

## **complaint**

Mr R complains that Virgin Media Mobile Finance Limited (VMMF) has incorrectly dealt with his complaints and failed to properly deal with a debt.

## **background**

Mr R upgraded his mobile handset in May 2017. There were two separate agreements set up with two direct debits. One for the handset, and one for the airtime contract. Mr R moved banks and updated his payment details for the airtime contract but not the handset contract.

VMMF wrote to Mr R to tell him that the handset payment had not been made six times between May and August 2017. At the end of August 2017 VMMF wrote to Mr R to tell him that the agreement had broken down, the full amount of the debt of £432 was due and it was passing the debt to a third party collection company.

Mr R called VMMF in August 2017 to explain that he was unable to pay the full amount as his circumstances had changed and he was in financial difficulty. Mr R says that the call operator at VMMF was rude to him and told him he needed to contact the third party to arrange repayment. Mr R contacted the third party and was told that it held no details for him. Following this Mr R said that he called VMMF to make a complaint and was told it could take some time for someone to get back to him. In November 2017 Mr R explains that whilst he was on the phone about his broadband he queried what was happening with his mobile complaint. Mr R says he was kept on hold for 45 minutes and eventually told that someone would call him back but no-one did.

No correspondence was sent by the third party to Mr R and in January 2018 the third party returned the debt to VMMF. In September 2018 Mr R complained to VMMF about the delay in dealing with his complaints and he asked for the business to write off the debt given the circumstances.

At the end of September 2018 VMMF sent a letter to Mr R explaining that it did not think it had made any error and if Mr R was unable to repay the debt in full he should contact the third party collections company to arrange a repayment plan. Mr R wasn't happy and brought his complaint to this service.

Our investigator considered the complaint and thought that VMMF had made it clear to Mr R that he was entering into two separate contracts for his handset and airtime. She thought that because Mr R didn't update his payment details VMMF hadn't done anything wrong by sending Mr R arrears letters and passing his debt to a third party. But she thought that VMMF had incorrectly told Mr R to return to the third party in September 2018 to arrange a repayment plan when the debt had in fact been passed back to VMMF in January 2018. She wasn't able to say that VMMF hadn't responded to Mr R's complaints as there wasn't enough evidence about this. She thought that VMMF should reduce Mr R's outstanding debt by £75 to reflect the inconvenience and anxiety caused by the incorrect information. VMMF agreed.

Mr R didn't agree and replied to say in summary that his complaint hadn't been properly considered. He said that he definitely called VMMF to make complaints and he was upset that this had not been believed. He said that as a vulnerable consumer it was only

fair that the debt was written off given the circumstances and the delay caused by VMMF failing to respond to his complaint.

### **my findings**

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

I agree with the investigator that Mr R was aware that there were two separate direct debits and that he was not misled about the situation. Mr R may not have fully understood it at the time, which is understandable given the amount of information that was provided. But as soon as the first handset direct debit was missed in May 2017 VMMF sent him a letter and continued to write to him about it monthly until August 2017. So I think it is fair to say that VMMF did what I would expect. Mr R says that he received the letters but during this period he was unwell and not able to deal with the situation. I sympathise but I can't see that he made VMMF aware of his change of circumstances so I don't think the business did anything wrong by terminating the agreement and asking for the full balance to be repaid in August 2017.

I think that it was unfortunate that VMMF told Mr R to contact the third party about the debt before it had been formally passed over. I don't doubt that Mr R was upset in August 2017 and wanted to set up a repayment plan and he told VMMF this when he called. I think it is likely that he was unhappy with VMMF and the service he had received from the call operator. Mr R has been consistent about this in his letters.

Because of the time that has passed there is no call recording available so I can't be satisfied that the operator was rude or that Mr R was treated unfairly without any further evidence. Similarly, Mr R has said he made two further complaints in August and November 2017. Because of the time that has passed, Mr R can't show the calls were made and VMMF has no record of them. I am not doubting Mr R's account of what happened and I am not saying that I don't believe him but without any further evidence of what was discussed or details about the calls I can't be satisfied that VMMF were made aware that Mr R had made a formal complaint and then failed to deal with it.

That said, it seems that VMMF did nothing to contact Mr R about the debt after it was returned from the third party in January 2018. The third party sent no letters to Mr R and it appears that it did not contact him at all. Mr R was understandably waiting for further contact given what he had been told in August.

Mr R complained in September 2018 in writing and in its response the business again referred Mr R to the third party even though it had returned the debt. I can appreciate that this was upsetting for Mr R and added to his anxiety as he has been trying to set up a repayment plan and sort out the debt for some time. By this point VMMF were aware of Mr R's health and financial difficulties and so I think it should have done more to assist him. I agree with the investigator that VMMF should reduce Mr R's debt by £75 to reflect the upset caused by this incorrect information. VMMF have agreed to make this reduction.

I appreciate that Mr R is now in difficulties but this wasn't known at the time the contract was taken out and Mr R has had the benefit of the handset so I think it is only fair that he pays back what he owes at an affordable rate. I would expect the business to work with Mr R to arrange an affordable repayment plan for the balance and to treat him positively

and sympathetically. The business has confirmed that Mr R's account is to be reviewed by its collections team.

**my final decision**

My final decision is that I uphold this complaint. In full and final settlement Virgin Mobile Media Finance Limited should reduce Mr R's outstanding balance by £75.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 29 June 2019.

Emma Boothroyd  
**ombudsman**