

The complaint

Ms W complains about how Clydesdale Bank Plc trading as Virgin Money ('VM') handled a claim she made to it.

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

In respect of a special event Ms W paid a hotel ('the supplier') for venue hire, accommodation and catering services using her VM card. She paid the supplier a total of £5,240 for the package split across two transactions (a £472 deposit followed by the balance of £4,768).

Ms W was not satisfied with the services she paid for. She complained to the supplier about these in a letter. In summary, she wrote to it with the following 'Key Issues':

- The sound system kept cutting out causing disruption to the event, a need to utilise backup speakers, and disagreements with the staff.
- The quality of the food was disappointing. For example, chicken was not marinated as instructed, dishes were dry and the vegetables were undercooked, the brownies were a disappointment, and the canapes were greasy and tasteless. Some food was also not served warm.
- There was poor leadership and staffing at the event which meant things did not run as smoothly as expected. For example, tables were not cleared promptly and breakfast food was not replenished quickly leaving guests waiting for more. Tables were also laid out with wrong numbers and place settings which Ms W had to rectify herself with friends.

Ms W also mentioned in the letter some additional concerns, including with the facilities in general. Such as some hotel rooms being poorly lit, the boardroom looking neglected/having trip hazards, and outside reception having drainage issues. Ms W pointed to issues other guests had experienced with their rooms too like a leak or air conditioning problems.

The supplier responded to accept there were some issues with the services and said that it would take on the feedback given. It offered a £500 gesture of goodwill.

Ms W did not accept this and approached VM for a refund. It considered her claim and raised a chargeback and recovered the £4,768 balance payment.

Ms W complained that VM's approach to her claim was legally flawed. And she was entitled to further damages for disappointment and distress as she considered the event had been ruined. She also said that VM should reimburse her for the consequential losses she was claiming, which were for all the other costs associated with the event including the DJ, clothing, lighting, photographer, entertainment and marquee. She says the supplier's failures

rendered these services worthless. Ms W also said she was unhappy with how VM handled the claim and that it had not refunded her £472 deposit.

VM did not agree the claim outcome was unreasonable noting Ms W had received back £4,768. It agreed its claims handling could have been better – and credited her with £125 compensation to reflect that.

Ms W escalated the complaint to this service. Our investigator did not uphold it. Ms W asked for an ombudsman to review the matter for a final decision.

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 recognise Ms W's strength of feeling on this matter. This was clearly a very important once in a lifetime event for her and the family. I am sorry to hear about any disruption experienced. And while I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party– it reflects my role resolving disputes with minimum formality.

It is important to note that my jurisdiction here concerns the actions of VM only. When looking at what is fair I consider its role as a provider of financial services – and what it fairly could have done to help with the information that was reasonably available to it at the time. As Ms W used a credit card to pay for the service in dispute I consider chargeback and Section 75 of the Consumer Credit Act 1974 ('Section 75') to be particularly relevant here.

Chargeback

A chargeback is not a legal right but can be used to recover money in situations where there is a dispute about services. It is governed by the rules of the card scheme (Mastercard here) which I have taken into account.

There has been some discussion regarding chargeback time-limits here – but I don't think these are material to the outcome in any event – so I have not focused on this.

VM is not obliged to raise a chargeback – but it is often good practice to do so where there is a reasonable prospect of success. In this case Ms W had provided VM a letter from the supplier to support her claim where it appeared to acknowledge some issues with aspects of its service and offered £500 compensation.

I can see that despite the offer of compensation the supplier had already made VM says it raised a chargeback which covers not as described or defective goods or services and as a result recovered the balance transaction of £4,768.

I recognise Ms W says VM did not recover her deposit amount of £472 paid for via a separate transaction. So I have thought about this in respect of chargeback.

Looking at the merits of the claim I don't think it would have been reasonable for VM to raise a chargeback for the deposit. While there were issues with the service, I don't think the evidence Ms W provided VM clearly showed that a chargeback would likely have recovered more or substantially more than the supplier had already offered. I say this noting the following:

- A chargeback is not designed to recover damages for distress and inconvenience or consequential loss.
- Ms W's letter of complaint to the supplier is in respect of issues with a portion of the services – not all of these.
- The supplier's response letter does not clearly concede liability for wrongdoing in respect of all of Ms W's claims. For example it says the chicken was marinated as agreed and suggests that some of the issues with the food were a matter of personal preference rather than poor quality.
- In some cases it isn't clear to what extent services were not provided (for example there appears to be a suggestion the speakers were not faulty but would cut out due to the DJ breaching volume limits).
- While the supplier appears to acknowledge some issues with the facilities – such as the drainage issues outside reception and exposed power point boxes in the boardroom– it does not concede that all or substantial aspects of the accommodation or venue service were not provided as agreed.
- There are aspects of Ms W's claim which do not clearly form part of her contract for services with the supplier as paid for using her credit card (such as references to it not acting on a suggestion to repaint the boardroom prior to the event or issues with services paid for and supplied to third parties).
- VM were presented with a lack of evidence to support some of the claims– such as photographs, video or testimony from third parties.
- The supplier's response suggested the value of any diminishment in quality of service is worth £500 and this is based on 'goodwill' rather than a clear admission of liability.
- The chargeback appeared to have succeeded because it wasn't defended – there can be a range of reasons for that – but I don't think VM would fairly have known that would happen from the outset. VM raising the chargeback for the balance appeared speculative (noting that £500 had been offered to date). It doesn't fairly show VM should have progressed a dispute for a full refund (i.e. the deposit too).

All things considered I think VM handled the chargeback fairly. So I have gone on to consider Section 75.

Section 75

Section 75 in certain circumstances allows Ms W to hold VM liable for a '*like claim*' for breach of contract or misrepresentation in respect of an agreement by a supplier of goods or services which is funded by the credit card.

There are certain requirements that need to be met for Section 75 to apply – which relate to things like the cash price of the service or the way payment was made. After considering these factors I think the requirements are in place for Ms W to have a valid Section 75 claim against VM. So I have gone on to consider if there is persuasive evidence of a breach of contract or misrepresentation which would reasonably have been available to VM at the time it considered the claim. And if so, what VM should fairly do now to put things right.

I don't think there was persuasive evidence presented to VM to show a misrepresentation by the supplier. What Ms W had shown was effectively a claim for breach of contract. So it is this VM should have fairly focused on.

Breach of contract

When considering breach of contract I have taken into consideration the express terms of the contract which Ms W provided VM, along with relevant implied terms by law. In this case

of particular relevance is the Consumer Rights Act 2015 which implies into contracts for services that they need to be provided with reasonable 'care and skill'. This is not expressly defined in legislation but is usually the acceptable standard in that particular industry.

Ms W presented evidence to VM that indicates the supplier did not provide aspects of the service with reasonable care and skill (i.e. they fell below standard based on what is reasonably expected in that industry). This is primarily evidenced from the supplier's response to her complaint which appears to accept some failings with the venue and food.

However, as I have noted above, Ms W's complaint to the supplier was in respect of specific aspects of the supply agreement, and not all of these were clearly accepted as failings by the supplier. So, putting aside claimed consequential losses or other damages for distress and inconvenience (which I will come on to) I don't think there was sufficient evidence presented to VM to justify a refund of substantial amounts in respect of the supply contract for the provision of venue hire, accommodation and food. On the face of it, the £500 offered by the supplier, or an amount not substantially greater would seem broadly fair compensation for partial breaches of the supply contract. So when Ms W recovered £4,798 (around 90% of the contractual cost) I can see why VM would not have awarded the deposit as well.

Loss of enjoyment, distress and inconvenience

Ms W has said that VM failed to recognise her claim for loss of enjoyment, distress and inconvenience. She has submitted case law to show this is a valid head of claim in these types of cases. Which I have considered here.

Ms W's claim against VM is based on a 'like' claim she would have against the supplier in court. In general the courts have been reluctant to make awards in respect of loss of enjoyment or general distress and inconvenience. However, where the contract is specifically for enjoyment – like a special event – the courts have been willing to make awards for this.

I am unsure to what extent VM considered this aspect of Ms W's claim. However, had it done so I consider the outcome here should not have fairly been different in any event.

It's clear here that even partial failings by the supplier in respect of venue hire, accommodation and food had an impact on the enjoyment of a special event and likely caused distress and inconvenience. Ms W has provided credible testimony in support of the impact these failings had. So I think a court would likely award an amount to Ms W for non-pecuniary loss. But ultimately, it isn't a science, and a court will assess the individual circumstances. In this case, even if VM accepted that the supplier's failings had a moderate or substantial impact on the enjoyment of the event I don't see where Ms W presented VM with persuasive evidence that a court would likely award her more than the significant amount of £4,798 recovered already. So I don't think VM was acting unfairly in not awarding more here.

Consequential losses

Ms W says VM should have refunded her for consequential losses even if these were not paid on her credit card with it.

I recognise that a claim for consequential losses arising from a breach of a supply contract is possible even if these were not paid for on the credit card. However, to claim these Ms W must demonstrate that she has suffered these losses, that they were a consequence of the supplier's failings, and that she was unable to fairly mitigate these. Overall, I don't think that

Ms W had provided persuasive evidence that any wrongdoing by the supplier meant goods or services including photographer and videographer, photo booth, line dancer, magician, marquee, party printing, clothing items, security, lighting and miscellaneous décor/food could not be utilised as intended. Or that there was no benefit from the event insurance. Nor do I think that the hotel room expenses for guests paid using another card are a direct loss that Ms W is able to recover against VM. But even if these were, I don't think there was persuasive evidence presented to VM that these services were not provided and used as intended.

From what I can see a consequential loss that might be claimable is in relation to the DJ – who Ms W says was impacted by the issue with the speakers cutting out. However, even if it were accepted that the DJ was unable to perform parts of the set due to the wrongdoing of the venue (and noting the supplier's comments on this and the absence of further evidence – it isn't clear) considering the substantial refund received to date I think VM would not have been acting unfairly in concluding that further compensation wasn't due.

In summary, based on the evidence and information presented to it I don't think VM were acting unfairly in concluding that the amount recovered of £4,798 satisfactorily resolved the breach of contract central to Ms W's claim to it. I don't think it would reasonably have been expected to award further amounts. Furthermore, because I think its response to the claim was fair I would not expect it to pay out of pocket interest as Ms W has claimed.

General claims handling

Ms W is unhappy with how VM handled the claim. In particular, the time it took and an interaction with an advisor who Ms W says was rude and confrontational.

In considering fair compensation for this I have noted the general expectation that a claims process will not be without some degree of frustration. I have also taken into consideration our published guidance on awards for distress and inconvenience. But I also note that awards such as this are not a science.

I am sorry to hear about Ms W's interaction with the staff member. I can see that VM has accepted that the interaction fell below standard and the advisor was abrupt and confrontational so I am willing to accept that compensation is payable for the additional frustration and upset caused here.

Considering VM had carried out a chargeback and Section 75 investigation and noting that this was not a simple or low value claim – it would be reasonably expected to take longer than some claims. I can see here from when Ms W contacted VM in October 2024 it took around five months to provide its initial claim outcome to her. This wasn't ideal – and I recognise that VM accepted some other minor customer service issues too - but in the circumstances (and noting the apology it already issued in relation to aspects of its customer service) I don't think VM's overall handling means it should fairly do more than pay the £125 it has already paid in compensation to date.

I remind Ms W that my role is an informal one and about the claim handling of VM only. She is free to reject my decision and consider options she might have against VM or the supplier through more formal means (such as court), seeking relevant legal advice where necessary.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or

reject my decision before 30 January 2026.

Mark Lancod
Ombudsman