

The complaint

Mrs T has complained Clydesdale Bank plc, trading as Virgin Money, failed in any safeguarding of her expenditure when she spent on gaming sites in 2024-25.

What happened

Mrs T is represented in her complaint by her husband. For ease I will refer to both throughout this decision.

From 21 October 2024 to 10 January 2025, Mrs T spent more than £1,000 on her Virgin Money credit card on gaming sites. Mrs T has mental health issues and believes she made these transactions during a period of mania which means she has no liability for them. She has asked Virgin Money to refund her.

Virgin Money confirmed the transactions had been authorised and they didn't believe there was anything further they could have done.

Our investigator confirmed she'd considered Virgin Money's requirements under the legislation and guidance Mr T had highlighted on his wife's behalf. She didn't agree that Mrs T was unable to consent to the transactions and believed she had done so. She wasn't convinced that Virgin Money should have done more.

Still unhappy, Mr T has asked an ombudsman to consider his wife's complaint.

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.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

To help me come to a decision, I've reviewed the evidence Virgin Money provided as well as Mr T's testimony on behalf of his wife. I've also noted the contents of our investigator's view of 2 May 2025, but don't feel the need to repeat many of those points.

The regulations which are relevant to Mrs T's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves.

The PSRs state there are two elements to authorisation: authentication and consent. The

transactions were executed using Mrs T's credit card details which evidence suggests she set up herself. There's no dispute that it was Mrs T using her credit card so, under the PSRs, I believe she consented to those transactions.

Therefore I believe all of these transactions were authorised by Mrs T. Mrs T disputes this, as she believes she lacked mental capacity at the time.

I don't doubt Mrs T has mental health issues. That said, I've seen no medical evidence to confirm this. I note Mr T has stated his wife's health has been confirmed by different government agencies.

Mr T has provided a power of attorney which he has had witnessed, on behalf of his wife, to demonstrate that he has authority over management of her accounts. This isn't a formal power of attorney as registered by the Office of Public Guardian, but rather more evidence of Mr T's representation of his wife. Virgin Money may require additional evidence depending on their policies on this matter.

According to Virgin Money's evidence, it was only when Mr T contacted them in correspondence dated 17 January 2025, along with the power of attorney, that they became aware of Mrs T's vulnerabilities. This should now be noted on her customer record, although they've not yet been notified directly by Mrs T of her condition.

Our service has pressed Virgin Money to demonstrate whether they held any earlier record of Mrs T's health. Their records show nothing despite Mrs T holding an account with them since 2020.

I've considered the legislation Mr T has highlighted – specifically mental health legislation. He states that transactions made by someone with a mental health condition are not enforceable. But this very clearly isn't the case. I note there is provision to set them aside but only if certain conditions exist. Those conditions don't exist here.

I may have taken a different view, if Virgin Money had been aware of Mrs T's condition and done nothing. But again, this isn't the case here.

I've reviewed the transactions themselves to consider whether Virgin Money should have been alerted by the type of transactions Mrs T was making that intervention was required.

The type of transactions being undertaken and the way these were executed would I believe show Virgin Money that these were being undertaken by Mrs T herself.

So, for example, these transactions were spread out over nearly a period. Mr T has argued these were done in a manic period and I have considered this argument. But I don't believe I'd have expected Virgin Money to identify these transactions as requiring intervention. I say this because:

- These were done over a three-month period;
- Over a 10-day period (say in December 2024) Mrs T made 18 transactions. However, during this period Mrs T was never in danger of exceeding her credit limit – and in fact, always had more than £1,000 of a further credit ceiling.
- The expenditure per month is evenly spread and doesn't seem excessive: £263.18, £463.58, £224.78 and £78.96.
- Within this period, Mrs T also made a balance transfer of more than £5,000 which far

exceeded the other disputed transactions Mrs T was making.

I appreciate this must have been a distressing period for Mrs T. However, I don't believe there are sufficient grounds to suggest I should ask Virgin Money to set those authorised transactions aside.

My final decision

For the reasons given, my final decision is not to uphold Mrs T's complaint against Clydesdale Bank plc, trading as Virgin Money.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 23 September 2025.

Sandra Quinn
Ombudsman