

## **The complaint**

Mr K complains about the way Santander UK Plc dealt with his claim after he was sold a product which was not of satisfactory quality.

## **What happened**

In July 2023 Mr K bought a joint massager online. He paid £108 in total for the massager and a two-year warranty, using his Santander credit card.

Mr K says that the manufacturer of the massager represented that it would provide instant pain relief. He found that it did not do so, and complained to the seller. The seller did not accept Mr K's claim, and so he referred it to Santander under section 75 of the Consumer Credit Act 1974 ("section 75").

Santander declined Mr K's claim. It said that the cost of the massager was £99, which was below the £100 limit for a section 75 claim. Mr K had paid £9 for the warranty, but the financial limit related to a single item.

Mr K referred the matter to this service, where one of our investigators considered what had happened. She agreed with Santander, however, that the purchase was outside the financial limits in section 75.

Mr K did not agree and asked that an ombudsman review the case.

While the complaint was waiting to be allocated to an ombudsman, a senior investigator considered it. He said that he thought Santander should have considered making a chargeback claim. However, he also expressed the view that, even if it had done so, it was unlikely that Mr K would have received a refund.

The case has now been passed to me for further consideration.

## **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'll consider first of all the chargeback process. Where goods or services are paid for with a debit or credit card and a dispute arises, it is often possible to resolve that dispute through the chargeback process. Chargeback is a scheme run by the card schemes (in this case, Mastercard). A card issuer (here, Santander) raises a claim through the scheme against the merchant's provider of card facilities. The process is designed primarily to deal with payment settlement disputes – for example, where a payment is duplicated or has not been authorised, or where goods or services have not been provided. It can therefore have the effect of resolving disputes between merchants and consumers, but it isn't always an appropriate way of achieving that aim.

There is no legal or regulatory obligation on a card provider to raise a chargeback dispute. However, this service takes the view that it is good practice to do so where there is a reasonable prospect of success.

Santander did not raise a chargeback dispute in this case. It is not clear whether that is because it didn't consider doing so or because it took the view that there was no reasonable prospect of success. Either way, I agree with the senior investigator that Santander should have considered raising a dispute.

However, I also agree that it is unlikely that a claim would have been successful. The goods Mr K ordered were delivered and the card payment was processed in line with his instructions. The dispute was about the quality of the massager – or, more specifically, its effectiveness. Had Santander decided not to pursue a chargeback claim, I think that decision would have been reasonable. And if it had pursued that claim, I think it more likely than not that it would have been unsuccessful.

I turn then to section 75. One effect of section 75(1) is that, subject to certain conditions, an individual who uses a credit card to pay for goods or services and who has a claim for breach of contract or misrepresentation against the supplier of those goods or services has a like claim against the credit card provider. The conditions include limits on the price of goods. Subsection (3) says:

*Subsection (1) does not apply to a claim—*

*...*

*(b) so far as the claim relates to any single item to which the supplier has attached a cash price not exceeding £100 or more than £30,000 ...*

The price of the massager did not exceed £100; it was £99.

Mr K says however that, because the massager and the warranty were bought in a single transaction and payment was made with a single credit card payment, his claim is not excluded by subsection (3). I am afraid I don't agree with that analysis. Subsection (3) refers to the price attached to "a single item". I don't believe the massager and the warranty can properly be described as a single item. The seller provided separate invoices for each, and each had its own price attached to it.

I accept of course that the two items were sold together and only one payment was taken. But that is true of many transactions – a basket of groceries, for example. It does not mean that they should be treated as a single item.

It is not for me to say whether Mr K does in fact have a claim against the seller. Nor is it for me to decide whether he has a claim against Santander under section 75. What I must do is decide what I consider to be a fair resolution of Mr K complaint about Santander. In the circumstances, I believe that Santander acted fairly in declining Mr K's claim under section 75.

### **My final decision**

For these reasons, my final decision is that I do not uphold Mr K's complaint and do not require Santander UK Plc to do anything further to resolve it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 5 December 2024.

Mike Ingram  
**Ombudsman**

