

The complaint

Ms T complains that a course she purchased using her debit card supplied by Santander UK Plc ("Santander") was not as described.

What happened

In November 2022, Ms T purchased a course from a supplier I'll refer to as "D" for £4,000. Ms T said she made an initial payment of £300 using a third party debit card, which she wasn't claiming back and then she made a further payment of £3,700 using her Santander debit card.

In January 2023, Ms T complained to Santander. She said she had been introduced to D through a messaging app and following a video call with D, it told her how her business could be assisted. She said the first video call was cancelled by D due to illness. Ms T said this messed her week up and told D it was important for it to stick to the schedule. Following this, Ms T says she contacted S and said she had a change of heart. She said she wasn't happy with the coaching, but said she would stick with it given she had been told she couldn't have a refund. Ms T completed a dispute form for Santander and said the goods weren't as described. She said she tried to stick to the coaching sessions but she wasn't convinced D would be able to mentor her.

Following this, Santander asked Ms T for further information. It asked her to provide a copy of the contract or invoice and the terms and conditions with the cancellation policy attached.

In February 2023, Ms T wrote back to Santander. She said Santander could find the terms and conditions on D's website. She mentioned the website had been updated since she had signed up and she wasn't shown the terms or conditions before signing up. She said she had a video recording of the consultation and a copy of a guarantee agreement, which she didn't sign. She asked Santander how she could send this to it.

Shortly after, Santander wrote to Ms T and asked her to provide the date the service was cancelled, details of how Ms T tried to resolve the issue with D and any correspondence demonstrating this and a copy of the order form or invoice. It supplied a pre-paid envelope so Ms T could send the information to it. It also told Ms T it would need this information within 14 days or it may not be able to pursue the chargeback further.

Mrs T responded and said she had uploaded many documents and correspondence to Santander's portal. She said she couldn't upload the terms and conditions as the website had changed. She said she had more evidence of the cancellation, but she felt that she had already sent enough information to Santander. Ms T provided correspondence between her and D discussing her concerns and being refunded. She asked Santander to contact it by email if it needed to contact her as she would be away for a period of time.

Santander responded and said it had reviewed Ms T's complaint and some information was still missing. It said it couldn't progress Ms T's claim without it. So Ms T complained.

Santander issued its response to Ms T's complaint in March 2023. It said it followed the correct dispute process but not all of the information was provided to it. It said since then, Ms T had provided further information which it would review and then update Ms T.

Unhappy with this, Ms T referred her complaint to this service. She reiterated her complaint and said she had sent Santander information twice to support her chargeback claim. She

said Santander denied receiving this information. She also said she notified Santander she would be travelling abroad and asked it not to send her post, but it ignored this. She said to put things right, she wanted Santander to refund the £3,700 she paid for the course.

Our investigator looked into the complaint and didn't think Santander had acted fairly. She said she thought Santander had enough information to attempt a chargeback. However, she said even if it had done this, the probability of the chargeback succeeding was low. She said she couldn't see that D had acted outside its terms and conditions. So she didn't recommend Santander refund the £3,700, but she said Santander should pay Ms T £150 for the distress and inconvenience caused.

Santander agreed. But Ms T disagreed. She said £150 didn't cover the calls she made or the distress caused when she found out her case was closed whilst she was abroad. She said D changed its terms and conditions and this is why they couldn't be located.

Our investigator said the closing of the dispute by Santander was considered complaint handling which isn't something our service could consider. She said she agreed that Santander should have raised the chargeback earlier, but this wasn't a guaranteed form of refund and in this case, she didn't think the chargeback would have been successful.

Ms T said Santander should have checked the terms and conditions before the website updated.

As Ms T remains in disagreement, the case has been passed to me to decide.

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've read and considered the whole file and acknowledge that Ms T has raised a number of different complaint points. I've concentrated on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it – but because I don't think I need to comment on it in order to reach what I think is the right outcome. The rules of this service allow me to do this.

What I need to decide in this case is whether Santander correctly handled Ms T's request to raise a chargeback and whether it acted unfairly in any other way. If I think it has acted unfairly, I'll need to decide what's fair, if anything, to put things right.

Chargeback

A card issuer can attempt a chargeback in certain circumstances when a cardholder has a dispute with a merchant – for example where goods never arrived or where goods are faulty or not as described. Before a chargeback can be initiated by a card issuer, like Santander, it's generally expected that the cardholder has attempted to resolve matters with the merchant first.

Chargebacks aren't decided on the merits of the dispute between the cardholder and merchant, but rather they're decided on the relevant card scheme's rules. Chargeback isn't a legal right and there's no guarantee the card provider will be able to recover the money this way. In this case, the guidelines are set by MasterCard and Santander have no power to change them.

When there is a dispute about goods not being as described, generally the rules of the MasterCard chargeback scheme require the cardholder to provide sufficient detail through supporting documentation to enable all parties to understand the nature of the dispute. In this case, I've seen the documentation Ms T provided to Santander and I think there was sufficient detail in the information Ms T provided that would have allowed all parties to understand the nature of the dispute. I don't think it was necessary for the terms and conditions to be provided because this isn't a set requirement and Ms T had set out in her

dispute form that she could no longer obtain the terms and conditions. I think Ms T provided Santander with enough information for it to attempt a chargeback.

Having said this, when a chargeback isn't raised by a merchant but it should have been, this doesn't automatically mean that a chargeback would have been successful through the MasterCard process. As ultimately, it is the MasterCard scheme that decides whether the claim succeeds or not.

So, where a chargeback isn't raised by a merchant, we need to consider whether there would be a reasonable prospect of success, if the chargeback had been raised.

The MasterCard scheme rules give limited examples of what it looks like when goods or services do not conform to their description. I've thought about these when considering the circumstances of Ms T's complaint.

In this case, Ms T said she realised the course wasn't for her shortly after she paid for it. It seems at this point D offered Ms T a refund of half the money she had paid. Ms T declined this and instead agreed to attempt the course. D's correspondence to Ms T states that it provided detailed information to Ms T about how everything worked and she made an informed decision before agreeing to make the purchase. D also said Ms T had received the full course and that it had also said it would additionally give her personal coaching sessions and set up some of the technology for her, amongst other things, free of charge.

Having thought about this carefully, it seems likely the claim would have likely been defended, given the extensive submission by D. D say Ms T has received the full course and has been offered additional items free of charge. So D was willing and able to provide the course to Ms T. But it seems Ms T changed her mind soon after entering into the agreement and she told D that she was not the right candidate for the course. But this doesn't mean the course wasn't as described.

So in light of all this, I'm satisfied that even if Santander had raised a chargeback, it is unlikely that the chargeback would have been successful. I think it's more likely than not that the chargeback would have been defended, as it seems the course was as described and it's likely D would have successfully defended the chargeback. And so, this means I don't think Santander acted unfairly.

Did Santander act unfairly in any other way?

I think Santander requested information unnecessarily. I say this because at the point Ms T sent in the second bit of information, I think Santander had enough information to raise a chargeback. The chargeback rule concerning goods and services not as described doesn't require the further items Santander was requesting from Ms T. So I don't think it needed to chase Ms T for further information after she provided information the second time. However, it did and this resulted in Ms T having to provide even more information.

The lack of information was also the reason why Santander said it didn't raise the chargeback, which I've already said was incorrect. I think all of this unnecessarily inconvenienced Ms T and it caused her stress. And so, Santander should pay Ms T £150 for the distress and inconvenience caused. I think this is fair and reasonable considering the circumstances of this complaint.

My final decision

My final decision is that Santander UK Plc should pay Ms T £150 for the distress and inconvenience caused to her.

Santander UK Plc must pay the compensation within 28 days of the date on which we tell it Ms T accepts my final decision. If it pays later than this it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 27 December 2023.

Sonia Ahmed
Ombudsman