

Ombudsman's Determination

Applicants	Mr H and Mr A (collectively the Applicants)
Scheme	Virgin Money Stakeholder Pension Policy (the Policy)
Respondent	Virgin Money (Virgin)

Outcome

1. I do not uphold the Applicants' complaint and no further action is required by Virgin.

Complaint summary

2. The Applicants' complaint concerns a number of payments that Mr H made using his Curve card into each Policy for his sons. These payments were not successfully invested and there was a delay in Virgin notifying Mr H that this was the case.

Background information, including submissions from the parties and timeline of events

3. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
4. Mr H had set up a Policy for each of his sons (collectively **the Policies**). One for his adult son, Mr A, and the other for his second son who was a child at the time of this complaint. Mr H was making one-off payments into the Policies.
5. On 25 November 2018, 8 December 2018 and 2 January 2019, Mr H attempted to make payments into both Policies online using his Curve card.
6. On 27 November 2018, 11 December 2018 and 4 January 2019, Virgin sent Mr H contract notes acknowledging receipt of the payments and confirming the units purchased.
7. On 15 January 2019, Virgin wrote to Mr H. It acknowledged that he had attempted to make payments into the Policies. It said that the debit card transactions had been declined. It asked him to telephone it with an alternative card if he wished to make further payments.

8. On 17 January 2019, Mr H telephoned Virgin. He said that his bank had confirmed that it had approved the payments and Virgin had not collected them. Virgin stated that it had been unable to collect the payments.
9. On 18 January 2019, Virgin wrote to Mr H. It said that his bank had contacted it to say that his November 2018 payment to Mr A's Policy had been returned unpaid. As a result of this, it had been unable to process the payment and no money had been taken from Mr H's bank account. It stated that, as it had already applied the payment to Mr A's Policy, it had adjusted the Policy by deducting the payment and removing the units that had been purchased.
10. Again, on the same day, Mr H telephoned Virgin. He said that his bank had stated that it had approved the payments and Virgin had not collected them.
11. On 19 January 2019, Mr H telephoned Virgin. He reiterated the points that he made in his earlier telephone calls. Virgin said that it would investigate further.
12. On 21 January 2019, Virgin sent two letters to Mr H in relation to the January 2019 payments that he had made to the Policies. It said his bank had contacted it to say that the payments had been returned unpaid. It stated that the Policies had been adjusted to deduct the payments and remove any units that had been purchased.
13. On 28 January 2019, Mr H telephoned Virgin to ask for an update. It offered to raise an investigation, and this was recorded as a complaint.
14. On 4 February 2019, Virgin wrote to Mr H to acknowledge the complaint that he had made.
15. On 6 February 2019, Virgin wrote to Mr H in relation to a payment he had made to his younger son's Policy. It said his bank had contacted it and had stated that the payment had been rejected. It confirmed that the units in the Policy had been adjusted accordingly. It said that Mr H could make payments by using the top-up form that it had sent him together with a cheque or he could pay by debit card by telephoning it.
16. On 7 February 2019, Virgin wrote to Mr H in relation to the December 2018 payment to Mr A's Policy. It stated that his bank had contacted it to notify it that the payment had been rejected. Virgin confirmed that the units in the Policy had been adjusted accordingly.
17. On 11 February 2019, Virgin wrote to Mr H in response to the complaint he had raised. It said that:-
 - It processed online instructions settled with a debit card. However, if it could not collect the payment, it would cancel the units that had been purchased.
 - Its requests for the November 2018, December 2018, and January 2019 payments were declined by Mr H's bank.

- Mr H could make up the payments by sending it a cheque together with the forms that it had enclosed, or he could make the payments using another debit card by telephone.
18. On the same day, Mr H telephoned Virgin to ask for an update on his complaint. It confirmed that a letter was in the post to him. Mr H said that his bank had explained that, once the payments had been approved, Virgin had seven days to collect the money before it was returned to his account. His bank stated that Virgin had not done this.
 19. On 13 February 2019, Mr H telephoned Virgin to discuss his complaint. It suggested that he telephone its helpline and attempt to make the payments again. It also suggested that Mr H contact his bank first to make it aware of the payments in the hope that it would not reject them.
 20. On the same day, Mr H telephoned the Virgin helpline. He attempted to process a payment using his Curve card. He was advised instantly that the payment was declined. This was due to the fact that it exceeded the daily limit of £2,000 that he had with the card issuer.
 21. On 14, 15 and 16 February 2019, Mr H made telephone calls to Virgin to make payments to the Policies. He said that Virgin confirmed that these payments had been authorised.
 22. On 15 and 19 February 2019, Virgin sent Mr H contract notes acknowledging receipt of his recent payments and confirming the units purchased.
 23. On 22 February 2019, Mr H telephoned Virgin to check that the payments had been accepted. Virgin confirmed that the payments had been authorised and the units purchased.
 24. On 4 March 2019, Virgin wrote letters to Mr H concerning the payments he had tried to make to the Policies on 14, 15 and 16 February 2019. It said that his bank had contacted it to say that the payments had been rejected. Virgin stated that the Policies had been adjusted to deduct the payments and remove any units purchased. It said he could make a cheque payment or pay by debit card by telephoning it.
 25. On 5 March 2019, Mr H had an electronic exchange with the provider of his Curve card. It told him that Virgin had not captured the authorisation. As a result of this, in accordance with industry practice, it had refunded the balance to his Amex wallet.
 26. On the same day, Mr H telephoned Virgin again as the payments that he had made to the Policies had been returned to his bank account. Virgin confirmed it had reversed the purchase of the units and had written to him about this. A second complaint was raised.
 27. On 19 March 2019, Mr H telephoned Virgin to discuss his latest complaint. It was agreed that he would wait until the end of the week to find a resolution that would

allow him to make payments using his Curve card. If no resolution was found, he would decide upon an alternative payment method.

28. On 26 March 2019, Mr H successfully made payments to the Policies using a different debit card.
29. On 4 April 2019, Virgin responded to Mr H's latest complaint. It said that it had focused its investigation on the three payments that he had tried to make by telephone on 14, 15 and 16 February 2019. It said that:-
 - The payments had initially shown as authorised during the telephone calls.
 - Mr H's bank stated that it had authorised the payments and it was waiting on Virgin to collect them. When this did not happen, the bank returned the funds to Mr H's account.
 - The units were removed from the Policies several days later.
 - It had liaised with the third-party provider of the software it used to take debit card payments. Mr H's Curve card was classified as a commercial card which could not be accepted. It was not immediately recognised as such, which was why the payments were not initially blocked. However, as the payment requests progressed through the automated system, they were subsequently identified as relating to a card that could not be accepted. This led to the cancellation of the deals.
 - The Curve card may be a credit card rather than a debit card, which was another possible reason for the cancellation of the deals. It could not accept credit cards.
 - It would undertake a review to see if Curve cards could be accepted in the future. It would either block payments using Curve cards up front or remove the restriction that applied further down the line.
 - The issue that resulted in the cancellation of the deals was not due to an error on its part.

Summary of the Applicants' position

30. The Curve card that Mr H had used was a debit MasterCard which had been pre-loaded with funds.
31. Virgin's system did not initially decline the Curve card.
32. Mr H had no concern with using a different card. However, on 13 February 2019, he had been asked by Virgin to try his Curve card again following the complaint that he had raised.
33. The Policies' key features and terms and conditions (**T&Cs**) literature stated that:

“3.1 You can pay into your pension by making single investments, regular savings or combinations of the two ... Single investments can be by cheque, debit card or one-off Direct Debit.”

34. Virgin should make good all investment losses by comparing unit prices between the dates when Mr H first tried to make the payments and March 2019 when the payments were successfully completed.
35. In addition, it should pay £250 to each of the Policies to reflect the distress and inconvenience that the Applicants had suffered.

Summary of Virgin's position

36. The Curve card was a smart card, an application that existing debit and credit cards can be added to. The T&Cs state that contributions can be made by direct debit, standing order, cheque or debit card. The card Mr H used was not a debit card in its own right.
37. While the Applicants sustained a loss, this was because it was unable to collect the funds from Mr H. It had made no error. The failure of the payments was due to Mr H trying to use an unacceptable payment method. No ex-gratia payment or price comparison was warranted.
38. The T&Cs only outline what is possible; it was not feasible to list everything that was not possible.
39. It was unreasonable to expect it to have known that the card Mr H was using was not acceptable as a method of payment if it was considered reasonable for Mr H not to have known.
40. It had received a response from WorldPay, one of its third-party system providers. WorldPay said that the Curve card was deemed to be a commercial card and was blocked. It was not able to accept commercial cards.
41. It acknowledged a shortcoming in its technology solution as the card used by Mr H was not on the list of denied cards. As a result of this, it did not know about the problem when the deals were made. Instead, it was first notified of the card being declined at a later date.
42. If Mr H had issues with a particular card, it was his choice if he decided to try to use it again. It first notified Mr H on 15 January 2019 that he should use a different card. Despite this, he opted to try and use it again.
43. It had not applied any processing or administration charges to the transactions that Mr H had attempted to make.

Adjudicator's Opinion

44. The Applicants' complaint was considered by one of our Adjudicators who concluded that no further action was required by Virgin. The Adjudicator's findings are summarised below:-

- Virgin and its third-party suppliers suggested a number of possible reasons for the Curve card used by Mr H not being accepted by its payment system. These included it being a commercial card and it not being a debit card.
- When first issued, the Curve card was classified as a commercial card. However, it has been available to private individuals since early 2018. Mr H had confirmed that his Curve card related to his personal banking and was not connected to any commercial enterprise.
- Having seen Mr H's Curve card, the Adjudicator noted that it was marked with the Mastercard logo and name and also with the word 'debit'. The T&Cs stated that a debit card could be used to make one-off payments. In the Adjudicator's opinion, it was reasonable for Mr H to have expected to have been able to make payments to the Policies using this card.
- However, the Curve card is unusual in that it is a card that allows the aggregation of multiple debit and credit cards into one. It can be used as a way of making payments on a credit card in places that do not officially take credit cards.
- Virgin had commented that the T&Cs cannot fully reflect all eventualities in respect of the payment methods that it was able to accept. The Adjudicator took the view that, due to the unusual nature of the Curve card, it would have been reasonable for Virgin to give extra consideration as to whether it was a valid method for making payments to the Policies or not. So, in the Adjudicator's opinion, it would not have amounted to maladministration if Virgin had decided not to accept payments using Curve cards.
- However, the Adjudicator was not persuaded by the communications that Virgin had with Mr H that it had fully considered this topic. In particular:-
 - It had led Mr H to understand that the payments had been invested. This was due to its payment system initially accepting his Curve card only to reject it later in the process.
 - It was over seven weeks after Mr H had first attempted to make payments to the Policies using his Curve card that he was first notified by Virgin that there was a problem.
 - On a number of occasions, Virgin told Mr H that the payments had been rejected by his bank. In the Adjudicator's view, the reality was that the payments had been authorised and it was Virgin's responsibility to take them. This misinformation resulted in additional effort for Mr H as he had to investigate the situation himself with both his bank and Virgin.

- Mr H's initial complaint was not adequately investigated. Virgin said that its requests for the November 2018, December 2018 and January 2019 payments were declined by Mr H's bank which was, in the Adjudicator's opinion, not correct.
- It was not until Mr H's second complaint that Virgin undertook a more detailed analysis of the problems that he was facing.
- The Adjudicator noted that the communications that Virgin sent to Mr H in relation to the next steps he should try, following the failed payments, were not consistent. Some communications reiterated that he could make one-off payments using his debit card. In one telephone conversation he was asked to telephone Virgin's helpline and try to make the payments again having first contacted his bank. However, Virgin's communications of 15 January 2019 and 11 February 2019 stated that Mr H should use an alternative debit card.
- The Adjudicator appreciated that Mr H believed that Virgin asked him to try his Curve card again. In the Adjudicator's opinion, this was one of a number of suggestions Virgin had provided to him. It was Mr H's decision not to use an alternative debit card until 26 March 2019. The Adjudicator took the view that Virgin could not be held responsible for the failed payments that Mr H attempted to make using his Curve card after Virgin had suggested that he use a different debit card.
- Once Mr H's bank had authorised the payments, Virgin had seven days to take the money. After these seven days, Mr H's bank should have returned the money to his account. So, while the Applicants have lost out on the opportunity to invest the monies earlier, Mr H should have had access to the monies again shortly after the payments failed. The Adjudicator took the view that Virgin was not responsible for any maladministration and could not be held responsible for any financial loss.
- In summary, Virgin's initial investigations into the reasons for the payments being rejected did result in a lack of clarity. The Adjudicator was of the opinion that this caused some distress and inconvenience to the Applicants. However, he was not persuaded that the Applicants were caused distress and inconvenience, sufficient to warrant an award for redress in this instance. The minimum award for non-financial injustice awarded by The Pensions Ombudsman's Office is £500 and, in the view of the Adjudicator, this threshold had not been met.

45. The Applicants did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.

46. Mr H provided his further comments which do not change the outcome. He said:-

- The Adjudicator made no recognition of the delay of over seven weeks between his first unsuccessful payment on 25 November 2018, and 15 January 2019, when Virgin first made him aware that the payments had not been accepted. The delay in accepting these payments had resulted in a shortfall of units in the Policies.

- Virgin's system was working correctly as his attempted payment of £2,000 on 13 February 2019 was instantly declined. The reason given was that he had exceeded his daily limit, not that it was unable to accept his Curve card. All his other attempted payments were not instantly declined and were confirmed by Virgin as having been processed.
- Virgin did suggest to him that he should use an alternative card but it also said that he could try the same card by telephone.
- He acted in good faith. He had made payments and was repeatedly told that they had been approved and processed. He was then told to try again. It was only after further failures that he switched to using an alternative card as Virgin was unable to explain what was happening.
- His bank did not contact Virgin to advise that payments had been returned unpaid.
- Virgin is a financial expert and he had trusted it to have the capability to manage transactions. He had responded, as requested by Virgin, and had incurred a loss as a result.

47. I note the additional points raised by Mr H, but I agree with the Adjudicator's Opinion.

Ombudsman's decision

48. The Applicants' complaint concerns unsuccessful payments that Mr H tried to make to the Policies using his Curve card. They say that there was a delay before Virgin provided a notification that the payments had been reversed and that it did not initially provide a valid explanation of the root cause of the rejection.
49. Between 25 November 2018 and 16 February 2019, Mr H attempted to make one-off payments to the Policies using his Curve card. In each instance, Virgin initially confirmed that the payment had been accepted, only to then confirm that it had removed the units purchased from the Policies due to an issue with the payments.
50. The time between Mr H attempting the payments and when he was notified that they had been rejected varied. The longest period was for the payment that he attempted to make on 25 November 2018, where he was notified of its failure on 15 January 2019.
51. I acknowledge that the Applicants lost out on the opportunity to invest monies in the Policies earlier than they were able to. However, the period for which Mr H did not have access to the money was much shorter. Once his bank had approved each payment, Virgin had seven days in which to collect the money. At the end of this period, the money was returned to Mr H's bank.
52. I note that the messages which Virgin gave to Mr H were inconsistent. However, it did twice suggest to him that he should try another debit card. This would have allowed

him to make the payments earlier than he did. He did not initially follow this suggestion.

53. Mr H said that his bank did not contact Virgin to advise that payments had been returned unpaid. However, in a number of Virgin's letters to Mr H, including that of 18 January 2019, it said that this was the case. On the balance of probabilities, I agree that this was likely to have been the way in which Virgin first became aware that there was a problem with the payments.
54. As the Adjudicator has stated in paragraph 44 above, the Curve card used by Mr H is classified as a debit card. However, it is possible for it to be linked solely to credit cards.
55. It was unfortunate that Virgin's systems were not properly configured to deal with Mr H's Curve card, his payments being initially accepted and then rejected later during the money collection process. However, I am satisfied that Virgin responded appropriately and instigated investigations to understand the root cause of the rejections. Its initial conclusions were incorrect and there was a delay in it undertaking a more detailed investigation. However, it did, with the help of its third-party system suppliers, finally provide a correct analysis of the issue.
56. I also note that Virgin acknowledged the shortcoming in its payments system. It committed to review the situation and either block Curve cards at the start of the payment process or fully remove the restriction so that they could be used to make payments.
57. For these reasons, I do not agree that there was maladministration on the part of Virgin and so it cannot be held responsible for any financial loss.
58. I find that the Applicants did suffer some non-financial injustice due to Virgin's initial investigations into the failed payments having provided them with incorrect explanations of the root cause. However, I agree with the Adjudicator's opinion that the distress and inconvenience caused to the Applicants was not sufficient to warrant an award for redress.
59. I do not uphold the Applicants' complaint.

Anthony Arter

Pensions Ombudsman
21 October 2021