

The complaint

Mr H complains that Clydesdale Bank Plc trading as Virgin Money won't reimburse him after he lost money to an investment – that he now considers to have been a scam – whereby he sent money to an account held at Virgin Money.

Mr H is professionally represented in bringing his complaint to our service, but for ease of reading, I'll refer to all submissions as being made by Mr H directly throughout this decision.

What happened

Mr H has explained that he came across an art investment opportunity, which I'll refer to as 'S' on a social media platform which took his interest.

Mr H explains he reviewed S' website which appeared to be professional, so left his number to be contacted. Mr S was contacted via instant messaging by S, and agreed to invest.

Mr H made several payments via two different bank accounts to S, the payments totalling £56,700. However Mr H then became unable to get in touch with the individuals who were handling his investment. While S has since become insolvent, Mr H has explained that he's never received his prints, or seen what they look like and therefore now considers he has been the victim of a scam.

Mr H got in touch with his banks to raise a claim, and also contacted Virgin Money, where the receiving bank account was held. Virgin Money considered Mr H's complaint but didn't uphold it. It said it had found no errors in its handling of S' account and therefore didn't consider it was liable to reimburse Mr H.

Mr H remained unhappy and referred his complaint to our service. An investigator considered the complaint but didn't uphold it. To summarise, he didn't think there was enough evidence to conclude that Mr H made the payments as a result of a scam.

Mr H disagreed with the investigator's view, so the complaint has been referred to me for a final decision.

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.

Much of the submissions on Mr H's complaint centre around whether S was operating a scam or not. This isn't something I need to make a finding on to fairly decide this complaint. Even if it could conclusively be shown that S was operating a scam, for the reasons I'll come to, I don't think this impacts the outcome of this complaint.

In the circumstances here, there is no automatic right to a refund from the recipient bank in relation to payments made as a result of an alleged (or even proven) scam. It would only be fair and reasonable for me to require Virgin Money to pay redress if it is responsible for

errors which could fairly be said to have caused the loss. For the reasons I'll explain, I don't think it is.

The account that Mr H paid had been open for a number of years before his payment arrived in it. The evidence supports that Virgin Money appropriately conducted ongoing due diligence in relation to the account, as they are expected to. And at the relevant time, given the information Virgin Money knew about S, I don't think the arrival and spending of Mr H's payments (or any other payment within the context of our jurisdiction) would've appeared so unusual, suspicious or indicative of a potential problem such that I'd have expected Virgin Money to have done more at the time.

The established pattern of activity involves what appears as genuine business activity with payments out for utility bills, taxes what appear to be suppliers and various other businesses. This was in line with what was expected for an account of this type. There wasn't anything I reasonably think Virgin Money should have picked up on or questioned further. Also at the material time there was nothing in the public domain indicative of a potential issue with S. As is common for many business accounts, occasional disputes were raised and investigated by Clydesdale, and I don't think it was unreasonable for them not to have had further concerns at the time. It simply wasn't unusual for this account to receive and make payments of similar amounts (and indeed for larger sums) to that of Mr H's. And whilst I acknowledge his allegation that the entire account was scam related, against the background of what I've set out above, there wasn't any reasonable basis at the time for Virgin Money to have thought the activity was anything other than genuine.

Mr H's payment was paid away from the account before Virgin Money was aware of the potential problem with it. So I don't think Virgin Money reasonably could've done more to try to recover the same.

I also note that Virgin Money became a signatory to the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code) on 28 February 2022. So as it wasn't a signatory at the time Mr H made his first payments to S, the Code can't be used as a basis to require Virgin Money to do more for those payments.

For payments Mr H made to S after 28 February 2022, Virgin Money was a signatory to the CRM Code. So it is a potentially relevant consideration for these payments. One of the requirements for reimbursement is that the claimant has been the victim of an APP scam. However, at R2(2) it also says in relation to the expectations on a receiving bank:

"In assessing whether a Customer should be reimbursed or not, Firms should consider... whether the acts or omissions of the Firms involved in trying to meet the Standards for Firms may have impeded the Customer's ability to avoid falling victim to the APP scam."

So in essence, in the event that it is later shown that S were operating a scam, such that it satisfies the CRM Code's definition of an APP scam, this wouldn't make a difference to the outcome of this complaint about Virgin Money. This is because (for the same reasons as those set out above), I don't think Virgin Money have failed to meet the standards for firms in a way which would have impeded Mr H's ability to fall victim at that time (as required under the CRM Code).

I'm of course sorry to hear Mr H lost money. But as I'm not persuaded this is something Virgin Money are responsible for, there isn't a reasonable basis upon which I can require them to do more to resolve this complaint.

My final decision

My final decision is that I don't uphold Mr H's complaint against Clydesdale Bank Plc trading as Virgin Money.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 1 April 2025.

Kirsty Upton
Ombudsman