

The complaint

Miss M complains Clydesdale Bank Plc trading as Virgin Money has acted unfairly by not refunding a payment she made using her credit card.

What happened

In January 2021, Miss M purchased two sofas from a company I'll refer to as F. She paid £1,099.98 using her Virgin credit card.

In November 2024, Miss M contacted F saying she was unhappy with the quality of the sofas, as the material was starting to peel and crack. She also explained the sofas had been misrepresented as they'd been sold to her as being made from real leather, but she'd now discovered this wasn't the case. Miss M considered a leather sofa should last for at least 10 years and as this hadn't happened requested around 60% of her money back.

F reviewed matters but said it was unable to offer a repair or replacement as it was after the 12-month guarantee period. It also said the sofas had been advertised as bonded leather when Miss M made her purchase, so didn't consider it had misrepresented the products at the time of sale.

Unhappy, Miss M contacted Virgin in an attempt to claim a refund under Section 75 of the Consumer Credit Act 1974 (CCA).

Virgin reviewed matters but declined Miss M's claim. It didn't agree there'd been a breach of contract or misrepresentation as Miss M hadn't evidenced the sofas had been described as made from real leather or guaranteed they'd last 10 years, at the time of sale. As such Miss M complained.

Virgin considered Miss M's complaint and while it didn't change its position in relation to the claim outcome, it did agree it could have provided a better service. And for this it awarded £75 compensation, applied as credit to Miss M's account. Miss M didn't agree this fairly resolved matters so referred the complaint to this Service.

While Miss M's complaint was awaiting review, she said she took F to court. She's told this Service it offered Miss M £550 to settle the case, which she accepted. As such, to put matters right she considered Virgin should apologise for how it handled her complaint and pay £80 – the amount she paid to take F to the small claims court.

An Investigator here reviewed matters but concluded there'd been no breach of contract or misrepresentation as there wasn't evidence to support this from the time of sale. They also considered that the £75, already paid, was fair to apologise for the way Virgin had handled Miss M's section 75 claim. They later added that while F had since agreed to settle Miss M's claim, this didn't mean Virgin should have reached a different outcome in respect to her section 75 claim.

Miss M didn't agree, saying as F had breached the Consumer Rights Act 2015 (CRA), Virgin should have supported her claim. She pointed to the evidence showing the sofas were in

poor condition within four years of purchase. Saying this demonstrated they were not fit for purpose or of satisfactory quality.

With no resolution the complaint was passed to me to decide.

I issued a provisional decision, explaining why I didn't intend to uphold this complaint. In this provisional decision I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As part of my review I asked Miss M further questions about the fact she'd taken F to court. Miss M has explained the settlement was made during mediation, which is where both parties try to resolve matters without the need for a formal court case. I asked Miss M whether there were any terms provided as part of the settlement offer, but she's said there weren't. She's also said she was unable to share the mediation transcript, but that in any case, this didn't include terms of settlement.

I've considered this to decide whether it's appropriate for this Service to continue to review matters, even though court proceedings were started. Having done so, I think it is, I'll explain why.

In this decision I'm only able to consider how Virgin handled the dispute Miss M raised with it. I'm not able to consider the actions of F, as that isn't within the jurisdiction of this Service for these types of complaints. It appears Miss M's settlement with F was mediated out of court, after Virgin issued its final response. Here I'm looking at Virgin's actions in how it handled this claim, based on the information presented at the time, which didn't include the mediated settlement or Miss M's acceptance. As such I think it's appropriate for me to continue.

When a customer approaches their credit card issuer about a problem with a purchase made using their card, there are two avenues via which the business can help. The card issuer can try to reclaim the amount (or part of the amount) paid on their card, via the dispute resolution mechanism operated by the card scheme, and which is often known as "chargeback". Where the payment has been made using a credit card, it can also consider honouring a claim under section 75 of the CCA. I will consider each of these mechanisms in turn below.

Chargeback

Chargebacks are governed by rules set by the card scheme to which the consumer's card belongs. In this case, it's not clear whether the credit card Miss M used was a Visa or Mastercard. However, whether the card is a Visa or Mastercard, the rules relating to both aren't materially different in Miss M's case, I'll explain why below.

Chargebacks are not guaranteed to succeed, the recipient of the funds (F in this case) can choose to challenge or defend a chargeback if it doesn't think it is valid. But I would expect Virgin to attempt a chargeback if there was a reasonable prospect of success.

Here, Virgin don't appear to have attempted a chargeback, but I don't think that's unreasonable, as I don't think there was a reasonable prospect of success. I say that because Miss M first raised her dispute with Virgin in November 2024, however both scheme rules include provisions relating to how long after a transaction takes place, a customer is able to dispute this. Where a payment has been made for goods or services, and those goods are not as described or defective, as is the case here, the rules say a chargeback must be attempted within a maximum of 120 days from the date of delivery or provision of

the service.

As such when Miss M contacted Virgin in November 2024 it was already too late for Virgin to raise a chargeback at that point. So I don't think it acted unfairly in not doing so and nor do I consider Miss M lost out as a result of Virgin not attempting a chargeback when she first contacted it.

Section 75 of the CCA

Section 75 of the CCA allows consumers who have purchased goods or services using a credit card, to claim against their credit card issuer in respect of any breach of contract or misrepresentation by the supplier of those goods or services, so long as certain conditions are met.

One condition which needs to be met for section 75 to apply, is the claim must relate to an item with a cash price of over £100 and no more than £30,000. Miss M paid £1,099.98 for the sofas, so that's been met here.

A further condition that needs to be met, is that there needs to be what is known as a debtor-creditor-supplier ("DCS") agreement in place. That was also met here.

I also need to be persuaded there has been a breach of contract or misrepresentation and if there has, what the resolution should be.

Has there been a misrepresentation or breach of contract?

Misrepresentation

For the purposes of this case, a misrepresentation is a false statement of fact which induces another party into a contract which leads them to suffer a loss.

Miss M has said she was led to believe the sofas were made of leather. She's pointed to the description on the pro-forma invoice and order confirmation which said:

"[Sofa Name] Light Grey Leather 3 Seater Sofa"

In response, F said to Miss M the items were not advertised as genuine leather when she purchased them. It's gone on to say the product specification would have stated the item was made from bonded leather.

All parties are in agreement that F's website now clearly describes the sofa's upholstery as Premium faux leather. F has said the material has changed since Miss M ordered the sofas, but they were never genuine leather. What I need to consider is whether the description at the time Miss M ordered them in January 2021, made clear the sofas weren't genuine leather.

Unfortunately, neither F or Miss M has provided evidence to show what the specification was in January 2021. Our Investigator has evidenced that in May 2022 the sofa's upholstery was described as being bonded leather. So, I've taken that into account when considering whether the sofas may have been described differently a year prior.

As our Investigator has also explained, in the first instance the onus would be on Miss M to evidence a false statement of fact, namely that the sofas were made of genuine leather, induced her to enter into the contract to purchase the sofas.

Here Miss M hasn't been able to evidence that. While she's pointed to the name of the sofa on the pro-forma invoice and order confirmation, I don't think that's enough. That's because I think it's reasonable to expect a product name to, on occasion be abbreviated, and for the product specifications to provide further detail on the item. I've also taken into account the price of the sofas when considering whether it was reasonable to expect these to be made from genuine leather.

Here we don't know what the product specifications stated at the time Miss M purchased the sofas as neither Miss M or F has a record of this. Virgin is only liable to offer a remedy where things have gone wrong and there is evidence that these things amount to misrepresentation. I should also say, as our Investigator explained, it's for Miss M to evidence there has been a false statement of fact and based on what I've explained above, I don't think that's been done here. That's because I've seen insufficient evidence that the sofas Miss M ordered were listed as being leather. As such, taking everything into account I've not seen anything that would represent a false statement of fact by F, which induced Miss M to enter a contract with it. So it follows, I plan to say Virgin didn't act unfairly by declining Miss M's section 75 claim on this basis.

So I've gone on to consider whether there has been a breach of contract.

Breach of contract

A breach of contract occurs when one party to the contract fails to discharge its obligation to the other. These obligations may come about as a result of the express term of the contract, or because of terms implied by legislation.

Miss M's primary concern here is that the quality of the sofas were not fit for purpose or of satisfactory quality. She's said the sofas should last for at least 10-years, but her sofas began to deteriorate within four years. To evidence this Miss M has said the sofa material has cracked and peeled and provided photos of the materials wear.

In F's initial response it said it was unable to offer a repair or replacement as Miss M contacted them outside of the 12-month guarantee period.

Having reviewed F's terms and conditions and warranty it says:

"After 6 months: you will be asked to provide evidence that the item is faulty rather than any issue being due to reasonable wear and tear."

Miss M has said she lives in a two-person household and doesn't consider the wear and tear is reasonable as a result. But without further evidence to support this, there isn't enough to say this would amount to a breach of contract, based on F's terms. So I've gone on to consider the warranty it provides. Here I note it says:

"All our furniture comes with a one-year manufacturers' guarantee"

As Miss M contacted F outside of this time, this wouldn't be of relevance here. The terms then go on to say:

"Most of our sofas and dining tables are covered by our 10-year structural guarantee, against manufacturing faults, excluding wear and tear."

While it's not clear whether the sofas Miss M purchased were covered by this 10-year guarantee, as we don't have the specifications from the time of sale, I don't think it changes the outcome here. I say that because, the guarantee is clear in saying it does not cover wear

and tear. Miss M hasn't provided evidence beyond her own testimony the damage she's experienced goes beyond normal wear and tear and nor has she said there is any structural damage, which may have been covered. As such, although Miss M has said the sofa should last for at least 10-years, there isn't anything to say problems such as those she has experienced would be covered.

Considering F's terms and conditions and the guarantees it provides, I don't think there has been a clear breach of contract here.

In deciding what is fair and reasonable I have also considered the terms implied by the Consumer Rights Act 2015 (CRA), that says goods will be of satisfactory quality. Satisfactory quality means the standard that a reasonable person would consider satisfactory taking into account the price, description and other relevant circumstances. If the goods purchased fail to meet these standards then this would be considered a breach of contract – something for which Virgin would be liable for.

It's important to note however, that where a fault develops after six months, as is the case here, it would be for Miss M to demonstrate the faults existed at the time of purchase.

As explained, Miss M has provided photos showing the materials wear, but these were taken many years after purchase and Miss M has also said the problems developed after at least three years. As such, I haven't been provided anything that persuades me the sofas weren't sufficiently durable, taking into account the price, description and other relevant circumstances. And given the age of the sofas and the lack of other persuasive evidence to show there was an inherent manufacturing fault, I am unable to fairly conclude the goods were of unsatisfactory quality at the time of sale. So I don't think there has been a clear breach of contract here either.

I should also say, although F has since paid Miss M £550 through mediated settlement, I don't think that means there has been a misrepresentation or breach of contract by F, as Miss M says. And, in any case, as explained, I'm considering the actions of Virgin in its handling of Miss M's section 75 claim and the mediated settlement didn't form part of this.

As I'm not persuaded there has been a breach of contract here, I plan to say Virgin didn't act unfairly in declining her claim on this basis either.

Customer Service

For completeness, I'm aware Miss M was initially unhappy with the customer service she received from Virgin, but has since said the £75 it awarded fairly resolves this matter. So all I will say on this point is that I agree with our Investigator's findings here, that £75 fairly compensates Miss M for the problems she faced when attempting to contact Virgin about her claim.

Overall, I don't think a chargeback had a reasonable prospect of success, as it was raised too late. And because I don't think there has been a breach of contract or misrepresentation by F here, when considering Virgin's liability under section 75, I don't think it's acted unfairly by declining Miss M's claim on this basis. I should also say, it was Miss M's decision to start court proceedings against F, but because I don't think Virgin has handled Miss M's claim unfairly or incorrectly, I don't intend to ask it to refund the £80 court fees she has requested. As such, taking everything together, I don't intend to ask Virgin to do anything here."

I invited both parties to respond with any further points or evidence they wanted me to take into account before I made a final decision.

Virgin responded, but didn't have anything further to add.

Miss M responded, disagreeing with my provisional decision. In summary she said, various third-party organisations said F had breached consumer law and pointed again to the fact F agreed to pay compensation as confirmation of that. Miss M added that while I had referred to terms from F's website, these weren't relevant – saying the Consumer Goods Act overrides these – and this had been breached.

Miss M also explained she didn't purchase the sofas directly from the website, but via an email request and a Pro Forma, describing the sofas as leather, which she considered to be a misrepresentation.

In addition, Miss M reiterated that four years is not an acceptable length of life for a sofa – which she said F acknowledged by making an offer of compensation.

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've reached the same outcome as set out in my provisional decision.

While Miss M has said she didn't purchase the sofas directly from the website, she's not provided anything to suggest she was given different information about the product, via email. As explained in my provisional decision, while the pro-forma invoice and email order confirmation say:

"[Sofa Name] Light Grey Leather 3 Seater Sofa"

I don't think that's enough to say there's been a misrepresentation because, as I've said, I think it's reasonable to expect a product name to be abbreviated and for the product specification to provide further detail. I should also say, as part of Miss M's submission to this Service she provided a screenshot of the website, where the product specification could be found. So while she may not have placed the order directly on the website, it was available to her. And without any evidence to show she was provided any other information about the specification, and taking into account the price of the sofas, I've not seen anything that would represent a false statement of fact by F. As such I don't think Virgin acted unfairly by declining Miss M's section 75 claim as a result.

Miss M has said the Consumer Goods Act overrides F's terms and conditions. Here, I think Miss M is referring to the Consumer Rights Act 2015 (CRA), but as noted in my provisional decision, for this there is a need for Miss M to demonstrate the fault existed at the time of sale, which I haven't seen to be the case. And while Miss M says four years isn't an acceptable length of life for a sofa, I haven't seen anything to show the damage goes beyond normal wear and tear, or that there was a guarantee of the sofa's quality, beyond one year.

Taking into account both the CRA and F's terms I'm unable to conclude there has been a breach of contract here, and as such I don't think Virgin acted unfairly by declining Miss M's section 75 claim for this reason either.

I appreciate Miss M has now received a mediated settlement from F, but as noted in my provisional decision, I'm considering Virgin's actions in its handling of Miss M's section 75 claim and the mediated settlement didn't form part of that. As the mediated settlement took place after Virgin had considered matters, it wouldn't be fair to take this into account when

considering Virgin's handling of Miss M's section 75 claim in any case.

Taking everything into account I can't conclude Virgin acted unfairly in the way it handled Miss M's claim. That's because while it doesn't appear Virgin raised a chargeback, I don't think it would have had a reasonable prospect of success as it would have been raised too late. And because I haven't seen anything that would represent a misrepresentation or breach of contract, when considering Virgin's liability under section 75, I don't think it's acted unfairly by declining Miss M's claim on this basis. Given this I won't be asking Virgin to do anything further here.

My final decision

For the reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 13 October 2025.

Victoria Cheyne
Ombudsman