

The complaint

Mr S on behalf of Company M complains that Santander UK Plc rejected his claim under section 75 Consumer Credit Act 1974 (“s.75”) and it failed to pursue a chargeback.

The credit card account is held in the name of Company M and Mr S is bringing the complaint in his capacity as director of Company M, so I will be referring to him throughout the decision where necessary.

What happened

Mr S engaged a firm of solicitors to pursue a legal matter. Over a period of some three years he incurred fees of £40,921.80. These include payments made to a barrister by the solicitor. He considered the solicitor and barrister had been negligent but despite this he had felt he had no option but to continue with them. However, on 17 May 2024 the solicitor wrote to Mr S to say that the relationship had broken down and he should find an alternative legal advisor. Mr S did so and the correspondence I have seen suggests the new solicitor had some concerns about the predecessor’s actions. This appears to have been based on testimony from Mr S.

Mr S raised a s.75 claim and there was short delay in dealing with this due to a system failure. Santander paid £50 into the account for the inconvenience caused by the delay. It then sought further information and concluded that there was no basis for a claim since the total paid exceeded the upper limit for s.75 claims.

Mr S also requested a chargeback be made for a payment of £7,200 he had made, but as he had confirmed he had received the services from the solicitor Santander decided not to process a chargeback.

In July 2024 Mr S brought a complaint to this service where it was considered by one of our investigators who didn’t recommend it be upheld. She said it was not clear that the £30,000 limit had been breached as the total sum was made up of separate invoices for work done to date. However, she did not think Mr S had established either a breach of contract or misrepresentation.

Mr S did not agree and asked that the complaint be considered by an ombudsman.

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.

Firstly, I should make it clear that the role of the Financial Ombudsman Service is to resolve individual complaints and to award redress where appropriate. I do not perform the role of the industry regulator and I do not have the power to make rules for financial businesses or to punish them. Nor is it my role to comment on the work of the solicitor except where it is relevant to my view on Santander’s actions.

I take account of law and regulations, regulators' rules, guidance and standards, and codes of practice and good industry practice, when I make my decision as to what is fair and reasonable.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes informally. Having reviewed the material submitted by both parties I do not consider I can uphold this complaint. I will explain why.

There are two issues here, the claim under s.75 and the chargeback request. I will deal with each separately.

When someone makes a payment on their credit card, in order to make a valid s. 75 claim against their credit card issuer they need to have used the credit card to pay a company they have a claim against for breach of contract or misrepresentation. S. 75 gives the debtor (the credit card account holder) the same claim against their credit card issuer as they would have against the supplier of goods or services, so long as that claim is for breach of contract or misrepresentation.

This is because s. 75 itself is worded in the following way:

“If the debtor under a debtor-creditor-supplier agreement falling within section 12(b) or (c) has, in relation to a transaction financed by the agreement, any claim against the supplier in respect of a misrepresentation or breach of contract, he shall have a like claim against the creditor who, with the supplier, shall accordingly be jointly and severally liable to the debtor.”

It goes on to state that:

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

(a) under a non-commercial agreement,

(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.”

Santander took the view that this meant the claim fell outside the ambit of s.75. It is clear the total cost exceeded £30,000, but we need to identify what was being purchased by Mr S. If a consumer pays for an item or a service in a series of payments that does not mean that we look at those payments individually. We have to consider the item or the service which was the subject of the agreement. Regrettably I have not seen any written agreement between Mr S and the solicitors nor its terms and conditions.

However, it is clear from what I have seen that Mr S engaged the solicitors to pursue the civil matter to a resolution. That required a number of actions by the solicitor but they were all done to achieve a single outcome. The fact that the work was paid on a piecemeal basis does not indicate that there was more than one agreement. I also believe the barrister was engaged by the solicitors and so any payments made to it to cover the barrister's costs would normally fall within the overall agreement.

As such I do not think it was unreasonable for Santander to have reached the conclusion that the £30,000 limit was exceeded.

However, I also do not see that Mr S has demonstrated a breach of contract or misrepresentation. It is clear that at several times during the course of the matter Mr S expressed some dissatisfaction with the work being done on his behalf. It is also clear that

the solicitor sought to address Mr S' concerns and eventually decided that the relationship had broken down. I have also noted the second solicitors' comments, but these are not definitive and appear to be initial thoughts based on what they had been advised by Mr S.

As our investigator has explained this service does not offer expertise on legal matters – such things are better addressed by the Legal Ombudsman. My role is to consider whether Santander did anything materially wrong in its handling of the claims. Quite simply I believe they acted appropriately. I do not consider the material supplied by Mr S was sufficient to demonstrate either breach of contract or misrepresentation.

On the matter of the chargeback I also do not consider Santander was wrong to take the decision it did. Chargeback allows for a refund to be made of money paid with a credit or debit card in certain scenarios, such as when goods have been paid for and not received. A consumer cannot insist on their card company attempting a chargeback, but I would expect it to attempt one, as a matter of good practice, if there was a reasonable prospect of succeeding and to do so would be compliant with the rules of the card scheme to which the card belongs.

Mr S received the services for which he paid and so it was reasonable for Santander not to pursue a chargeback with MasterCard given it more than likely the solicitor would have challenged it.

In conclusion I appreciate Mr S was disappointed with the service he received and he will be disappointed by this decision, but I do not consider I can uphold his complaint.

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 M to accept or reject my decision before 26 May 2025.

Ivor Graham
Ombudsman