

The complaint

Mr V has complained that Clydesdale Bank Plc (trading as Virgin Money) won't refund transactions he says he didn't make.

What happened

Mr V made a couple of in-app purchases for his child on his child's device. In order to do so, he registered his full Virgin card details to the device. His child then used the registered card details for over £4,000 of further in-app spending, which Mr V explained was done without his knowledge.

Virgin tried a chargeback, but this failed as the payments had been made with the correct details Mr V had provided, and the merchant had provided the services paid for. They held Mr V liable for the payments in dispute. They did refund some interest and fees, and pay Mr V £150 compensation, in regard to some miscommunication about the repayments due.

Our Investigator looked into things independently and didn't uphold the complaint. Mr V didn't agree, so the complaint's been passed to me to decide.

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.

I can see from Virgin's technical evidence that the payments in dispute were made using the correct card details, which had been registered and pre-approved for payments. I can see from Mr V's evidence that the payments were on his child's Apple account. I've listened to Mr V's calls with Virgin from the time, where he repeatedly confirmed that he entered the card details into his child's device for some initial payments, then his child later made the disputed payments using those details. And I've found no evidence which shows or substantiates that the payments were made by any third party thief or fraudster.

Broadly speaking, Virgin have to refund unauthorised payments, whereas Mr V can be held responsible for payments which were authorised. This includes payments which *appeared* to have been made with his authority – this is known as “apparent authority”.

Essentially, under the relevant rules, if you willingly give someone the ability to make payments on your account, such that they can authorise transactions on your behalf and appear to have your authority, and if you do not take the proper actions to revoke that ability, then they are effectively acting as your agent. You're then responsible for their spending – even for spending which you might not have asked them or wanted them to make.

In this situation, by willingly registering his full card details to his child's device, Mr V gave his child the ability to undertake payments on his behalf. In doing so, Mr V effectively gave his child permission to act as his agent and make payments on his behalf – even if that's not what he intended to do, and even if his child did not understand how the payments worked.

Mr V did not do anything which concretely revoked his child's ability to make payments on his behalf, such as removing the card details from the device, preventing in-app payments using the parental controls, or cancelling the card. As far as I can see, Mr V only revoked this apparent authority after the payments in dispute. So even though Mr V may have only intended to allow the first couple of payments, he is responsible for all the spending that his child made using the card details Mr V provided for them.

I understand Mr V would have liked Virgin to block the spending. But these payments were made using the correct details, on a genuine device and internet connection, to an Apple account Mr V had approved, at a large and well-established company, who Mr V had a substantial history of using. So Virgin would not have had sufficient reason to think they were being made without Mr V's permission. And Virgin were not generally responsible for limiting genuine, authorised spending. The starting position in law is that banks are expected to process payments which they're authorised to make.

I've considered whether Virgin could've helped Mr V get the money back another way. But as the payments were authorised, and as the merchant provided the services which were paid for, it wasn't realistically possible to get a refund via a chargeback or a Section 75 claim. So there wasn't anything more that Virgin could reasonably do there.

I appreciate that Mr V is unhappy with the merchant's customer service, and I have read and understood his points about the merchant's cooling off policy, bundle purchase limits, and its governance and control. But I'm afraid those are matters he would need to take up with the merchant directly. Virgin are a bank, not Trading Standards or a merchant regulator. They wouldn't know the merchant's internal policies, they're not responsible for enforcing the merchant's internal policies, and they don't have authority over the merchant in that regard. Similarly, I can only consider complaints about financial businesses, like Virgin. The merchant is outside of my jurisdiction. I have to keep my decision focused on what Virgin in particular are responsible for.

So while I do sympathise with Mr V and appreciate that he not intend for his child to make the disputed payments, and while I appreciate this will come as a disappointment for him, I cannot hold Virgin responsible for the payments in dispute.

Lastly, I understand that there was some confusion caused over whether Mr V was supposed to pay for the disputed payments while they were still under investigation, and about the minimum payment and the interest and charges. I see that Virgin have apologised for that, refunded the relevant interest and fees, and paid £150 compensation. I find that's fair to put those issues right, so I don't award anything further.

My final decision

For the reasons I've explained, I don't uphold Mr V's complaint in this case.

This final decision marks the end of our service's consideration of the case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 6 August 2024.

Adam Charles
Ombudsman