

The complaint

Mr T says Clydesdale Bank Plc – trading as Virgin Money – has unfairly declined his claim under section 75 of the Consumer Credit Act 1974 ('CCA').

What happened

In August 2021, Mr T used his Virgin Money credit card account to pay a company I'll call Business 1 £4,500 for his wife ('Mrs T') to take a professional course.

Unfortunately, in or around March 2023, and before Mrs T had completed the course, Business 1 went into administration.

In March 2023, Mr T contacted Virgin Money to make a claim under section 75 of the CCA. He wants it to refund the full cost of the course.

In May 2023, Mr T complained to Virgin Money about the time it was taking to consider his claim – and Virgin Money offered Mr T £100 'to say sorry for the issues [he] experienced and for any inconvenience' caused.

Mr T subsequently referred his complaint to our service.

On 22 June 2023, Virgin Money declined Mr T's claim under section 75. It said section 75 doesn't apply in this case because it only applies when there's a specific arrangement in place between the debtor, the creditor, and the supplier. And it said that arrangement wasn't in place in this case.

One of our investigators initially upheld the complaint and recommended Virgin Money refund the full cost of the course. However, in light of further submissions from Virgin Money, he changed his mind, and wrote to Mr T to explain why he didn't think it was unfair for Virgin Money to decline the claim. Our investigator agreed that section 75 of the CCA doesn't apply in this case.

Mr T doesn't think this is fair – so his complaint has been passed to me 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.

Section 75(1) of the CCA protects consumers who buy goods and services on credit. It says, in certain circumstances, that the finance provider is legally answerable for any misrepresentation or breach of contract by the supplier.

However, for section 75 to apply, there must be a debtor-creditor-supplier agreement under section 12(b) or (c) of the CCA.

Here, Mr T is the debtor and Virgin Money is the creditor. However, Business 1, which is the supplier, entered into an agreement with Mrs T. This means there isn't a debtor-creditor-supplier agreement within the meaning of section 12(b) or (c), so section 75 doesn't apply.

Understandably, Mr T makes the point that he and his wife manage their money together, and while they have separate accounts, they view their finances as 'one pot'. And he says it should therefore be irrelevant that the credit card account is his name. Mr T has also explained that his wife's salary is paid into the joint current account from which his credit card account payments are made – so she has, in one sense, paid for the course herself. He says they only used his credit card account in this instance because Business 1 offered a discount if the balance was paid in full, upfront.

Mr T has told us how he and Mrs T's children hoped to benefit from the course, and how they'll be affected by the outcome of this claim and the cost of paying for an alternative course.

I have a great deal of sympathy for Mr and Mrs T. They're out of pocket through no fault of their own – and I can appreciate why they don't think it should matter that Mr T paid for the course using his credit card account. Unfortunately, it does matter. And even though Mr T's points are all well made, they don't change the fact that there isn't a debtor-creditor-supplier agreement in this instance – so section 75 doesn't apply. As section 75 doesn't apply in this case, I don't think it was unfair for Virgin Money to decline the claim.

Separately, as I've explained above, Virgin Money has offered to pay Mr T £100 'to say sorry of the issues [he] experienced and for any inconvenience' caused. As it offered to pay Mr T this money to compensate him for the way it handled his claim – and is separate to the outcome of the claim itself – I think Virgin Money should still pay Mr T £100, which seems to me to be fair in the circumstances.

My final decision

For the reasons I've given, I don't think it was unfair for Clydesdale Bank Plc – trading as Virgin Money – to decline Mr T's claim under section 75 of the CCA, but it should pay Mr T £100 for any distress and inconvenience caused by the way it handled his claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 9 October 2023.

Christopher Reeves
Ombudsman