

The complaint

Mr D complains that Clydesdale Bank Plc trading as Virgin Money has mishandled his claim under section 75 of the Consumer Credit Act 1974 for reimbursement of costs arising from a faulty kitchen worktop.

What happened

In September 2019 Mr D ordered and paid for a kitchen to be fitted in his home. The cost of the total kitchen came to £2,751 and Mr D paid this amount via the credit card he held with Virgin Money.

Mr D says that within a short time the worktops started to show damage such as chipping even though they had only been subjected to usual use. In August 2020 he made a complaint to the retailer who arranged for an independent technician to visit Mr D's home and inspect the worktops.

Mr D says that he didn't receive a copy of the technician's report but did receive an email from the retailer confirming the worktops were faulty. Mr D was requested to obtain quotes as to the cost of replacing the worktops which he then arranged.

Mr D supplied the quotes requested but raised some additional questions with the retailer which included what the position would be if the sink was damaged when removed (this had been raised with Mr D by the plumber who had provided the quote for this work) and whether he would be compensated if the area required retiling. Mr D also explained he wished to obtain a worktop from a different supplier. Although the quotes were acknowledged by the retailer it didn't answer Mr D's questions. Mr D chased a response from the retailer via email and phone but didn't receive one until November 2020 when he was informed the retailer was looking at his quotes and queries.

In January 2021 Mr D was contacted by the retailer who said that it required the UTR numbers of the plumber and kitchen fitter to ensure the VAT included in the invoice was being properly charged. Mr D wasn't able to supply all of the required information though he explained why. He has had no further contact from the retailer.

In February 2021 Mr D made a formal complaint to the retailer as to its customer service when dealing with the matter of the faulty worktops. He also contacted Virgin Money to raise a claim under section 75 of the Consumer Credit Act 1974 for reimbursement of the cost of the worktops and for the costs involved in replacing them. Virgin Money acknowledged receipt of his claim.

Mr D says he didn't receive any further contact from Virgin Money until August 2021 when it responded to a formal complaint, he made in respect of the time taken to resolve his section 75 claim. Virgin Money didn't uphold that complaint as it said there was no time-limit in which decisions must be made as to a section 75 claim. It said the claim was with its Disputes Team.

Virgin Money says that during August 2021 it had requested further information from Mr D as

it needed to see a copy of the sales invoice. It says Mr D didn't respond to this request and so it sent him a letter notifying him his claim had been declined. Virgin Money says it closed Mr D's claim in September 2021.

Mr D complained to this service about the way Virgin Money had handled his claim. Our investigator recommended that the complaint should be upheld. She said that the evidence showed that the retailer had accepted liability for the faulty worktops and so she thought Mr D's claim was straight forward. Our investigator said Virgin Money hadn't produced any evidence as to why there had been such a lengthy delay in dealing with the matter.

Our investigator said that although Virgin Money said it had closed Mr D's claim following a lack of response from him, Mr D had said there hadn't been any contact from Virgin Money. She said she hadn't seen any evidence of the contact made by Virgin Money to Mr D regarding seeking additional information nor that his claim had been declined.

Our investigator said it would be fair for Virgin Money to reimburse Mr D the cost of the worktops and also to pay him the costs as set out in the quotes regarding removal and fitting a new one. She also said that it would be fair for Virgin Money to pay Mr D £50 as compensation for the distress and inconvenience caused to him by its handling of his section 75 claim.

Mr D agreed with the view of our investigator. Virgin Money requested copy of the sales invoice so that it could be verified as to what had been ordered by Mr D from the retailer as well as the quotes for the required work to replace the faulty worktops. It asked that quotes should be on headed company note paper.

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.

My role here is to decide whether Virgin Money has acted fairly and reasonably in its response to Mr D's claim under section 75.

Mr D says that the worktops developed marks and chips in a short space of time and that this wasn't due to wear and tear but an inherent fault. He had raised the issue with the retailer who had arranged an inspection. And I've seen from the following emails between Mr D and the retailer that it had accepted liability for the defective worktops and was seeking invoices as to the costs or replacing them. The retailer then stopped communicating with Mr D, this may have been because Mr D wasn't able to provide the information it had requested from him in respect of the UTR numbers, but I've seen that Mr D had provided an explanation as to why.

Due to the lack of response from the retailer, Mr D made a claim under section 75 of the Consumer Credit Act 1974 to Virgin Money. Section 75 may apply when the goods or services purchased via a credit agreement cost over £100 and up to a limit of £30,000. The general effect of the section is that if a consumer has paid for goods or services with a credit agreement, and they have a claim against the supplier of those goods or services for misrepresentation or breach of contract, they are given a like claim against the credit provider, which here is Virgin Money.

The worktops have been independently inspected and the retailer does appear to have taken the responsibility of covering the cost to replace them. Even though I haven't seen the inspection report, I think that it's more likely than not the worktops were faulty and had been from the point of supply. I think it's reasonable to say there had been a breach of contract.

And I agree with our investigator that from the evidence I've seen that Mr D's section 75 claim was straightforward.

I've seen that Virgin Money says it declined Mr D's claim because he hadn't supplied information it had requested. However, I haven't seen copies of any correspondence sent to Mr D asking for additional evidence nor of Virgin's Money's decision to decline the claim because he hadn't responded. Mr D says there was no contact other than the two letters he received from Virgin Money in February and August 2021. I think in the circumstances that it would be fair to conclude that it's more likely than not that Virgin Money hadn't requested any extra information from Mr D. Mr D has now provided a copy of the sales invoice and I've seen the quotes he had obtained from the plumber and kitchen fitter. These quotes are on headed company paper.

So, as I've seen sufficient evidence that there has been a breach of contract, I don't think Virgin Money has handled Mr D's section 75 claim fairly. I think it would be fair for it to now settle the claim by reimbursing Mr D the cost of the original worktops and pay Mr D the consequential loss of having to rectify the faults, that is pay for the costs that will be incurred removing the worktops and reinstalling new ones.

I've seen that the plumber has raised there is a possibility the sink will be damaged when it is removed from the original worktop. But as this is only a possibility, I don't think it's reasonable to require Virgin Money to pay for a new sink. Mr D also raised there may be an issue with the tiles but I haven't seen any evidence that the tiles will be damaged during the removal/refitting so again I don't think it would be fair to ask Virgin Money to pay for new tiles.

I also agree with our investigator that Mr D has suffered from distress and inconvenience from Virgin Money's handling of his section 75 claim, I don't know what had caused the delay in its considering it as it wasn't unduly complex. I think £50 compensation is fair to recognise the impact this has had on Mr D.

I've seen that Mr D was concerned at the age of the quotes he'd obtained as this may have now affected the true costs of the work. However, I've also seen he has decided to stick with them and hasn't arranged for new quotes to be provided.

For the reasons given above I'm upholding Mr D's complaint.

Putting things right

I'm asking Virgin Money to do the following:

- Refund Mr D the amount paid for the worktop which was £165 together with interest at the yearly rate of 8% simple from the date of payment until the date of settlement.
- Pay Mr D a total of £585 for the consequential losses that will be incurred removing the faulty worktops and refit new ones as set out in the obtained quotes.
- Pay Mr D £50 compensation for the distress and inconvenience caused by excessive delays.

My final decision

For the reasons set out above I'm upholding Mr D's complaint. I'm asking Clydesdale Bank Plc trading as Virgin Money to do the following:

- Refund Mr D the amount paid for the worktop which was £165 together with interest at the yearly rate of 8% simple from the date of payment until the date of settlement.

- Pay Mr D a total of £585 for the consequential losses that will be incurred removing the faulty worktops and refit new ones as set out in the obtained quotes.
- Pay Mr D £50 compensation for the distress and inconvenience caused by excessive delays.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 6 September 2022.

Jocelyn Griffith
Ombudsman