

## Complaint

Miss B complains that Virgin Money plc sold her a credit card which she couldn't afford, and they failed to respond to her when she let them know she was facing financial hardship.

## Background

Miss B applied for and was issued with a credit card from Virgin Money in October 2016.

The account was opened with a £7000 credit limit and the first transaction was a balance transfer of £4,472.62 on an interest free credit promotion until April 2019.

The first payment was made in December 2016 which was the monthly minimum payment. However January's payment was missed, which meant that interest was applied and a late payment charge applied. Virgin Money's customer notes indicate that Miss B contacted them in February 2017 about the missed payment. Virgin Money re-instated her interest free promotion and refund the late payment charge. A direct debit was also set up to pay the monthly minimum payments in future.

The credit account wasn't regularly used, but there were three further money transfers in February, March and April 2018 all of which were on promotional interest free terms. The minimum payments continued to be made by direct debit, and no interest was paid until the first interest free period ended in October 2018.

Miss B has explained that she suffers with mental ill health, and this made it difficult for her to manage her finances. In January 2019 Miss B wrote to Virgin Money explaining her health problems and her change in circumstances. The letter explained the financial difficulties she was experiencing and was asking for help.

Virgin Money failed to respond to Miss B's letter for help. In April 2019 Miss B complained that she shouldn't have been given credit which wasn't affordable and that they didn't help her when she let them know she was in difficulties.

Virgin Money Money didn't uphold Miss B's complaint about the mis-sale of her credit card. They explained that they weren't aware of her mental health condition at the point of application or when they'd been in contact with her following the opening of her account. They did uphold her complaint about how they responded to her letter in January 2019.

Virgin Money explained that they received her letter and it was passed to their Specialist Support Team. The letter wasn't correctly forwarded to the team though, so they didn't contact Miss B. Virgin Money apologised and refunded the interest applied to Miss B's account from January 2019 and froze the interest for two months to allow their Specialist Support Team to contact Miss B to discuss the issues with her account. They also credited her account with £100 for the inconvenience and distress she'd been caused by their mistake.

Miss B wasn't satisfied with the response from Virgin Money and wanted us to investigate her complaint. Our investigator looked into what had happened. He didn't think that Virgin Money had made a mistake giving Miss B a credit card account. Her application was made online and she provided details indicating an income and the time in her current job. She passed their affordability checks. And they wouldn't have been aware of any mental health issues that may have caused her difficulties. He agreed that Virgin Money had failed to

respond as they should to her letter in January. He looked at what they'd done to put things right though and thought what they did was fair.

Miss B has asked for the matter to be passed to an ombudsman.

### **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 know it will be disappointing for Miss B, but I'm not upholding her complaint.

I've considered whether Virgin Money, based on the information available, carried out reasonable checks to make sure that this credit was affordable for Miss B. Companies can decide on the checks that they do to make sure a customer can afford the debt, but I would expect these checks to include a consideration of income and expenditure, as well as checks against customer's credit history.

Miss B applied for this credit card online and Virgin Money have shown us the information provided. The checks that are carried out are automated, but include credit checks, and Miss B passed the affordability checks. I don't think the level of borrowing at the time would've have been considered unaffordable based on the information Virgin Money had.

Miss B has also asked if she should have been given credit because her mental health problems were the cause of her subsequent financial difficulties. Miss B has shared the details of her mental ill health with us which can't have been easy.

Where businesses are aware of existing mental health problems, they should be considering the impact of this and discussing it with the customer. Mental illness can take many forms and businesses cannot necessarily refuse credit just based on mental health problems as this may discriminate against people.

I've considered whether the circumstances here meant that Virgin Money could've known Miss B was suffering mental health problems. Miss B didn't let them know when she applied for this credit card. This is understandable since Miss B explained that she was largely unaware of the extent of her illness herself at that time. Her mental health problems were only diagnosed later. Because of this, I don't think it's fair to say that Virgin Money could have refused credit for something that it didn't know. Nor could they have known to put additional support in place for Miss B at that time.

I've also considered whether there may have been other indicators after the application that could have indicated to Virgin Money that Miss B was experiencing financial difficulties. There was a missed payment in the second month. Virgin Money's call records show that Miss B was spoken to and explained that she'd simply missed the due date. The call note says that there were no issues of financial hardship disclosed. Virgin Money re-instated the interest free period and refunded the late payment charge, so Miss B wasn't disadvantaged. I don't think Virgin Money could've assumed at that point that Miss B had any issues that affected her ability to manage her debt.

Other than that, the account history for Miss B's credit card shows that payments were being made on time by direct debit. Only the minimum payments were made. But the debt on the card was interest free for most of the term in question. And - at least on the initial balance transfer - wasn't debt accumulated with Virgin Money but debt moved to them on an interest free promotion. In these circumstances making just the minimum payments each month isn't

by itself an indication of a customer in difficulty. So there's nothing in the account activity that makes me think Virgin Money should have picked up on any difficulties without Miss B making them aware.

Of course, Miss B did make them aware in January 2019 when she wrote a letter explaining the problems she was experiencing. She'd relocated, her personal finances had changed, and she was suffering mental ill health. This was the first point that Virgin Money could reasonably have responded to her potential financial hardship. They've acknowledged that they failed to do this. This failing left Miss B struggling without support.

Where a business makes a mistake, which is the case here, our job is to put the consumer into the position they would've been in if the mistake hadn't happened. In this case, it means, putting Miss B where she would have been if Virgin Money had acted promptly in January 2019. The rules that govern lenders are set out in the Consumer Credit Sourcebook. Section 7 says that lenders should treat consumers in default or arrears with forbearance and due consideration.

Virgin Money removed the interest which had been applied to Miss B's account from January 2019. I can also see that Virgin Money also ceased to apply interest to the account from that time onwards. They have also undertaken not to sell on Miss B's debt and are treating her as a vulnerable customer. Miss B stopped making payments in August 2019 and her account now shows in default. There has been no pressure placed on Miss B to make payments that she can't afford.

I consider it disappointing that Miss B had to bring her complaint to us for her issues to be addressed. But I think that the way Virgin Money responded once the mistake had been identified was fair and reasonable. Her debt is not increasing and she is not under pressure to make payments that she cannot afford. Virgin Money awarded £100 in compensation for the distress caused by their mistake. I think this is a reasonable figure given that it took a further six months to address the issue, but the accumulated interest in that time was only £64.98 and Miss B missed no payments.

Whilst I understand that Miss B will be disappointed with my decision, I don't think that it's fair in these circumstances to say that Virgin Money were irresponsible in agreeing the credit card application. And I think that the way that Virgin Money eventually treated Miss B's financial hardship was fair.

### **my final decision**

For the reasons I've given I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 2 December 2020.

Gary Lane  
**Ombudsman**