DRN-5332593

The complaint

Mr C has complained about how Clydesdale Bank Plc trading as Virgin Money (Virgin Money) handled a refund claim he made to them.

What happened

Mr C purchased clothes from a retailer I shall call G in August 2023 to the sum of £1,691.00 on his Virgin Money credit card. He then decided he didn't want to keep the items and chose to return them a few days later via G's return process using their postage label.

Mr C returned the items via a Royal Mail post office, however he later discovered from the tracking information that the parcel never left the post office after being accepted there.

Mr C raised the issue with G but they declined to provide a refund as they said their terms and conditions required the items to be returned to them before it could be processed. Mr C remained dissatisfied as he had followed G's return process and therefore contacted Virgin Money to raise a chargeback claim against G and a Consumer Credit Act 1974 ("CCA") section 75 claim ("S75") against Virgin Money.

Virgin Money raised a chargeback claim but following G's submissions considered there wasn't a prospect of success. G provided their terms and conditions confirming the goods had to be returned to them for a refund and Virgin Money accepted G's return policy hadn't been complied with to allow the chargeback claim to succeed.

Virgin Money also considered a S75 claim but felt there was insufficient evidence of a misrepresentation or a breach of contract for the same reasons. Virgin Money's final response letter (FRL) confirmed the same and as Mr C remained dissatisfied, he brought his complaint to our service to consider.

Our investigator reviewed the available evidence and concluded Virgin Money hadn't done anything wrong. They noted the package hadn't left the post office but concluded that this meant that G's terms and conditions hadn't been complied with for a refund to be due.

As Mr C didn't agree with the investigator's assessment, they asked for an ombudsman to issue a decision on the matter.

What I've decided – and why

I previously issued a provisional decision on the matter. I said the following:

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 Mr C paid for this transaction using a Virgin Money credit card, both chargeback and a S75 claim could possibly help him. So in deciding what is fair and reasonable I've focussed on this.

Chargeback

Chargeback is the process by which settlement disputes are resolved between card issuers and merchants. A consumer isn't entitled to chargeback by right. But where there are grounds to raise one and it has reasonable grounds for success, it is good practice for one to be raised by the card issuer.

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.

The chargeback was raised under reason code 'Credit Not Received'. I've therefore considered the evidence available with mind to this chargeback rule. The rule states that for supporting documents there should be sufficient detail to enable all parties to understand the dispute. In addition it says that the merchant should appropriately inform the consumer of their return policy and the consumer must also abide by this policy.

I've reviewed G's terms and conditions and they do say the following (I've referred to the supplier as 'G' within the terms):

"Be sure to obtain a certificate of posting and keep this certificate until you have received your refund. We will provide email confirmation once we have safely received your parcel and a refund has been processed. Please note that we will not accept liability for goods that are not returned by the G return service".

I've had a look at the rest of the returns frequently asked questions and they also mention that refunds will be processed within ten days of the distribution centre receiving the goods.

I'm satisfied that the return policy was made clear here and that it was a key requirement for the items to be received back to G for a refund to be processed.

As Virgin Money's review of the chargeback claim required a strict application of Mastercard's rules here under this chargeback code, I do agree that there wasn't a reasonable prospect of success had it progressed further. Therefore I don't think they did anything wrong here in declining the claim.

I think this claim is better suited under S75 as it does require additional considerations of terms implied into G's contract to determine if there has been a breach of contract. I've therefore considered this below.

S75

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 Mr C paid for this transaction using a credit card, a S75 claim could possibly help him. So in deciding what is fair and reasonable I've focussed on this.

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.

To assess a valid claim, Virgin Money would've needed to consider all relevant evidence for the alleged breach of contract or misrepresentation. But for there to be a valid claim under S75 there are certain technical requirements and I'm satisfied these have been met here. In addition while S75 considers whether a breach of contract or misrepresentation has occurred, having reviewed the circumstances of Mr C's complaint, I think a consideration of breach of contract is most appropriate here.

I've considered G's express terms (which I quoted above under the chargeback section) and am satisfied this confirmed a refund would be processed once goods arrived back safely with them following their Royal Mail return process.

In this case Mr C followed G's return process and used their return label when handing the goods to a Royal Mail Post Office. The evidence shows the tracking code was scanned which means the parcel was accepted for delivery back to G. However Virgin Money previously agreed with G's position that the goods subsequently disappearing was something that G wouldn't be liable for and so didn't uphold the S75 claim.

Section 34 of the Consumer Contracts (Information, Cancellation and Additional Charges Regulations 2013 (CCR) states the following:

34.—(1) The trader must reimburse all payments, other than payments for delivery, received from the consumer, subject to paragraph (10).

and of particular relevance here:

(4) Reimbursement must be without undue delay, and in any event not later than the time specified in paragraph (5) or (6)

(5) If the contract is a sales contract and the trader has not offered to collect the goods, the time is the end of 14 days after—

(a) the day on which the trader receives the goods back, or

(b) if earlier, the day on which the consumer supplies evidence of having sent the goods back.

That provision is treated as an implied term with mind to S75 and considerations of whether there has been a breach of contract. So once Mr C provided evidence that he had sent the *goods back using G's own postage label, I consider he'd discharged his responsibility of returning the goods appropriately as stated in S34 (5)(b) of the CCRs. This meant that G were contractually obliged to refund him once Mr C had provided evidence of the return such as the certificate of posting which formed part of his submissions. Their refusal to do so then comprised a breach of contract under S75 with reference to the CCRs.*

I brought this to Virgin Money's attention after this case was referred to me for decision and they've accepted my findings. They've said they are now happy to reimburse Mr C for the disputed amount.

However there are some additional customer service issues which I've gone on to consider below.

Customer Service

Mr C also raised several customer service issues in his complaint form to us and felt that he hadn't been offered appropriate compensation to address this.

- *Mr C was unhappy with the time taken to look at his complaint and felt compensation was due for this.*

Virgin Money has accepted that they took longer than normal to progress the chargeback claim. Mr C contacted Virgin Money in December 2023 but I see from their FRL that they only contacted Mr C in April 2024 about this and raised the claim. While I appreciate there would've been delays in December 2023 during the holiday period, this meant there was still a substantial delay for the first few months of 2024 in progressing the claim. The chargeback and S75 claim outcomes were then conveyed at the end of July 2024.

Virgin Money offered £35 in their FRL and said they'd credited Mr C with that amount on his credit card to reduce his balance. They also offered to pay this amount to him directly should he choose to do so.

I've considered the amount of time taken for Virgin Money to progress the claim and don't think £35 is sufficient. This delay comprised of several months which was avoidable and left Mr C without the benefit of a timely investigation for a significant transaction amount claimed. In my view, £35 doesn't fairly reflect the inconvenience caused. A payment of £100 is more proportionate to recognise the unnecessary delay and the frustration Mr C experienced here. I think Virgin Money needs to therefore increase their compensation for the distress and inconvenience suffered by Mr C to £100 as a result.

- *Mr C says he also had to re-submit evidence in June 2024 even though the complaint had been raised earlier.*

Virgin Money has explained this was regarding a missed payment on his credit card and their system screenshots confirm this occurred due to his personal circumstances at the time. This was tied to a separate money transfer in August 2024 with a 0% interest promotional offer, however no payment was then received the following month.

As this broke the terms of the promotional offer, interest was then charged on his account. As two further payments were made in September 2024 and before the end of the month, there wasn't a late marker added to his credit file. However this meant the promotional offer was removed because of the missed payment. I understand that this promotional offer was later reinstated following Mr C's phone call in November 2024 along with a refund of interest applied in the prior months.

As this issue was addressed by Virgin Money and isn't tied to Mr C's refund claim in any event, I won't be commenting on this further here as a part of this decision.

In summary I consider that further compensation needs to be awarded here for the delays in processing the claim and so increased to £100.00. However I don't think any further award is required beyond this.

Putting things right

To put things right, Virgin Money should refund the cost of Mr C's purchase. I also think the compensation should be increased to £100. He should still be given the opportunity to have this £100 total payment paid directly to him if he wishes, with mind to the fact that he was already credited £35 to his credit card so this would need to be adjusted as required.

Mr C responded to my provisional decision agreeing to my findings. Virgin Money didn't provide any further comments.

As a result, my conclusions here remain the same.

My final decision

My final decision is I uphold this complaint. To put things right, Clydesdale Bank Plc trading as Virgin Money should:

- Refund the £1,691.00 to Mr C's credit card. They should remove all interest, fees and charges added as a result of this sum. If it follows that this results in a positive balance on Mr C's credit card, they should then add 8% per annum simple interest to the amount overpaid from the date the claim was declined until the date of settlement.

  If they consider it is required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mr C how much it has taken off. They should also give Mr C a tax deduction certificate if he asks for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

- Increase the compensation amount to £100.00 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 3 October 2025.

Viral Patel
Ombudsman