

The complaint

Miss A has complained Clydesdale Bank plc, trading as Virgin Money, added a fraud-related marker in her name to the industry fraud database, CIFAS.

What happened

Miss A held an account with another bank. She was told this account was being closed as they'd discovered a fraud-related marker in her name which another bank had lodged. Miss A also noted that her credit score kept dropping and didn't understand why.

Miss A had previously held both a current and savings account with Virgin Money which she'd opened in July 2023 but hadn't used much. She tried to contact Virgin Money but was told they couldn't locate her account. In confusion and exasperation, she brought her complaint to the ombudsman service.

Virgin Money didn't believe they'd done anything wrong so wouldn't remove the marker.

Our investigator reviewed the evidence in detail. He was also concerned about Miss A's inconsistent testimony and wouldn't ask Virgin Money to remove the marker.

Still unhappy, Miss A has asked an ombudsman to review her 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 a different outcome to our investigator. I'll explain why.

It is clear what the requirements are prior to lodging a marker. Specifically:

“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted.

The evidence must be clear, relevant and rigorous.”

So Virgin Money must be able to provide clear evidence that an identified fraud was being committed and Miss A was involved.

There's also a requirement that Virgin Money should be giving the account holder an opportunity to explain what was going on.

I've seen the evidence provided by Virgin Money. This confirms they received claims from two different banks that their customers had sent money to Miss A's Virgin Money account after being the victim of different scams. None of this money credited Miss A's account as it was identified as suspicious.

Virgin Money felt they had sufficient evidence to lodge a CIFAS marker and wrote to Miss A

telling her they were closing her accounts. As there was also a small debt on her account of £1.04, adverse markers were reported to the credit agency. The latter action explains why Miss A found her credit score to be declining.

Miss A had told Virgin Money back in February 2024, when she complained further, that she'd lost her debit card so didn't recognise the small transaction made in a supermarket. They noted this happened around the same time as one of the fraud payments so doubted what she said. Miss A hadn't reported her card lost at the time so Virgin Money felt *"the customer testimony is not plausible or credible"*.

Miss A has told us she didn't really use this account so when she lost her card, she didn't think that much of it. Subsequently, after our investigator confirmed he didn't find this plausible, Miss A told us that she'd been in a toxic relationship where she'd felt subject to potential violence. Her ex-partner had gained access to her accounts, set up face ID on her phone and used her card and account without her authority. This included the small supermarket transaction which Virgin Money had noted took place on 24 August 2023, at the same time as a fraudulent credit to the account was blocked.

Miss A's subsequent testimony has been shared with Virgin Money and I requested them to reconsider whether they would remove the CIFAS marker. They wouldn't do so as they believed her conflicting stories continued to lack credibility and would expect to see a police report about her relationship.

I disagree with Virgin Money's stance. Whilst I appreciate Miss A's testimony has changed, that isn't inconsistent with the behaviour of individuals subject to coercive behaviour. I find it slightly worrying that I should automatically doubt someone's testimony about abuse just because it comes along at a time to be considered by an ombudsman. It's not unusual in abuse cases that victims are not upfront immediately, and I would feel uncomfortable about ignoring these allegations. I note Virgin Money suggest a police report would assist but, unfortunately, this ignores the reality that many of these cases go unreported to the police.

Having said that I have considered carefully what Miss A has told us. Whilst there are two conflicting pieces of evidence, my role is to weigh these up and consider what I believe is right. On balance I accept what Miss A has latterly told our service, despite its convenient timing.

I note Virgin Money didn't contact Miss A to question what had happened in August 2023, although they sent her a letter informing her that they were closing her account. Virgin Money is required to give Miss A the opportunity to explain what happened, so this is a failing on their part. However, I'm not sure that would have made any difference to Virgin Money's outcome.

Putting things right

Miss A told us she had difficulty in contacting Virgin Money as they couldn't identify her account. It turns out that despite Virgin Money telling her the account was closed, it wasn't but was blocked. I believe this may be related to the small debt on the account. Virgin Money should now act to close the account, if they haven't already done so.

As shown above I am satisfied by Miss A's testimony that she was a victim of abuse and was unaware of what was going on with her Virgin Money's account. Virgin Money has already been given the opportunity to reconsider their stance and provide further evidence so I'm satisfied there's no need to complete a provisional decision.

The requirements around banks lodging markers at CIFAS include there being sufficient

evidence that the customer was aware and involved in what was going on. In this case I don't think this most likely exists here from Miss A's evidence.

On this basis I believe it would be fair and reasonable to ask Virgin Money to remove the CIFAS marker.

To ensure consistency, Virgin Money should also write off the small debt and remove late payments markers from Miss A's credit record.

My final decision

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

- Remove the fraud-related marker from Miss A's record at CIFAS;
- Write-off the small debt on Miss A's account; and
- Remove the late payment markers from Miss A's credit record.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 24 October 2024.

Sandra Quinn
Ombudsman