

The complaint

J has complained Clydesdale Bank plc, trading as Virgin Money, should have done more to prevent them being a victim of a scam.

What happened

Mr R acts a sole trader for a business called J. Mr R is in his 80s and retired in 2006. J's business account was retained as he kept the business premises.

Mr R was the victim of a romance scam over a number of years after having signed up to dating websites. He was persuaded to provide gift cards and money to different women and accounts. In 2023 he believed he was assisting a woman to move to the UK where she would be a doctor. He used J's account to send at least five cheques between June and November 2023 totalling £46,000.

As Mr R's daughters were increasingly concerned about their father's health and cognitive impairment, they became aware of this spending and tried to do what they could to limit their father's ability to send more money.

Miss R, one of Mr R's daughters, has shown she and her sisters and their mother hold a Power of Attorney for Mr R. Miss R complained to Virgin Money that they'd done nothing to protect J's account and should have refunded the money lost under the Contingency Reimbursement Model code.

Virgin Money didn't believe they were liable. They also confirmed that cheques did not fall under the CRM code.

Our investigator reviewed what had happened. He believed the cheques written by Mr R should have been identified as unusual, and that if Virgin Money had taken action, J's losses would have been reduced.

He asked Virgin Money to refund £33,000 along with 8% simple interest.

Whilst Miss R, on behalf of J accepted this outcome, Virgin Money disagreed. They pointed out the cheques were excluded from the Payment Services Regulations 2017 so didn't believe they had any liability for what happened.

J's complaint has been referred to an ombudsman for 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.

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

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light

of the evidence.

I note Miss R has provided a copy of the investigation carried out by Trading Standards. This makes distressing reading and clearly shows Mr R was cruelly scammed, despite not being aware of it and refusing to believe it when it was pointed out to him.

I won't be going into any of the other details about how Mr R became involved in this scam, but I believe it's fair to take account of this report and can confirm I'm satisfied this was definitely a scam.

As part of this, Mr R paid money into J's account on two separate occasions (which was an unusual activity in itself) and wrote more than five cheques. These were paid into an account held at another financial institution who, when they became aware, blocked the account. By this stage no funds remained that could be refunded to Virgin Money.

It's generally accepted that Virgin Money has an obligation to follow R's instructions to pay out on cheques written and properly executed. There's no debate here that Mr J wrote these cheques.

Virgin Money has pointed out that the PSRs don't apply here. That's not in doubt. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that Virgin Money should:

- have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.
- in some circumstances, irrespective of the payment channel used, have taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

The key here is that this obligation exists irrespective of the payment channel used. And the industry has spent time and money investing in measurements to streamline cheque processing whilst enabling banks to identify and pick up on potential cheque fraud. Whilst it is true that for most banks this means they check that these were written by the genuine account holder – which isn't the issue here – as numbers of cheques written decrease, they become more unusual payment instruments and high-value (for example over £5,000) cheques can more easily be identified.

Like our investigator, I'm also satisfied that Virgin Money ought to have recognised that these payments carried a heightened risk of financial harm from fraud. I say this because:

- the use of J's account was practically dormant. Virgin Money in their own submission admits *"in the year prior to this there was limited activity on the account: no cards active and one regular direct debit"*. Large credits into this account on 7 July 2023 of £10,000 and on 31 August 2023 of £31,002.51 should have alerted Virgin Money to

increased activity.

- I don't believe the first cheque of £3,000 – which would fall under any bar for checking – would have caused any intervention. However, a second cheque of £10,000 should have been noticed and should have alerted Virgin Money to a potentially concerning pattern.
- Therefore, at the time two cheques for £14,000 were presented for payment (and cheques are debit instruments rather than authorised push payments), Virgin Money should have taken action.
- Although I believe Virgin Money should have picked up on the two cheques for £14,000 apiece, I also note that cheques later were paid out of sequence (which Virgin Money highlight as one of the reasons for checking cheques) and at least one cheque was returned as unpaid. It's a shame Virgin Money took no further action at this time.

It almost doesn't matter what type of intervention that was as any contact Virgin Money could have made with Mr R, would have meant I believe they'd have noticed his vulnerabilities. They'd certainly have been aware of his age and taken this into account. Mr R had no reason not to explain why he was writing these cheques, and I believe any explanation would have demonstrated to Virgin Money that they could decide not to pay out on these.

Putting things right

I will be asking Virgin Money to refund £33,000 to J. Unfortunately, this is likely to be only a small amount of Mr R's (or J's) losses to this scam.

They will need to add 8% simple interest from the date of these withdrawals from J's account.

My final decision

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

- Refund £33,000 to J; and
- Add 8% simple interest to the money lost from the date of withdrawals from J's account until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 25 September 2025.

Sandra Quinn
Ombudsman