

## Complaint

Miss S is unhappy with Virgin Money plc's handling of payments to her credit card account, and delays in removing late payment markers on her credit file.

## Background

Miss S had a Virgin Money credit card. She said she paid £600 in July 2018 to clear her account, but the payment wasn't made to her account because she'd provided the wrong reference number. And she said late payment charges and late payment markers were then applied to her account.

She said Virgin Money had told her it would remove the late payment marker from her credit file. But in September 2018 when this didn't happen, Miss S complained and said she told it she wouldn't be making any further payments because she'd waited so long for this to be resolved.

In January 2019 Miss S complained again to Virgin Money. She said that the late payment markers were still on her credit file. She said it told her that it would remove the original late payment markers, but not the ones applied after she stopped paying in September 2018.

Virgin Money issued a further final response letter in January 2019. This was in response to Miss S's later complaint about the late payment markers still being in place. It said that it had sent a further instruction to the credit reference agencies for the late payment markers for May 2018 and July 2018 to be removed. It also said that it would not be removing the late payment markers for September to December 2018.

One of our investigators investigated this complaint. He said that he was unable to consider the original complaint because Miss S had brought the complaint to us more than six months after Virgin Money had issued its final response letter. He looked at the later complaint and said that he felt that the monthly account statements clearly set out the amount of arrears, the minimum payment required, and the date it must be paid by.

He then explained how he'd reviewed the complaint using our "*inquisitorial remit*". He felt that Virgin Money should have been aware of Miss S's potential vulnerability when she asked for a credit limit increase in May 2018. He acknowledged that it tried to address her gambling transactions and financial difficulties, but he felt it could've done more. He said that it should refund all charges and interest from 10 May 2018, with interest.

Miss S agreed but said Virgin Money should have been aware of her situation from around June 2017 to October 2017 and asked that all charges back to then be refunded.

Virgin Money disagreed with our investigators view and asked for an ombudsman decision.

I issued a provisional decision in January 2020. My findings were as follows:

- I was satisfied that it made clear to Miss S what she needed to do to meet the minimum payments and to keep her account in order.
- I was satisfied that it was reasonable for Virgin Money to block the account
- I was satisfied that it took reasonable steps to find out more about Miss S's financial difficulties at the time.

I also said that Virgin Money didn't have to refund any interest or charges.

A copy of my provisional decision is attached.

## **Responses**

Virgin Money accepted my provisional decision. It also said that it had invited Miss S to contact its "*Special Support Team*", and asked that team to contact her to agree payments going forward.

Miss S disagreed with my provisional decision. She provided copies of a number of messages she'd sent to Virgin Money's secure messaging service. She said this shows that Virgin Money was aware of her gambling issues and that she was gambling "*thousands per month*".

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I'm partially upholding this complaint. I'll explain why.

Miss S feels that Virgin Money should have been aware she was in financial difficulty because of her gambling problem. She said she was struggling to make the minimum payments and her credit card showed she was spending large amounts on gambling every month. She thinks they should have blocked her card. This would have stopped her gambling on the card and allowed her to clear the amount she owed.

Our investigator felt that Virgin Money was aware of Miss S's potential vulnerability from around February 2018 and it could have done more to help her. He said he didn't think it was necessary for Miss S to tell Virgin Money she was in difficulty. He felt that it should have blocked her account sooner because the account had been over the agreed limit since February 2018, and it had recognised the pattern of spending.

I said in my provisional decision why I felt Virgin Money had taken reasonable steps to discuss the situation with Miss S. And I said it was reasonable for it to accept Miss S's statement that she wasn't in financial difficulty.

I've considered the further information provided by both parties, and looked again at when Virgin Money should reasonably have been aware Miss S had a problem. I've also considered if it should have blocked her card and prevented further spending.

Miss S has provided some statements for the period up to September 2018. These show her estimated gambling spend to be:

- September 2017 statement – more than £14,000 on potential gambling transactions
- October 2017 statement – approximately £5,000 on potential gambling transactions
- December 2017 statement - approximately £6,000 on potential gambling transactions
- January 2018 statement – approximately £2,500 on potential gambling transactions
- February 2018 statement – more than £3,500 on potential gambling transactions

She has also provided a number of messages she sent to Virgin Money on its secure messaging service:

- In June 2017 she asked if it was able to block cash withdrawals on her account
- In March 2018 she said she'd accidentally gone over her credit limit and gave a promise to pay the following month
- In May 2018 she said he'd accidentally left herself short this month, and promised to make the payment two weeks later.
- In September 2018 she told it she had used her full balance to gamble
- In April 2019 she asked it to cancel the last few transactions on her card as these were made when she was drunk. She said this shows she was "*drunk gambling*".

Virgin Money said Miss S told it in October 2018 she wasn't in financial difficulty and didn't have a gambling problem. Despite this, it did have concerns so it flagged her account to its Specialist Support Team. This team would review the account every three months.

Miss S told us Virgin Money wrote to her in January 2019. It told her it was blocking her account because she was more than three months in arrears. So it's clear it was actively reviewing the account and was prepared to take the appropriate steps to prevent Miss S spending more on the account.

Miss S thinks that Virgin Money should have blocked her card in September 2018. She said she told them she did have a gambling problem. In her response to my provisional decision she said told Virgin Money at the time "*I am happy for my account to be active as I am unable to gamble anymore*" but it was supposed to say "*I am not happy for my account to be active as I am unable to gamble any more*". And she repeats it should have been clear to Virgin Money she was struggling.

I'm prepared to accept that she may have made a mistake in her message, but I have to consider what action Virgin Money took on receipt of the message. This exchange shows that it did discuss its concerns with her, and it accepted that she would no longer be gambling. It was at this point it flagged her account to its specialist team – and as noted above, it monitored the account for the next three months, and then blocked it.

But Miss S was allowed to spend on her card after January 2019. Virgin Money wrote to her in February 2019. It said that its Specialist Support Team was aware of her difficulties but confirmed it would remove the block from the account if Miss S felt able to manage her account. She confirmed she was happy to do this. Virgin Money records show that it called Miss S in February 2019 and she said she was happy for the block to be lifted.

It's clear to me that there was sufficient information available to Virgin Money for it to be aware that Miss S had a gambling problem. This is apparent from what she'd said and from the statements in the 12 months up to September 2018. It appears that Virgin Money was

also aware there was a problem, as it passed the matter to its specialist team. In my provisional decision I accepted it had taken the correct steps in October 2018 to assess the risk and to not block the card.

In October 2018 she told Virgin Money she wasn't in financial difficulty. It accepted this but flagged the account for review every three months by its specialist support team. In January 2019, when further payments were missed it blocked the account. But in February 2019, when she called to query this, it agreed to lift the block, following a conversation when she was asked only if she felt able to manage the account.

This is where I feel Virgin Money was irresponsible. It had identified Miss S was in financial difficulty, and in September 2018 she told it she was using the balance on her card to gamble. With this knowledge, I would have expected it to do more before lifting the block. In the circumstances, and considering Miss S's financial difficulties and vulnerability, I would have expected it to be prompted to conduct a further lending check before lifting the block.

I would have expected it to conduct reasonable and proportionate checks to see if lending again to Miss S was responsible. This is because it already had sufficient information about her gambling issues, the impact this had on her spending, and her inability to repay the monthly balance.

Instead of taking responsibility and asking sufficient questions to understand her current situation, it only asked her if she felt able to manage the account. It then granted her access to credit when she said she was able to manage the account. It hasn't shown me any evidence that it asked any questions about her personal circumstances, or anything to suggest her situation had changed since its decision to block the card.

If it had asked further questions or sought further information, I'm satisfied that it's more likely than not that these checks would have shown that Miss S was still unable to sustainably repay the amount borrowed. I say this because her circumstances hadn't changed.

Virgin Money said it didn't record Miss S's gambling as an issue because it didn't have explicit consent to record this. But as I've already said, it had sufficient information from its own records to show that Miss S would have difficulty maintaining the account and that there was no information to show that this position had changed.

I accept that it was reasonable for Virgin Money to decide in October 2018 only to monitor the card based on what Miss S had said at the time. But, I find that it was irresponsible for Virgin Money to lift the block on the account in February 2019, and agree to further lending, as it didn't conduct reasonable or proportionate checks before lifting the block.

### *Putting things right*

Miss S wants the whole of the outstanding balance cleared. She said it should have frozen the account in September 2018 and if it had, she wouldn't have been able to spend more than £4,000 in January 2020, after a family member agreed to clear the balance outstanding at the time. I disagree – I accept that Virgin Money's decision in September 2018 was reasonable, but not the decision in February 2019 to lift the block.

So Virgin Money should refund all charges and interest from 5 February 2019, the date it decided to lift the block to January 2020, when her account was cleared.

Pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement. HM Revenue & Customs requires Virgin Money to take off tax from this interest. Virgin Money must give Miss S a certificate showing how much tax it's taken off if she asks for one.

Miss S's credit file should be amended to show the status of the account if it had remained blocked. This should include any late payment markers where Miss S failed to make payments on time.

Miss S says the late payment markers Virgin Money agreed to remove are still present on her credit file. It should look into this and take the necessary steps to have them removed if they are indeed still present.

Virgin Money doesn't need to write off the balance that was owing. This is because Miss S had the benefit of the money, and is likely to have received some return on her gambling.

I've only looked at the decisions made by Virgin Money from when the complaint was made in September 2018 up to the decision to lift the block in February 2019. I understand Miss S has made a further complaint regarding the decision to lend in February 2020. I have not considered that complaint as Virgin Money has still to issue its final response on that matter.

But given Miss S's gambling history, I urge both parties to discuss the options for resolution of this matter.

### **My final decision**

For the reasons given above, I'm partially upholding Miss S's complaint. Virgin Money plc should put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 26 June 2020.

Gordon Ramsay  
**Ombudsman**