

The complaint

Ms P is unhappy with how Clydesdale Bank Plc trading as Virgin Money handled a quality of goods claim she made to them.

What happened

Ms P purchased a door from a supplier I shall call "W" in September 2022 and arranged for it to be fitted. She noted that there were issues with the door failing to open shortly after installation but this was subsequently rectified. She then noticed the same fault with the door in April 2023 and wrote to W the following month.

As she didn't hear back from W, she telephoned her credit card provider Virgin Money on 14 July 2023 to raise a Consumer Credit Act 1974 ("CCA") section 75 claim ("S75") against Virgin Money. She explained the circumstances of her claim during this call and in turn Virgin Money explained next steps and what would be needed from her.

Ms P was then sent a letter the following day by Virgin Money confirming her claim and saying they wouldn't need anything further from her at that time.

Ms P still contacted Virgin Money on 24 July 2023 to submit further information to support her claim. She also asked whether an independent inspection report would be needed. However Virgin Money didn't respond to her query.

Whilst the claim was on-going, W arranged for the company that manufactured the door locking mechanism to visit Ms P and inspect the door. They concluded that further adjustments to the doorframe would need to be made by W.

Ms P didn't hear anything further from W and unfortunately suffered another door jam in October 2023 when she couldn't access her home. She called Virgin Money to follow up on her claim but was advised that they were still awaiting an independent inspection report from her to identify the fault. While Ms P didn't believe she had been told this was required, Virgin Money said this had been explained to her during her call on 14 July 2023.

Ms P was dissatisfied her claim hadn't been progressed and said she wasn't aware an independent inspection report would be needed. She therefore raised a complaint with Virgin Money.

Virgin Money didn't agree they had done anything wrong and so Ms P referred the complaint to our service in December 2023.

Our investigator looked at the complaint and felt Virgin Money should've done more with regards to how they'd handled the claim. They said the requirement to provide an independent inspection report should've been clarified by Virgin Money in response to Ms P's query on 24 July 2023. The investigator felt that by not doing so Virgin Money had caused unnecessary delays with the claim. They felt £150 compensation for this would be fair to address the delay – however an independent inspection report would still be required to move the claim forward.

Whilst Virgin Money did agree with the investigator's outcome, Ms P didn't feel it was fair. She asked for an ombudsman to make a final decision and in addition indicated she would be providing an independent inspection report as well. However I understand this hasn't been received by our service to date.

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've read and considered the evidence submitted by the parties but won't comment on it all – only the matters I consider to be central to this complaint. This isn't intended as a discourtesy but reflects my role in resolving disputes informally.

It's important to note that Virgin Money aren't the provider of the goods here – so in deciding what is fair and reasonable, I'm looking at their particular role as a provider of financial services. In doing so I note that because Ms P paid for the door using her credit card, both chargeback and a S75 claim could possibly help her. So in deciding what is fair and reasonable I've focussed on this.

Chargeback

There is no requirement for Virgin Money to raise a chargeback, but it's often good practice to do so. However, a chargeback isn't guaranteed to succeed and is governed by the limitations of the particular card scheme rules (in this case Mastercard). I've considered the relevant chargeback rules in deciding whether Virgin Money acted fairly.

I note that Ms P's chargeback claim would fall under 'goods/services not as described'. However the claim would need to be made within 120 days from the date of the transaction under Mastercard rules. As the door was purchased in September 2022 and the claim was raised with Virgin Money in July 2023, this would be outside the required timescales for a chargeback claim.

Therefore I'm satisfied that Virgin Money did nothing wrong in not raising a chargeback on behalf of Ms P.

Section 75

S75 provides that in certain circumstances the borrower under a credit agreement has an equal right to claim against the credit provider if there is either a breach of contract or misrepresentation by the supplier of goods and services.

In order to assess a valid claim, Virgin Money would've needed to consider all relevant evidence with regard to the alleged breach of contract. I note on the call made to Virgin Money on 14 July 2023, Ms P explained the details of her claim and was told that she'd need to submit further evidence. She was asked to submit a cover letter detailing the claim, a timeline of events, documentation evidencing the purchase and also an expert report confirming the faults described.

Virgin Money also advised that the Home and Furniture ombudsman would be able to help with this report. They explained the request could be made on the ombudsman website and how the required form could be downloaded and submitted.

Virgin Money also said that once the report had been received, they'd be able to contact W to reach a resolution. Ms P queried the cost of the report and was told this could be recovered if the claim was successful. Ms P then confirmed she would arrange this the following weekend.

Virgin Money followed this up with a letter confirming the matter would be investigated under S75 of the CCA. It also said that they may contact her for further information but she need not do anything further at that stage.

Ms P says the fact this letter stated she didn't need to do anything else meant she didn't feel she needed to get an independent inspection report. However this does look like a standard letter confirming the claim made. While I appreciate the letter says Ms P need not do anything more, she knew from the phone call the day prior that she was required to submit further information. And this is why she made these further submissions to Virgin Money on 24 July 2023.

She didn't provide an independent inspection report however and did query whether this was still needed. I agree with our investigator that this needed to be addressed by Virgin Money, but at the same time note that it was made clear to Ms P in her earlier phone call that the report would be necessary. While I appreciate the letter of 15 July 2023 could've caused an element of confusion, Ms P did submit the other evidence requested. Therefore I think it would've been reasonable to conclude that the independent inspection report would still be due.

Nonetheless Virgin Money should've clarified Ms P's query regarding this, and in doing so would've prevented the further delay that arose. I think the £150 compensation agreed is fair to address this.

With regard to the claim itself, it's reasonable to expect Virgin Money to require an independent inspection report to determine if the door wasn't of satisfactory quality at the point of sale. As the claim was raised after six months from purchase, we'd expect the consumer to provide appropriate supporting evidence and this report would be a key component of this.

I'm also aware that Ms P has provided video evidence of the door failing to open. However this wouldn't be sufficient under the circumstances, as it wouldn't confirm the reason for the fault and if this was present from the time of installation. Ms P has said that the locking mechanism technician during his visit outlined that W would need to undertake further work. The fault and the remedial work needed would therefore need to be confirmed in an appropriate independent report.

If Ms P wishes to continue her claim, I think the submission of this evidence is reasonable. I don't think Virgin Money has done anything wrong here in requesting this from her.

My final decision

For the reasons above my final decision is that Clydesdale Bank Plc trading as Virgin Money must pay Ms P £150. They need not do anything further until an appropriate independent inspection report is submitted allowing them to further investigate the claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 1 July 2024.

Viral Patel
Ombudsman