

The complaint

Ms H complains that Clydesdale Bank Plc trading as Virgin Money ("Virgin") failed to properly pursue a chargeback and rejected her claim under section 75 Consumer Credit Act 1975 ("s.75").

What happened

In July 2023 Ms H purchased goods online costing £253.99 using her Virgin credit card. She wished to return the goods and the merchant offered a returns service. She used a delivery service ("Y") recommend by the merchant. The merchant didn't receive the goods and it is presumed they were lost in transit. Ms H asked the merchant for her refund, but it refused as it had not received the goods back.

She then contacted Virgin and it submitted a chargeback, but this was rejected. It then made a second attempt, but again this was challenged by the merchant. It said that under its terms and conditions it was not liable to refund any money for items not received back. These also said that: *"Should you be posting your item, please ensure you use a tracked service as [the merchant] aren't responsible for any items lost in transit to us."*

Ms H brought a complaint to this service where it was considered by one of our investigators who didn't recommend it be upheld. She sought additional evidence from both parties and concluded that Virgin had taken reasonable steps to pursue the chargeback. She also considered s.75 despite Virgin not making any comment as to whether it had considered this option. On balance she didn't think a claim under s.75 would have been successful.

Ms H didn't agree and said she hadn't paid Y and the returns service she used had been recommended by the merchant. She also felt Virgin had not provided a good service.

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 have every sympathy with Ms H, but I do not consider I can uphold her complaint. I will explain why.

Firstly, I should explain how the chargeback regime works. Chargeback allows for a refund to be made of money paid with a credit or debit card in certain scenarios, such as when goods have been paid for and not received. A consumer cannot insist on their card company attempting a chargeback, but I would expect it to attempt one, as a matter of good practice, if there was a reasonable prospect of succeeding and to do so would be compliant with the rules of the card scheme to which the card belongs, in this case MasterCard.

As our investigator noted, chargebacks are subject to the rules set out by the MasterCard. The card schemes are not within the jurisdiction of the Financial Ombudsman Service and we are unable to require them to run their chargeback schemes in a particular way. However, we can consider whether a card issuer has applied the rules correctly and

conducted the chargeback process in a competent manner.

So the first point I should stress is that Virgin was not obliged to make a chargeback. Secondly it is not responsible for the outcome. It asks for evidence of what happened and it puts this to the merchant. The merchant can push back as it did in this case. Virgin went further in Ms H's claim and after obtaining further evidence it re-presented the chargeback. Again the merchant pushed back. I do not consider Virgin needed to do anymore. The merchant had a defence and while I appreciate Ms H doesn't agree that does not mean Virgin did anything materially wrong in its handling of her request.

I note Virgin has made no comment about a claim under s.75. However, I do not consider such a claim would have been successful.

When someone makes a payment on their credit card, in order to make a valid s. 75 claim against their credit card issuer they need to have used the credit card to pay a company they have a claim against for breach of contract or misrepresentation. S. 75 gives the debtor (the credit card account holder) the same claim against their credit card issuer as they would have against the supplier of goods or services, so long as that claim is for breach of contract or misrepresentation.

I cannot see that there has been either misrepresentation or a breach of contract. The merchant's terms and conditions say that it will pay a refund when the goods have been returned which means received back. It makes this clear by stating that it will not accept responsibility for any items lost in transit. It did not get the goods back and so it is not bound to pay a refund. As such it does not matter whether Ms H contracted with the Merchant or with Y for the transport of the goods – there has been no breach of contract.

On the matter of the level of service provided by Virgin this is not a matter Ms H raised with it and so it is not something I can consider in this decision.

I appreciate Ms H will be disappointed by my decision, but I do not consider Virgin has done anything materially wrong.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 14 May 2025.

Ivor Graham
Ombudsman