

The complaint

K, a limited company complains about the way that Clydesdale Bank Plc trading as Virgin Money (Virgin) handled its chargeback claim.

K wants Virgin to refund the amount of the chargeback and compensate it for the impact its delays have had on K's director, Mr C.

What happened

Mr C bought a service from a third party which he says was never delivered. Mr C is unhappy that Virgin didn't reach out to him to get his side of the story and didn't do enough to support K's chargeback claim. Mr C believes the third party is operating a scam.

Mr C says Virgin never contacted him about the disputed payment and that the third party never provided proof that it had delivered the services which K paid for.

Virgin apologised for its lack of customer service and offered to pay K a total of £125.

Our investigator didn't recommend that K's complaint be upheld. In summary, she didn't think that Virgin made a mistake when it decided not to take K's chargeback further after the third party submitted a chargeback defence.

Our investigator agreed that Virgin could have handled things better but thought that its offer to pay a total of £125 was fair.

Mr C disagrees with the investigation outcome. He says Virgin didn't give him the chance to demonstrate that the third party hadn't provided the service that K purchased. Mr C says that if Virgin had given him the chance, the chargeback would have been successful. Instead, Virgin took six months to act which left things too late.

Our investigator went back to Mr C to say that the outcome of the chargeback claim doesn't necessarily mean K would not have a valid claim against the third party. Our investigator explained that her investigation considered whether Virgin had processed K's chargeback claim correctly and in line with the rules laid down by Mastercard.

Our investigator thought that even if Virgin had communicated better with Mr C, it would not have changed the outcome of the chargeback claim as the third party provided a reasonable defence. Our investigator explained that neither Virgin nor Mastercard were required to carry out a detailed investigation of the third party's defence as part of the chargeback claim.

Mr C doesn't think MasterCard understood the agreement between himself and the third party and he doesn't think it's our investigator's job to guess what may or may not have happened with MasterCard. Mr C can't understand why we think it's okay for Virgin to take nine months to answer a complaint. Mr C has also asked whether Virgin will face a penalty for breaching FCA rules.

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 Mr C's strength of feeling about this matter so I hope he won't take it as a discourtesy that I have summarised K's complaint in less detail and that I have concentrated on what I consider to be the key issues.

To answer Mr C's question about whether Virgin will receive a fine for breaching FCA rules – the Financial Ombudsman is not the regulator. So, it's not our role to punish or fine the businesses that we cover. Instead, we look to resolve individual complaints.

Although Virgin is not obliged to submit a chargeback claim, we consider it good practice to do so where the scheme requirements are met and there's a reasonable prospect of the claim being successful. In K's case, Virgin tried to help K by submitting the chargeback claim but the third party defended the claim.

Mr C says the outcome would have been different had he been able to communicate with Virgin about the chargeback. However, despite asking Mr C for details of the evidence he wanted to provide to Virgin to support K's disputed transaction claim we have not received anything from him. Without this supporting evidence, it is hard to say that the chargeback claim would have been successful if Virgin had received the evidence at the time.

I'm also not persuaded that further evidence from Mr C would have changed the outcome of the chargeback. This is because the third party provided reasonable evidence that it had partially provided the service to K and had almost completed work on part of what it was due to deliver to K. The third party also said that it had tried to speak to Mr C about the service but that he'd stopped answering calls – something that Mr C seems to have admitted to Virgin.

I can see that Mr C made the payment to the third party in late August 2022. Mr C asked Virgin to raise K's chargeback at the end of September 2022. However, in an email sent by the third party to K detailing the services it could offer, the third party gave a time frame for delivery of the services of between four to eight weeks. I appreciate that Mr C says the third party was abusive to him when he called, but at that point, the eight week period was not up.

As the third party indicated to Virgin that it was willing to discuss a partial refund with K, and that it had delivered much of what was agreed – I don't think it was unreasonable for Virgin to decide that it could not proceed with a service not received chargeback claim.

Although Mr C is unhappy with the length of time that Virgin took to respond to K's complaint, complaint handling in itself is not a regulated activity which our service can usually consider complaints about. That being said, Virgin agrees that it could have handled things better for K. For this it has already paid K a total of £125. I consider this to be a reasonable amount to reflect the inconvenience to K when its director Mr C had to spend more time contacting Virgin than he otherwise should have.

I understand that Mr C found the experience personally stressful and upsetting but the eligible complainant here is K – so it is only K to whom I can make an award of compensation. K is a limited company and therefore its own legal entity. K cannot feel distress so I can't make any award to K for any upset that Mr C has felt personally.

My final decision

My final decision is that I don't uphold this complaint in the sense that Clydesdale Bank Plc trading as Virgin Money has already done enough to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask K to accept or reject my decision before 11 January 2024.

Gemma Bowen
Ombudsman