

## **complaint**

Mr and Mrs D complain that The Royal Bank of Scotland Plc (trading as Virgin One) didn't honour its promise to freeze his account, and allowed some transactions to be made which should have been blocked.

## **background**

Mr and Mrs D are the joint account holders of a Virgin One account. Mr D brings this complaint on behalf of them both, with Mrs D's consent.

Mr D says that in a phone call with Virgin One in October 2017, he told Virgin One that he was about to go into hospital, and he would not make any more transactions on the account (except mortgage repayments). He told Virgin One that he wouldn't use his charge card, and that his direct debits would be cancelled or moved to another account. Mr D says that Virgin One told him it would freeze the account so that no more card payments would be made, but that this was not done, and so his son was able to fraudulently use his card for gambling while Mr D was in hospital. Mr D says this complaint is not about the fraud (which has been dealt with already), but only about Virgin One not blocking the account as agreed in the call. He also says the account balance exceeded the credit limit, and this also should have prevented any card payments being made.

Virgin One did not accept that it had ever agreed to block the account, and said the card payments were guaranteed and so they would not have been stopped. Card payments would be processed even if the credit limit was exceeded, because each use of the card would be treated as a request to exceed the credit limit if necessary to process the payment. Virgin One said the only way to prevent card payments going through would have been to cancel Mr D's card altogether, but he had not asked it to and it had not told him it would.

Our investigator did not uphold this complaint. She listened to a recording of the phone call, and she agreed that Virgin One had never said it would restrict the account or the card. She added that it had been reasonable of Virgin One not to cancel Mr D's card, because that would have left Mrs D without access to the account.

Mr D pointed out that Mrs D had her own card. He said he had had card payments declined before, so he didn't accept that they always had to go through. He said that allowing card payments to be made when the account was over its credit limit defeated the object of having a credit limit. He said the bank should have written to him to tell him when the account exceeded its credit limit. He asked for an ombudsman's decision.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. (I am not considering the fraudulent nature of the card payments which were made following the phone call, since Mr D has emphasised that this is not what this complaint is about. I am only considering whether Virgin One should have stopped the payments for other reasons.)

I have listened to the call recording. Mr D told Virgin One he would stop using the charge card, but he never asked for the card to be blocked or cancelled, and he never asked for the account to be frozen, or for any other kind of restriction. Virgin One did not agree to do any

such thing. So I am unable to uphold the complaint that Virgin One failed to do what it had promised.

The use of the charge card is governed by the card conditions in section C of Virgin One's terms and conditions, which I have read.<sup>1</sup> Condition 18.3.6 says that Virgin One will treat the use of a card which would cause the account to exceed its credit limit as an informal request to allow the limit to be exceeded. Condition 18.4.1(c) says that Virgin One may decline the request and not authorise the payment, so I don't accept that the card payments are always guaranteed. This would explain why Mr D has experienced declined payments in the past. However, it does not follow that Virgin One should not have allowed the payments to exceed the credit limit in November and December 2017. That was a commercial decision which Virgin One was entitled to make.

The terms and conditions don't say that Virgin One will write to its customers to tell them when the credit limit is exceeded. They only say that Virgin One will send monthly statements (condition 12). It has not been alleged that this was not complied with.

### **my final decision**

So my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs D to accept or reject my decision before 1 March 2020. But Mr D may respond for both of them, and if we do not hear from them then we will presume that they both reject my decision.

Richard Wood  
**ombudsman**

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<sup>1</sup> See [http://www.virginone.com/conveyancers/oneaccount/pdfs/VOA\\_Conditions-0813.pdf](http://www.virginone.com/conveyancers/oneaccount/pdfs/VOA_Conditions-0813.pdf)