

The complaint

Ms H complains that Clydesdale Bank Plc trading as Virgin Money ("Virgin") didn't properly pursue a chargeback and rejected her claim under section 75 Consumer Credit Act 1974 ("s.75").

What happened

In October 2023 Ms H made a hotel booking by phone. She had seen a price online and contacted the hotel group direct and initially agreed to go ahead with the booking. However, she was then told that there was a £12 per person additional fee. Ms H says she told the hotel she didn't wish to proceed.

However, later she received a confirmation email from the hotel and was charged £312.87. Ms H tried to cancel the booking and after a number of phone calls she says she was told she would be refunded. Later the hotel group refused saying the booking had been made on a pre-paid basis and was not refundable. Ms H called the hotel direct to reinstate her booking and cut her losses only to be told the payment of £312.87 was now treated as a cancellation fee and could not be used to book a room.

Ms H asked Virgin to assist her in getting her money back. The confirmation email stated that cancellation was available up to 17.05 that day, but it was received after that deadline. Virgin issued a temporary credit and made a chargeback, but this was challenged by the hotel on the basis it had followed its business policies and terms and conditions. Virgin also considered s.75 and concluded there was insufficient evidence to demonstrate there had been a breach of contract or misrepresentation. Virgin issued a letter on 17 June seeking more information, but Ms H says she did not receive this.

She raised a complaint to Virgin on 16 July but this was rejected and so she brought the matter to this service. It was considered by one of our investigators who didn't recommend it be upheld. She noted Virgin had made a chargeback but this had been challenged by the hotel. It had then considered s.75, but due to a lack of supporting evidence it had declined the claim. Our investigator took the view that in the absence of evidence Virgin had acted reasonably. Ms H didn't agree and asked the matter be considered by an ombudsman.

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 it may help if I 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 (most commonly, Mastercard or Visa).

Virgin raised a chargeback, but the hotel explained that the payment made by Ms H was not refundable. Virgin could have pursued the matter further, but in the absence of additional evidence to support the claim it had no basis for doing so. Virgin had no say in the outcome of the chargeback and I do not think it was unreasonable of it to have acted as it did. In short it tried to get Ms H's money back but without evidence it was not successful.

The other avenue available to Ms H was s.75. 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.

The difficulty Ms H has is the lack of documentary material. The booking was made by phone and we do not know what was said in that conversation in any detail. I note the hotel group offers rooms at a lower rate if booked on non-refundable terms. This is what Ms H booked. That means that if she cancelled the booking she would not receive her money back.

I note Ms H says that she told the hotel's call handler during the initial conversation that she wanted to cancel. However, this did not happen and she received the confirmation email from the hotel after the time by which she could cancel. I also note she has explained that a member of the hotel group's staff had agreed to a refund, but again this was made during a phone conversation and so there is no supporting evidence.

Quite simply, Ms H is asking Virgin to refund her the sum paid without any evidence beyond her own testimony. So, while I have sympathy for her situation I cannot safely conclude that Virgin was wrong to reach the decision it did.

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