

The complaint

Ms F is unhappy that Clydesdale Bank Plc, trading as Virgin Money, took action in regard to a debt that she had included in a Debt Relief Order (DRO).

Ms F is assisted in this complaint by her authorised representative.

What happened

Ms F had an outstanding balance with Virgin. In August 2020, Ms F told Virgin that she was applying for a DRO, and that her Virgin outstanding balance would be included within that DRO. This should have meant that Virgin stopped all action regarding Ms F's outstanding balance with them. But Virgin continued to contact Ms F about her account balance, and in March 2021 they defaulted her account and later sold the outstanding debt to a debt recovery agency. Ms F wasn't happy about this, so she raised a complaint.

Virgin responded to Ms F and explained that while she had told them that she would be applying for a DRO, they hadn't received any later confirmation that a DRO had been put in place, despite several requests for such confirmation. Ms F wasn't satisfied with Virgin's response, so she referred her complaint to this service.

One of our investigators looked at this complaint. But they didn't feel Barclays had acted unfairly in how they'd managed the situation and so didn't uphold the complaint. Ms F remained dissatisfied, so the matter escalated to an ombudsman 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.

Having done so, I'd like to begin by confirming that this service isn't a regulatory body or a Court of Law and doesn't operate as such. Instead, this service is an informal, impartial dispute resolution service. And while we do take relevant law and regulation into account when arriving at our decisions, our remit is focussed on determining whether we feel a fair or unfair outcome has occurred – from an impartial perspective, after taking all the factors and circumstances of a complaint into consideration.

Ms F's representative has explained that Ms F's DRO was approved on 9 December 2020. But no evidence of this has been provided to this service. And given that DROs typically last for one year, and only remain present on the insolvency register for three months after they have ended, it isn't now possible to use the insolvency register to corroborate this claim.

On the other hand, Virgin have provided this service with screenshots of their account notes for Ms F from 6 August 2020 – when Ms F first informed them that she intended to apply for a DRO – until Ms F's defaulted account debt was transferred to a DRA seven months later, in April 2021.

Virgin's account notes include that in August 2020, Ms F told Virgin of the neighbourhood

centre that was assisting her with the DRO. And Virgin's notes also included that Virgin spoke with the neighbourhood centre on 28 September 2020, at which time they were told the DRO hadn't yet been applied for, as well as on 9 November 2020, when they were told that the DRO was pending because Ms F hadn't paid the fee for the DRO, and that the neighbourhood centre would confirm the DRO to Virgin when it was successfully applied for.

Virgin's notes also include that Virgin checked the insolvency register for evidence that Ms F had entered a DRO on several occasions, including on 8 January 2021 – which was two months after Virgin had last spoken with the neighbourhood centre and a month after Ms F's representative explains that Ms F's DRO was approved.

When a business such as Virgin is informed that a customer is intending to apply for a DRO, it would generally be expected that the business would allow that customer time to complete the DRO application.

I feel that Virgin did that here. This is because, after being told in August 2020 that Ms F intended to apply for a DRO, they chased confirmation of a valid DRO for several months. And Virgin were told by the neighbourhood centre on two occasions that Ms F's DRO hadn't been applied for – with the latter of these occasions being in September 2020, three months after Ms F first told Virgin that she would be applying for a DRO. Additionally, Virgin were actively trying to corroborate that DRO themselves by checking the insolvency register. But even in January 2021, which was five months after Ms F first told Virgin she was applying for a DRO, no record of a DRO in Ms F's name could be found.

I don't think it's reasonable to expect Virgin to have delayed collections activity on Ms F's outstanding balance indefinitely in these circumstances. And I feel that Virgin did give Ms F a fair amount of time to arrange the DRO and to have confirmed to Virgin as such. And I also feel that Virgin did reasonably attempt to confirm that Ms F had obtained a DRO themselves.

In the absence of Virgin receiving any confirmation of Ms F's DRO, or being able to locate such confirmation themselves, I don't feel it was unfair or unreasonable for them to have recommenced collections activity regarding Ms F's outstanding balance with them. I also note that Virgin sent a default notice to Ms F dated 5 February 2021 followed by a termination notice dated 6 March 2021, both of which I feel should reasonably have prompted Ms F to have contacted Virgin and confirmed any active DRO with them.

Ms F's representative has said that notice of Ms F's DRO was sent to Virgin, and that Virgin did receive that notice. But Virgin have no record of receiving any such notice, as evidenced by their continuing attempts to obtain confirmation of the DRO as well as their later collections correspondence sent to Ms F. And Ms F's representative hasn't provided any evidence of Virgin's receipt of that notice, such as evidence of recorded delivery.

Ms F's representative is also unhappy that, in the absence of not having received a DRO notice, that Virgin didn't contact the UK Government's DRO team (the DRO unit) for confirmation of the DRO, as Ms F's representative feels they were supposed to.

But the requirement for a business to contact the DRO unit comes into force when a business is told by an individual that they have an active DRO, but the business hasn't received the DRO notice. However, in this instance, Virgin were never told by Ms F or the neighbourhood centre that an active DRO for M F was in place. Rather, every time that Virgin were able to speak with Ms F or the neighbourhood centre, the DRO application was still pending and hadn't yet been made. And Virgin were never made aware that an active DRO was in place such that I feel that any contact with the DRO unit should reasonably have been prompted.

All of which means that I don't feel that Virgin have acted unfairly here as Ms F contends. And it follows from this that I won't be upholding this complaint or instructing Virgin to take any further or alternative action. I realise this won't be the outcome Ms F was wanting. But I hope she'll understand, given what I've explained, why I've made the final decision I have.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 6 March 2024.

Paul Cooper
Ombudsman