

The complaint

Mr C complains Clydesdale Bank Plc trading as Virgin Money (Virgin Money) has acted unfairly by not refunding payments made using his credit card account.

Mr C has been supported in making his complaint by a family member, but for simplicity I will refer to all submissions as having come from Mr C.

What happened

In February 2024 Mr C purchased window shutters from a company I'll refer to as P. The payments were made using Mr C's credit card account, but from his family member's card, as the secondary card holder. The first payment was made on 22 February 2024 for £638 the second later that year, for £637.

The shutters were delivered and installed on 30 May 2024, but Mr C says the shutters were damaged and poorly fitted. So he raised concerns with P and asked it to remove the shutters and provide a full refund.

Mr C says he attempted to resolve matters with P, but as it didn't agree to remove the shutters and provide a refund, he contacted Virgin Money for help in getting the money back.

Virgin Money initially raised a chargeback, which is a process of asking the merchant for a refund via the card scheme provider – Mastercard in this case.

However, P defended the chargeback, saying it didn't agree a refund was due as it had offered to inspect and if necessary, repair the issue directly. It explained the shutters and installation were covered by the product warranty and workmanship guarantee, but as Mr C wouldn't allow it to resolve matters, there was nothing further it could do.

Virgin Money shared this response with Mr C, who disputed the fact P had attempted to rectify matters. Virgin Money pursued the chargeback further, but it continued to be defended by P. As such, Virgin Money made the decision not to pursue the chargeback claim any further as it didn't consider there would have been a reasonable prospect of success.

Virgin Money also reviewed the claim under Section 75 of the Consumer Credit Act 1974 (CCA) but explained as Mr C didn't provide additional information it had requested, it was unable to pursue the claim further. Virgin Money didn't change its position after Mr C complained, saying P hadn't been given the opportunity to remedy the issue. As a result, he referred matters to this Service.

An Investigator here reviewed matters and concluded the shutters were not free from defects, as such there'd been a breach of contract that Virgin Money was jointly liable for. They went on to explain because Mr C had raised his concerns within the first thirty days, it was fair to allow him to return the shutters and receive a full refund, plus interest on the amount he'd paid. They also explained however, they'd not seen the installation formed part of the contract Mr C entered, and as such they were unable to say there'd been a breach of

contract in relation to this.

Mr C responded, raising concerns about the quality of the installation. Virgin Money also responded but didn't agree with our Investigator's findings. It said without an independent report, provided by Mr C, to confirm the defects complained about were a result of poor installation or manufacture, it was unable to conclude there was a breach of contract.

As no agreement was reached, 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 I said:

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

I think it would be helpful to explain, in this decision I'm only able to consider how Virgin Money handled the dispute Mr C raised with it. I'm not able to consider the actions of P, as that isn't within the jurisdiction of this Service for these types of complaints.

In this case, our Investigator concluded the installation of the shutters didn't form part of the contract Mr C entered with P as they couldn't see the amount that Mr C paid included this.

But at the outset I should say I don't agree. That's because the invoice says the total payment of £1,275 was for:

"Supply, Install & Remove All Rubbish"

As such, I consider installation was part of the contract entered into here, so I'll be considering both the concerns Mr C has raised about the damage to the shutters, as well as the installation within this decision.

When a consumer approaches their credit card issuer with a problem with a purchase made using their card, there are two ways it can help. The card issuer can try to reclaim the amount (or part of the amount) the consumer paid on their card, via the dispute resolution mechanism operated by the card scheme (Mastercard in this case), 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 not guaranteed to succeed; the recipient of the funds (P in this case) can choose to challenge or defend a chargeback if it doesn't think it is valid. But I would expect Virgin Money to attempt a chargeback if there was a reasonable prospect of success, as it did here. If a chargeback is challenged by the other side to the dispute, I would expect Virgin Money to look carefully at the submissions made by the other side and make a decision on whether to continue pursuing the chargeback. I would not expect Virgin Money to pursue it further if the submissions showed it no longer had a reasonable prospect of success.

In this case Virgin Money did as I'd expect and pursued the chargeback under reason code "Goods or Services were not as described or defective". This seems reasonable as Mr C is saying the shutters that were fitted were damaged and the installation was of poor quality.

For a successful chargeback, the rules say evidence is needed that:

“The merchant refused to adjust the price, repair or replace the goods or other things of value, or issue a refund.”

Here, P defended the chargeback saying as Mr C was covered by its product and fitting warranties, it had offered to assess the issue and fix or replace parts where necessary. It also explained it had offered a £50 voucher as a gesture of goodwill. However, Mr C hadn't accepted this and refused the appointments offered.

Virgin Money shared this with Mr C, who didn't agree. Saying he'd exercised his short term right to reject the shutters, and P had made no attempt to contact him about this. He didn't consider P should be given the opportunity to repair the shutters, instead he should be able to have them removed and a refund issued.

Virgin Money considered this and decided to pursue Mr C's claim to second presentment. However, P continued to defend the claim, saying Mr C was covered by its warranty. Based on this defence, it appears Virgin Money made the decision not to pursue the chargeback any further, which seems reasonable.

I say that because, P said it was offering to repair or replace the shutters – dependent on what was needed following it attending the property. Mr C hasn't disputed this, but considers he had a right to reject the shutters. But that isn't an outcome under the chargeback rules when the merchant has made an offer to: adjust the price; repair or replace, as P has done.

In this case, Virgin Money did as I'd expect and pursued the chargeback claim as far as it considered it could. It did so under the relevant reason code, but because P offered to repair or replace the shutters (following assessment) it made the decision not to pursue the matter further, which seems reasonable.

As such, I think Virgin Money handled Mr C's chargeback claim fairly

Section 75 of the CCA

Here, Virgin Money appear to have started considering Mr C's claim under section 75, but say because he didn't respond to a request for further information, it closed his claim. Separately, Mr C has said following advice he chose not to pursue a claim under section 75.

While it's not clear why Mr C chose not to pursue a claim under section 75, his complaint is that he has the right to reject and receive a refund under the CRA. As such, for Virgin Money to be able to help here it would need to have considered its liability under section 75. As it was a potential avenue for Mr C to receive a refund, I've considered, had Virgin Money done so, what a fair outcome would have been.

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. Here Mr C made two payments for £638 and £637, so that condition has been met.

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. In this case the payments were made using Mr C's credit card account, albeit from a family member's card and the paperwork is also in the family member's name. In some cases, this could mean the necessary DCS agreement isn't

in place. However, our Investigator has said because the shutters were purchased for a property Mr C and his family member jointly own, Mr C was also a contracting party.

While this hasn't been disputed by Virgin Money, for completeness I've considered this. Having done so, I'm also persuaded both Mr C and his family member could be considered to be contracting parties to this contract. I say that because Mr C has explained they were both present at the time of sale (when P visited their property), and both jointly own the property the shutters were for. Given Mr C was involved in the decision to purchase shutters, which it's reasonable to say both Mr C and his family member would have use for, in a property they jointly own and live, I consider the necessary DCS agreement is in place.

As such, I've gone on to consider whether 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.

Mr C is complaining the shutters P installed were damaged and poorly fitted. As such, I think it would be more appropriate to consider this argument under a breach of contract.

I've also seen nothing that would represent a false statement of fact by P, which induced Mr C to enter a contract with it. So I've therefore 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.

With this in mind in deciding what is fair and reasonable outcome is I've 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 Money would be liable for.

Our Investigator considered the shutters were not free from defects and because Mr C raised those concerns with P within thirty days of delivery, he should be able to reject the shutters and receive a full refund. However, based on what I've seen, I don't agree this would be a fair resolution, I'll explain why.

Mr C has said the shutters have marks on and are damaged, he's also said the installation was poor and he's provided photos to evidence this. Having reviewed the photos, I've not seen enough evidence to say the shutters themselves are of unsatisfactory quality. I've seen one photo, that appears to show a mark on the shutters, but it isn't clear what size this is, where it is or how the mark was obtained, for example whether it was damaged prior to installation. As such, I've not seen sufficient evidence to persuade me the shutters P provided were not of satisfactory quality.

A further implied term of the CRA is that the service P provided would have been carried out

with “reasonable care and skill”. Here the installation of the shutters can be considered a service P are providing. Virgin Money has said to say there has been a breach of contract in this regard, Mr C would need to appoint a third party to carry out an independent inspection - but I don’t agree.

I say that because, looking at the photos supplied, it’s clear the installation isn’t satisfactory and could be described as not having been carried out with “reasonable care and skill”. The shutters appear to be uneven, and the finish is untidy. And I’ve found it’s possible the shutters were damaged during installation. So I am persuaded the installation of the shutters hasn’t been carried out with reasonable care and skill and as such could be considered as a breach of contract.

On this point, Mr C has said, as a result of the shutters being damaged and the installation being of poor quality, he should be able to exercise his short term right to reject, as per the CRA.

The CRA says, a consumer generally has 30 days to reject goods which are not of satisfactory quality and get a full refund. But the same doesn’t apply when installation forms part of a contract. Of relevance here is section 15 of the CRA (Installation as part of conformity of the goods with the contract), which says:

- (1) Goods do not conform to a contract to supply goods if—
 - (a) installation of the goods forms part of the contract,
 - (b) the goods are installed by the trader or under the trader’s responsibility, and
 - (c) the goods are installed incorrectly

The CRA then goes on to say, under section 19 Consumer’s rights to enforce terms about goods:

- (4) If the goods do not conform to the contract under section 15 or because of a breach of requirements that are stated in the contract, the consumer’s rights (and the provisions about them and when they are available) are—
 - (a) the right to repair or replacement (section 23); and
 - (b) the right to a price reduction or the final right to reject (sections 20 and 24).

But of importance here, is that a final right to reject can only be made, once attempts to repair or replace the item have failed.

In effect, this means as the installation formed part of the contract Mr C entered with P, and I consider it is this part of the contract that has been breached. Under the CRA, this means, P must first be given the opportunity to repair or replace the items, before Mr C can reject them and request a full refund.

I’ve also considered P’s terms and conditions here, which say:

“All [P’s] shutters carry a 3-year product guarantee and a 10-year installation warranty covering any defective workmanship carried out during fitting”.

It goes on to say:

- (l) If you raise a claim or issue regarding the installation services, the buyer must

allow the seller access to review the installation services/products and to take photographs of any alleged damage or poor quality of work.

With this in mind, for the reasons I've explained, while I consider there has been a breach of contract here, I don't agree Mr C had a right to reject under the CRA because I consider the issue in this case is as a result of installation. But I do think he has the right to repair or replacement, and I consider P's terms make clear it should be given the opportunity to fix this initially. So, I think it's reasonable to say P should be given the opportunity to put things right in the first instance, by either repairing or replacing the shutters. As such, I don't think Virgin Money would have been unfair in declining Mr C's section 75 claim, had it considered it, on the basis P had already offered to put things right.

For completeness, I've also considered what Mr C has said about P's actions, namely it was dismissive, rude and argumentative. However, I must also take into account P has offered to visit Mr C's home and put right any issues, but Mr C hasn't enabled it to do so. I should also say, P has since told this Service it is prepared to carry out an inspection and repair anything necessary, given it considers the problems should be covered by its warranties. As such, I've not seen sufficient evidence to say it would be unreasonable for P to be given the opportunity to put right the problems here. So I don't plan to say Virgin Money should take a different course of action.

Conclusion

While I appreciate this will come as a disappointment to Mr C, I don't plan to say Virgin Money has acted unfairly in how it's handled his claim. As explained Virgin Money processed his chargeback claim in the way it should, but it was unsuccessful.

While Virgin Money didn't pursue a claim under section 75, that's not unreasonable given Mr C appears to have withdrawn it and not provided the necessary information. And had it considered it, I don't think Virgin Money would have been unfair in declining a claim under section 75. That's because, for the reasons explained, the CRA doesn't give Mr C the short term right to reject and P has offered to put things right, which seems reasonable. As a result, I don't plan to ask Virgin Money to take any further steps.

Should Mr C want to arrange for P to visit his property for an inspection, he's able to contact it directly to arrange this."

Responses to my provisional decision

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

Mr C responded, disagreeing with my provisional decision. He noted the CRA says he is entitled to receive goods free from minor defects – which he considered the shutters weren't. He also reiterated that where minor defects were identified within the first six months, it's for the retailer to prove they were not present at delivery.

Mr C also said he'd sent more photos to Virgin Money than had been provided to our Service. But when asked by our Investigator, confirmed he was unable to find these or evidence they'd been sent or uploaded.

In addition, Mr C said he'd contacted P recently, but it was still refusing to respond to him.

Virgin Money also responded, accepting my provisional decision. It didn't have anything further to add.

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.

Firstly, while Mr C says he sent more photos to Virgin, he's not provided copies of these. I have however seen several photos Mr C provided, and I need to base my decision on the evidence available. Having considered these photos, I haven't seen sufficient evidence to say the mark on the shutters was present on delivery. And wasn't, for example, caused as a result of installation or something else. While Mr C has included the installation when considering satisfactory quality, the CRA refers only to "goods". As such, I'm unable to say the shutters P provided were not of satisfactory quality.

Mr C also says as the defects were identified within the first six months, it is for the retailer to prove they were not present at delivery. On this point, the CRA goes on to say this does not apply if:

(15) Subsection (14) does not apply if—

(a) it is established that the goods did conform to the contract on that day, or

(b) its application is incompatible with the nature of the goods or with how they fail to conform to the contract.

In practice, this means while in some cases we can presume a defect was present at the time of delivery, it won't be true in all cases. For example, when there hasn't been an opportunity to inspect the item or there is compelling evidence to suggest otherwise, which I consider to be the case here.

Here, P hasn't been given the opportunity to inspect the shutters. And based on the evidence available, it's not clear whether the mark on the shutters was present at delivery or caused by something else. As such, it wouldn't be fair to say the defect was present on delivery and didn't occur as a result of installation, or something else.

So with this in mind, and still considering the CRA, a fair resolution here is that P is given the opportunity to repair or replace the shutters, before Mr C can reject them and request a full refund.

For completeness, Mr C has asked whether he should raise a section 75 claim with Virgin Money. On this point, I can't advise Mr C whether he should or shouldn't do this. I will say based on the evidence Virgin Money initially had (when he made his complaint) even though it didn't consider a section 75 claim, that wasn't unreasonable as Mr C appears to have withdrawn it. And even had it considered a claim, I don't think Virgin Money would have been unfair in declining the claim under Section 75 – because I consider P should first be given the opportunity to put things right, which it hasn't had.

Mr C has also since said P have failed to respond to him – should it continue to do so, he may wish to speak to Virgin Money once again. If Mr C does contact P and continue to receive no response, he can then contact Virgin Money again to see if it can assist. If this doesn't resolve the issues, he can raise a new claim with Virgin Money about this new issue. If Mr C is unhappy with any response he may receive from Virgin Money he can then raise a complaint about that. But it's important to say any subsequent complaint he makes about that could only consider Virgin Money's actions following receipt of this new issue and any

new evidence he has.

Taking everything together, based on the evidence I've seen I don't think Virgin Money has acted unfairly. It processed a chargeback in the way I'd expect, but this was unsuccessful. And while it didn't pursue a claim under section 75, it appears this was because Mr C chose to withdraw it. But even had it done so, based on the information available at the time, I don't think Virgin Money would have been unfair in declining a claim under section 75, as the CRA doesn't give Mr C the short term right to reject and P must first be given the opportunity to put things right. As a result, I won't be asking Virgin Money 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 Mr C to accept or reject my decision before 15 December 2025.

Victoria Cheyne
Ombudsman