as part of a separate DSAR on A3 paper as it was unable to change the size of the text within its systems such as bank statements. So in order to make text larger, screen shots had to be scaled up and printed on A3. VM explained in its letter dated 11 August 2023 to Mr P at the time it could provide this on A4, but the text size would be very small.

By letter dated 19 October VM acknowledged Mr P's DSAR of 21 September and stated that it had previously advised him it was unable to change the size of text within certain systems, but as per Mr P's request it issued and enclosed all his documentation on A4 sized paper but in standard font size.

The letter further advised it had sent calls in an encrypted USB separately (on 23 October) and provided a password to access these.

Mr P sent an email to VM on 1 November advising that the DSAR received was incomplete and inaccurate and made a further DSAR for the phone calls.

VM sent out the password on 22 November and the requested call recordings on 27 November by recorded delivery. Mr P says he received the call recordings but not the password.

Mr P raised a complaint with VM regarding this.

VM issued its final response to this on 26 January 2024. VM said it could evidence the password for the USB was sent and so didn't uphold this aspect of Mr P's complaint but again requested a DSAR for calls since the previous one was raised.

Mr P was dissatisfied with this and so brought his complaint to this service. Mr P complained that:

- He wasn't able to read any of the documents as they weren't in large font as requested;
- The information requested wasn't in date order making it difficult to build a picture of everything that had occurred;

- He wasn't provided with a password to access the USB files;
- VM failed to meet the one-month deadline to respond to the DSAR.

One of our investigators looked into Mr P's concerns and thought that VM had provided all the information requested – including the password - and within the one-month time frame. But they thought that VM could've done more to accommodate Mr P's request and had a conversation with him around how he would like to receive the information that VM was unable to size up on A4 and that VM failed to provide the information in a concise format.

They thought VM should compensate Mr P £200 for the distress and inconvenience this caused which VM agreed to.

Mr P disagreed, he believes a compensatory award of £1,500 for the repeat DSAR failures and at least £500 for the repeat failures to make reasonable adjustments is appropriate and has 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.

I hope that Mr P won't take it as a discourtesy that I've condensed his complaint in the way that I have. Ours is an informal dispute resolution service, and I've concentrated on what I consider to be the crux of the complaint. Our rules allow me to do that. And the crux of Mr P's complaint is regarding the service he received from VM when raising a DSAR.

Mr P has a number of complaints with this service, so for the sake of clarity my decision only covers the period from September 2023 when Mr P requested the top up DSAR, to 26 January 2024 when VM issued its final response to this complaint.

It might be helpful for me to say here that as we are not the regulator, I cannot make VM change its systems or processes – such as the how it communicates with its customers or the technology it uses. These are commercial decisions and not something for me to get involved with. Nor does this service supervise, regulate or discipline the businesses we cover. And my role isn't to punish or penalise businesses for their performance or behaviour – that's the role of the regulator, in this case the Financial Conduct Authority (FCA).

My role rather is to see whether VM have treated Mr P fairly.

But that said while I wouldn't tell a VM how it needs to run its business, or what systems it needs to have in place, where a customer has a disability or vulnerability that reasonably prevents them from using or accessing a service provided by a business, I would expect it to make reasonable adjustments where it can to facilitate its customers being able to achieve their objective – in this case accessing the information contained in the DSAR - via alternative means.

So what I need to consider is given Mr P's circumstances, whether VM did enough to cater to his needs when fulfilling his DSAR.

And having considered everything, I don't think VM providing information on A3 paper as an option – as it did prior to Mr P's September 2023 DSAR - is unreasonable when it wasn't able to size up certain information or documents on A4 paper to a level that Mr P can read.

Just because VM isn't able to make the adjustments to the font size on all documents and print on A4 paper as Mr P requested, it doesn't automatically follow that it has failed to make

reasonable adjustments for him. VM listened to and noted his concerns and found what I think is a reasonable alternative for documents that it can't size up.

I appreciate Mr P would rather not receive this information on A3 paper – as this doesn't fit into his folder - but ultimately VM was still willing to make what I consider a reasonable adjustment to cater to Mr P's visual impairment and his need to receive information in an increased scale or font.

I'm also satisfied from the evidence as stated in the background above, that VR responded to Mr P's DSAR within the month-long timeframe and that it was through no error or mistake on its part that Mr P didn't receive the password to access the USB stick.

However, that is not to say VM has done everything right. Although I accept Mr P specifically requested his DSAR was produced on A4 paper, despite knowing about Mr P's visual impairment and need for a large-scale font or upsizing of information, it failed to explore options with Mr P about what it could do where producing this on A4 paper wasn't appropriate. Instead VM sent him documents it knew wouldn't be suitable or meet his needs which created a barrier for Mr P in accessing the information he'd requested.

Furthermore, it appears that the information provided wasn't in chronological order making it difficult for Mr P to get a clear understanding of what happened. And so I'm in agreement with our investigator that VM have treated Mr P unfairly here and that Mr P should be compensated for the distress and inconvenience this has caused him.

VM have already accepted our investigator's recommended compensation of £200 which I think this is reasonable. I understand Mr P feels this compensatory award is too low, but I haven't seen that Mr P has suffered any financial loss due to VM's actions and as stated above it is not our role to punish or penalise businesses for their performance or behaviour. And so, I think £200 compensation is a fair way to settle this complaint as I'm not persuaded an uplift on this is warranted for the inconvenience suffered.

### **My final decision**

For the reasons I've explained I've decided to uphold Mr P's complaint against Clydesdale Bank Plc and direct it pay Mr P £200 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 8 December 2024.

Caroline Davies  
**Ombudsman**