

The complaint

Mr W has complained that Clydesdale Bank Plc, trading as Virgin Money, hasn't adequately refunded or compensated him in respect of a car he bought.

What happened

In August 2023, Mr W bought a car for £6,697.50 from a dealership, which he paid for in part using his Virgin Money credit card. However, he's explained that after it was delivered, he found out it had been modified, and he couldn't insure it. The dealership agreed to refund him £5,900, but said it would keep the rest, to cover delivery and collection.

Mr W was unhappy with this, and made a claim to Virgin Money under section 75 of the Consumer Credit Act 1974. He was unhappy with its response. Mr W has explained he's incurred a number of losses, which haven't been taken into account. He's having to pay off his credit card, and the outstanding sum is attracting interest. He also had to hire a car for a week, then buy another one – which broke down. Further, he feels Virgin Money took too long to deal with his claim.

He then brought a complaint to our service. While the complaint has been with us, Virgin Money has secured the initial refund of £5,900 from the dealership. It has also paid Mr W £614.67 (comprising his card repayments, interest on these, and £150 in recognition of the delay in it dealing with things). However, this leaves £350 outstanding in respect of delivery charges, and Mr W feels the compensation should be higher.

One of our investigators looked into what had happened. She agreed that it was fair for Virgin Money not to have refunded the delivery fee. This was because the contract allowed for a delivery fee to be charged, and she didn't think there was sufficient evidence of the car having been modified. So, she felt the delivery fee should stand.

She also thought about Mr W having paid for a hire car, and then buying another car, which broke down. But, as she felt there wasn't enough evidence of the first car having been modified, she didn't think consequential losses should be considered.

Our investigator also looked at the figures on the paperwork, and what Mr W had actually paid. And she found a discrepancy of £97.50. There's been no explanation of what this was for, so she thought it should be returned.

Finally, she considered the delays there had been. Mr W had raised a claim with Virgin Money on 12 September 2023, but it wasn't until May 2024 and July 2024 that he received any refunds. She felt this warranted an additional £100 compensation, bringing the total for this aspect of the complaint to £250.

Virgin Money agreed, but Mr W did not, so the complaint was passed to me. I issued a provisional decision, as I was minded to uphold the complaint, but with a different remedy than that set out by our investigator. In that provisional decision, I said as follows.

I agree with our investigator regarding the £97.50, as there's no evidence of what this charge was. I also agree with her that a total of £250 compensation for the distress and inconvenience caused by the delays is fair. I know Mr W feels it should be higher, but I think £250 is a significant sum, to address that Mr W should reasonably have been refunded earlier.

Where I disagree, is regarding whether the car was misrepresented, as regards modifications. And I'm satisfied, on balance, that it was. Mr W has provided evidence of a purchase of a JHM ECU tuning by the previous owner of the car. Further, a JHM ECU tuning is only used for a racing car. And, I can see there was no mention in the dealership's advert of the car having been modified. I consider this to be a misrepresentation by omission. It's very clearly an extremely important piece of information, and I have no doubt that Mr W would not have bought the car, had he been made aware of it. Accordingly, I think Mr W should also be refunded the £350 delivery charge.

It also means I've thought about consequential losses. I think that the second car breaking down is too remote for me to hold Virgin Money responsible for making a payment for it. It's very unfortunate this happened, but I don't think it flowed from the issues with the first car. However, for the first week, Mr W needed to hire a car, to keep mobile. I think this was understandable, and would be reasonably foreseeable, such that it should be considered a consequential loss. I would ask Mr W to provide details of the cost of this, so I can consider what part (or all) of this cost I think should be reimbursed.

For the reasons given above, I'm minded to uphold this complaint, and require Clydesdale Bank Plc, trading as Virgin Money, to:

- refund the £300 delivery charge, adding 8% simple interest a year, from 12 September 2023 to the date of settlement;
- refund the hire car costs, adding 8% simple interest a year, from 12 September 2023 to the date of settlement – subject to me receiving reasonable proof of these, and confirming what proportion I think should be refunded;
- refund the £97.50, adding 8% simple interest a year, from 12 September 2023 to the date of settlement; and
- pay a total of £250 compensation for the distress and inconvenience caused (deducting any amount already paid).

Mr W responded, providing evidence of his hire car costs as being £346.81.

Virgin Money responded, disagreeing with the part of my decision relating to hire car costs, on the basis these should be Mr W's responsibility.

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.

Having done so, I see no reason to depart from my provisional decision. I've explained why, in this case, I consider the hire car costs to be a consequential loss. If there hadn't been an issue with the first car, Mr W would never have incurred these. So, this leaves me to decide what proportion of the £346.81 I think Virgin Money should reimburse. It would always have been the case that Mr W would have incurred some costs, such as fuel. I'm not asking for this to be refunded. It's also the case he'd have had a 'cost', in terms of the depreciation in the car, had it been fine and he'd kept it. However, this would have been negligible, given

we're talking about such a short period. Ultimately, Mr W is out-of-pocket by £346.81, directly because of the issues with the first car. And I don't think £346.81 was an excessive amount to pay to keep mobile. Accordingly, I think it fair he be refunded this in full.

Putting things right

To put things right, Virgin Money should:

- refund the £300 delivery charge, adding 8% simple interest a year, from 12 September 2023 to the date of settlement;
- refund the hire car costs of £346.81, adding 8% simple interest a year, from 12 September 2023 to the date of settlement;
- refund the £97.50, adding 8% simple interest a year, from 12 September 2023 to the date of settlement; and
- pay a total of £250 compensation for the distress and inconvenience caused (deducting any amount already paid).

My final decision

For the reasons given above, it's my final decision to uphold this complaint. I require Clydesdale Bank Plc, trading as Virgin Money, to take the actions set out above, in the section entitled 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 2 July 2025.

Elspeth Wood
Ombudsman