

## **The complaint**

Mr A complains that Clydesdale Bank Plc trading as Virgin Money was irresponsible in its lending to him.

## **What happened**

Mr A was provided with a Virgin Money credit card in October 2022. The credit limit was £2,400 and hasn't been increased. Mr A said that Virgin Money didn't carry out adequate checks before the credit was provided to ensure that it was affordable for him. He explained that he was living on a low income from benefits and was struggling financially. He said he remains on a low income and is only able to make his minimum repayments by borrowing from friends or not paying for essentials.

Virgin Money issued a final response not upholding Mr A's complaint. It said that when Mr A applied for the credit card account, he said he was employed with an annual income of £33,000. It said that it used a combination of factors when assessing the application and based on the information Mr A provided and that received from the credit reference agencies the credit limit was assigned. It said its checks didn't show that Mr A was struggling financially when the account was opened.

Mr A wasn't satisfied with Virgin Money's response and referred his complaint to this service.

Our investigator upheld this complaint. She noted the checks that Virgin Money carried out before lending but thought that as the credit limit provided was above Mr A's monthly income further checks should have been carried out to ensure the lending was affordable. She said that had these happened, Virgin Money would have realised that Mr A wasn't in employment. Our investigator found that Mr A's income at the time was around £453 and that his monthly non-discretionary spend exceeded this. Therefore, she said that reasonable and proportionate checks would have shown the agreement to be unaffordable.

Virgin Money responded to our investigator's view. It asked to see the account statements from Mr A's second current account. It said the balance transfer that Mr A completed on his Virgin Money credit card enabled him to close one of his other accounts reducing his monthly commitments (the balance transfer was on a promotional rate of 0%). Virgin Money said that Mr A's declared income was verified through current account turnover data and that Mr A had declared he was employed on his application.

Mr A said that he had never used his second current account. Our investigator looked at the income verification and noted that the credit reference agency returned information saying it wasn't able to find data to provide an estimate of Mr A's income. She said that Mr A's income hadn't been verified and so she maintained that proportionate checks didn't take place and had these happened the lending would have been shown to be unaffordable.

Virgin Money didn't agree with our investigator's second view. It said that at the time of application Mr A was comfortably maintaining two other credit card accounts. He then completed a balance transfer on his Virgin Money credit card putting him in a better financial situation. It said it had followed industry standards when making its decision and noted that

Mr A had been able to take out further credit in the following months which it didn't think he would have been able to had he been unemployed and on the low income our investigator identified. It reiterated that Mr A had said on his application that he was employed but our investigator had taken his testimony that this wasn't the case.

As a resolution hasn't been agreed, this complaint has been passed to me, an ombudsman, to issue a 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.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, and the total cost of the credit.

Mr A was provided with a credit card account with a credit limit of £2,400. Before this was provided, Virgin Money gathered information about Mr A's employment and income and carried out a credit search. It said that Mr A declared he was employed with an annual income of £33,000. The credit check showed he had six active accounts with no defaults or county court judgements recorded. His total unsecured debt was recorded as £1,983 and this was revolving debt. Mr A applied for a £934 balance transfer as part of his application.

I do not find that the credit check results raised concerns that Mr A was struggling financially at the time and I do not find the results meant that further questions needed to be asked. But noting the size of the credit limit given, I think it would have been reasonable to have verified Mr A's income to ensure that the credit was affordable for him.

Virgin Money has shown that it did go through a verification process with a credit reference agency based on current account turnover data. I find this reasonable. However, the results of this check weren't conclusive as the credit reference result was recorded as 'no relevant CATO data found'. While I note the information returned showed a previous application with a declared income of £33,000, as the verification wasn't able to take place for this application, I think further checks should have been undertaken to confirm Mr A's income.

Virgin Money wasn't required to request copies of Mr A's bank statements, but these could have been used to confirm the income he was receiving at the time. While Virgin Money said that Mr A declared that he was employed on his application, he has told this service that he was unemployed. Mr A has said from what he remembered he obtained the credit card through a comparison tool and the information held on the system was used which may not have been accurate. He explained that he was struggling financially and with his mental health at the time. So, while I agree that Mr A was required to provide accurate information, Virgin Money was also required to carry out reasonable checks to ensure the lending was affordable. In this case, I think that had reasonable checks happened, the issue with Mr A's income would likely have been identified.

Looking through Mr A's bank statements these show that he was receiving benefits at the time. There were also transfers in and out from a family member. Mr A has explained that he was living with the family member at the time and made payments for rent and bills and

these payments were sometimes made in cash. The bill payments are recorded, and these, added to the cash withdrawals, exceed receipts into the account from the family member. However, given the variability of these transactions I have excluded these from this calculation.

So, considering Mr A's income from his benefits, this averaged around £443 in the months leading up to the lending. He was making regular payments for costs such as other credit commitments, utilities, communication contracts and food. These averaged around £688 a month. As Mr A had negative disposable income, I find that further checks would have shown the lending to be unaffordable.

I note the comment Virgin Money has made about the balance transfer. While this may have reduced some of Mr A's credit costs at the time, proportionate checks would have shown that any additional lending wasn't affordable and so I do not find this changes my position that this credit card account shouldn't have been provided.

I've also considered whether Virgin Money acted unfairly or unreasonably in some other way given what Mr A has complained about, including whether its relationship with Mr A might have been viewed as unfair by a court under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Mr A in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

### **Putting things right**

As I don't think Virgin Money ought to have opened the account, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. But I think Mr A should pay back the amounts he has borrowed. Therefore, Virgin Money should:

- Rework the account removing all interest, fees, and charges (not already refunded) that have been applied.
- If the rework results in a credit balance, this should be refunded to Mr A along with 8% simple interest per year\* calculated from the date of each overpayment to the date of settlement. Virgin Money should also remove any adverse information regarding this account from Mr A's credit file.
- Or, if after the rework there is still an outstanding balance, Virgin Money should arrange an affordable payment plan with Mr A for the remaining amount. Once Mr A has cleared the balance, any adverse information in relation to the account should be removed from his credit file.

\*HM Revenue & Customs requires Virgin Money to deduct tax from any award of interest. It must give Mr A 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 Clydesdale Bank Plc trading as Virgin Money should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 14 February 2025.

Jane Archer  
**Ombudsman**