

The complaint

Mr K complains Santander UK plc (Santander) unfairly declined his section 75 Consumer Credit Act 1974 (CCA) claim for issues with a pet travel service.

What happened

Mr K wanted to transport his fiancée's pet dog from the USA to the UK. He hired a pet travel service provider (which I'll call "S") in January 2023 to help the dog clear UK customs.

Before agreeing to the contract, Mr K called S on 24 January 2023 for more information. He says S mentioned failed customs checks could result in additional costs and the dog being put in quarantine. However, he said S assured him that both it and the air carrier (which I'll call "AC") would review and ensure the customs documents – which include an Animal Health Certificate – were "pre-checked" beforehand to ensure they would pass customs. Feeling reassured, Mr K accepted S' £157.20 quote.

The pet dog left Atlanta, Georgia on 14 February 2023 and arrived at London Heathrow Airport on 15 February 2023. Unfortunately, the relevant border control post found issues with how the rabies vaccination details were recorded on the dog's Animal Health Certificate. This led to the dog needing to be re-vaccinated and placed in quarantine for a few weeks, causing Mr K to incur extra costs.

S covered the costs of the failed customs checks, and added these to the original £157.20 it quoted. Its final invoice was for £355.20, and Mr K paid this in full with his Santander credit card on around 16 February 2023. Mr K said he incurred additional costs of over £1,000, mostly relating to the cost of keeping the dog in quarantine.

Mr K said S should have ensured the Animal Health Certificate was checked for errors – and if this was done the errors would have been noticed in advance. But S didn't agree it was responsible for checking the certificate. It said AC's process was to ensure the certificate (and other documents) were checked in advance, and implied that due to a change in AC's process at the time this unfortunately couldn't be carried out. AC used to send the customs documents to a particular border control post at Heathrow (which I'll call "BCP1") in advance for a "pre-check" but changed the border control post it used to a new one (which I'll call "BCP2") in early February 2023 and no longer provided the service.

Unhappy with S' response, Mr K asked Santander for help getting a refund of his costs.

Santander raised a chargeback on his behalf for the full £355.20 he paid to S, and he received a temporary refund of this amount on around 19 April 2023. S challenged the chargeback, but at pre-arbitration Santander successfully argued S had not complied with the chargeback rules, and so Mr K kept the refund.

The chargeback refund covered Mr K's full payment to S, but it did not cover the consequential losses Mr K said he suffered.

To address these losses, Santander raised a section 75 claim in September 2023, which could make Santander responsible for a misrepresentation or breach of contract by S.

Santander declined the claim for a few reasons. It said it was Mr K's responsibility to check the customs documents, as outlined on the UK Government's website. It also said it could not find anything that says S would conduct "pre-checks" of these documents to avoid any customs problems. And lastly, that the relevant error on the Animal Health Certificate only became evident on the scanning of the dog – which was outside S' control.

When Mr K complained, Santander reaffirmed in its final response its decision to decline the claim was correct, for broadly the same reasons it gave previously.

Mr K disagreed and brought his complaint to the Financial Ombudsman Service. Our investigator reviewed his concerns and said the terms and conditions of the contract don't specifically obligate S to review the customs documents beforehand. She also didn't think Mr K provided sufficient supporting evidence to show pre-checks were promised during the 24 January 2023 call. She did not uphold his complaint.

As Mr K disagreed, his complaint came to me for a decision.

I issued my provisional decision in late February this year. An extract from that provisional decision is set out below, which also form part of this decision.

I've considered all the available evidence and arguments to decide what I feel is fair and reasonable in the circumstances of this complaint. And where it's unclear what's happened, my conclusions are based on what I think is most likely to have happened given the information available.

Mr K is not complaining about the chargeback. He successfully received the full £355.20 he paid S - the maximum amount claimable under chargeback. The refund covered both the service costs and the extra fees S paid for the failed customs checks. In the circumstances, I don't feel I need to say more about these fees or the chargeback.

What I've focused on is the extent to which Santander is responsible under section 75 CCA for S' alleged failure to ensure the Animal Health Certificate was checked, and any consequential losses this caused Mr K – as these were Mr K's remaining concerns.

Under section 75, Mr K can hold Santander responsible for a "like claim" he would have against S for a breach of contract or misrepresentation. Certain criteria need to be met for section 75 to apply relating to matters such as the cash price of the services Mr K purchased and the relationship between the parties to the transaction. I'm happy those criteria are met.

So, in deciding if Santander's decision to decline Mr K's section 75 was fair, I've gone on to consider whether there's sufficient evidence of a breach of contract or misrepresentation.

Was there a misrepresentation?

For me to find a misrepresentation had occurred, I would need to be satisfied S made a false statement of fact that caused Mr K to enter into the contract with S.

Mr K argues that during the 24 January 2023 sales call, S said both it and AC would carry out pre-checks of the customs documents. As these checks didn't occur, he says these assurances amount to false statements of fact that he relied on when agreeing to the contract. He provided handwritten call notes to support what he recollects from the call.

S hasn't agreed it said anything false. It also recently said it doesn't carry out pre-checks itself – and in this situation, it was relying on AC to carry out the pre-checks as this was already offered as part of AC's service.

Setting aside whether S said anything false - on balance of probabilities I think Mr K would have still agreed to the contract had he known the limited extent of S' service. I'll explain.

As S recently accepted it was using AC's pre-check service, a truthful representation of the service would have likely, at a minimum, involved S informing Mr K that AC offers a free pre-check service (factually correct at the time). Or alternatively, as stated in the contract, that Mr K could optionally ask the border control post to check the customs documents for free.

Additionally, I note Mr K paid £157.20 for S' service. At around the same time, he obtained quotes from other providers, but these had cost substantially more than what S quoted.

Apart from these other quotes, I haven't seen any supporting evidence from Mr K, from around the time he agreed to the service on around 24 January 2023, that describes any other alternative courses of action he was specifically considering.

It looks like Mr K had the choice of picking a different provider at likely higher costs – or alternatively sticking with S and relying on AC to carry out the pre-checks or optionally obtaining a free check through the relevant border control post, directly if necessary.

In the circumstances, I don't think there's enough here to show Mr K would have likely chosen a different service, so I don't find there to be any misrepresentation.

Did S' service include pre-checking the documents?

The remaining issues for me to decide are what service was S contractually obligated to provide in relation to the pre-checking of the documents, whether it failed to provide this service in breach of contract, and whether this caused Mr K any loss.

Mr K made several arguments for why he thinks S' service included ensuring both it and AC checked his documents – summarised as follows:

- The explicit terms of the contract are ambiguous - so they should be read in his favour and include pre-checking.*
- S' verbal representations that pre-checking is included form part of the contract, as outlined by section 50 Consumer Rights Act 2015 (CRA).*
- Pre-checking documents are industry standard for the type of service S provides – and so S ought to ensure pre-checks are carried out as part of its obligation to perform its services with reasonable care and skill, as outlined in section 49 CRA.*

I've thought carefully about what Mr K said, as well as the arguments Santander put forward. I've also reviewed S' invoice, terms and conditions, the descriptions of its services on its website, and contacted S directly on several occasions to get more information about what its service includes.

Having done so, I haven't seen anything to persuade me S had any obligation itself to pre-check the documents. However, I think it did have a contractual obligation to take steps to ensure Mr K's customs documents were sent for pre-checking, if it received those documents within a reasonable time. I'll explain.

A summary of the services Mr K agreed to are on S's quote, described as follows:

- Customs entry and liaison with [AC] and [BCP1]
- Airline handling
- Import clearance admin fee [AC]

Neither the quote or invoice say very much about what each service specifically entails, but it's clear that S will liaise with both AC and BCP1.

I note S's website also says that S will "...act as a nominated clearance agent for your pet consignment arriving at [BCP1]" and that S "will work with you and your airline to provide all advanced notices and information to the authorities, ensuring a swift clearance for your pet."

There's no detailed description of what advanced notices and information are sent to the "authorities" – which I think can only reasonably refer to BCP1. And it's unclear whether pre-checking documents are included in the information pack. The website also doesn't mention anything about a "pre-check" service.

I looked at the terms to see if they clarify if "pre-checking" is included as part of S' service in some form or other. The relevant terms say:

"Please note there is no pre-check service available for commercial (unaccompanied) arrivals."

They also say:

"We encourage all clients to use [BCP1] Pre-Check service for non-commercial imports to reduce the chance of an [S] employee needing to attend or the clearance being delayed."

The terms are clear a pre-checking service is available for non-commercial arrivals, that customers are encouraged to use it, and that BCP1 carries out the "pre-check". But they're ambiguous as to whether S, as part of the service it provides, is obligated to help ensure pre-checking is carried out by BCP1 if its customers elect to use the service – or if the customer is meant to arrange it themselves.

In summary, there isn't anything that specifically states the kind of "advanced" information that is sent to the relevant airline or border control post, or whether this excludes "pre-check" documents. Nor does anything describe how the customer is meant to elect to use the optional "pre-check" service – whether directly with BCP1 or through S. The service descriptions are vague about what's included, and I think it's noteworthy that S's terms don't exclude S from helping with the "pre-check" service that it encourages its customers to use.

I think a reasonable person, after looking at the relevant literature, would probably think that part of S' service is to help ensure a "pre-check" is carried out if a customer wants to use the service. And that must reasonably include forwarding the "pre-check" documents to either the border control post or airline, and following-up on whether those checks passed.

Notwithstanding the above, I think it's likely S offered to help facilitate the pre-checking of Mr K's documents during the 24 January 2023 call, and by doing so these assurances formed part of the contract under section 50 CRA. I say that because when I called S on three separate occasions, three independent employees confirmed S' service includes forwarding any "pre-check" documents to the relevant border control post, as long as they are provided within a reasonable time – which one employee confirmed was a week in advance. So I think similar statements were likely said during the 24 January 2023 call.

One of these agents was the same person Mr K spoke to during the 24 January 2023 call. And a more senior employee clarified further that if the airline was already providing a pre-check service, as was the case here, S's process was to only forward the "pre-check" documents to the airline, to avoid BCP1 receiving a duplicate "pre-check" request for the same documents. To some extent, each agent corroborates the 24 January 2023 call notes Mr K provided – which refer to "paperwork checks", mention AC would send something to BCP1 to be checked, and outline a remedial procedure for any paperwork issues.

Mr K also said S agreed to pre-check the documents itself, and if it had done, it would have spotted the paperwork errors. But I've found little evidence of this promise aside from Mr K's own account. S' contract makes clear that the optional pre-check service is provided by BCP1, and not S. And all three of S' employees independently confirmed they don't check the paperwork as they don't have the expertise to do so, and will instead forward it to the relevant border control post on request.

On balance of probabilities, I'm not persuaded S promised to check or validate the paperwork's content, and I don't find that S had any obligation to do so as part of its service. But I do think it had some responsibility to ensure a "pre-check" was carried out.

Did S fail to ensure a "pre-check" was carried out?

Following the above, I think S's obligations were limited to ensuring the "pre-check" documents were forwarded to either AC or the relevant border control post, if it received the "pre-check" documents from Mr K. And to follow-up as necessary to ensure the pre-check was carried out, as part of performing this service with reasonable care and skill. The CRA doesn't define "reasonable care and skill", but I think, at a minimum, the obligation ought to include basic follow-up to ensure provided services are carried out.

However, for me to find S failed to perform this service, I'd also have to be satisfied Mr K sent the documents to S within a reasonable time, to ensure it could facilitate a complete pre-check of the customs documents before departure.

I can see S emailed Mr K on 24 January 2023, asking him to send several documents to it, including a copy of the Animal Health Certificate and supporting documentation for any rabies vaccination.

Mr K replied by email on 14 February 2023 stating "we received the final pack of documents today". And he attached the following documents:

- E-ticket
- Airway Bill
- Health certificate (with supporting rabies documentation)

The specific reason why the pet dog ended up in quarantine was because of the content of the Animal Health Certificate. I say that because the compliance failure reasons given by BCP2 state this certificate was non-compliant for two reasons:

- The "issuing vet guessed the product name when issuing the Health Certificate, as not recorded when vaccinated by administering vet".
- "Then, administering vet did not record the microchip at the time of vaccination".

Santander said the compliance issues were only detectable upon inspection of the dog and its microchip, but the compliance failure reasons suggest otherwise. From what I can see, the problem with the microchip was simply a failure to record the microchip's unique identification number at the time of vaccination, to ensure the vaccination was given to the correct dog. This was a key regulatory requirement, and this failure would have been detectable from a paperwork inspection alone.

So the main issue here is whether S, upon receipt of the Animal Health Certificate on 14 February 2023, would have had enough time to send it to either the airline or BCP2 for a "pre-check" of the certificate, so that its errors could have been picked up before the flight departed on the same day. Mr K says that if the errors were identified in time, he could have had the dog revaccinated and flown out later, avoiding the quarantine and other fees.

I cannot say for certain what steps S took on 14 February 2023, as S hadn't provided copies of any of its communication with AC. It's possible S didn't forward any documents to AC. But even if I accept it didn't send the documents, I need to think carefully whether a failure to do so amounts to a breach of contract, given how short a timeframe S had to ensure any "pre-check" was carried out.

Ultimately, I don't think Mr K gave S enough time to send the Animal Health Certificate over for a pre-check. I don't know what time the flight departed on 14 February 2023, but by the time S would have seen the email, it would have had to ensure the pre-check was carried out within a matter of hours beforehand. And once the pet dog was in the air, a pre-check wouldn't have made any difference as the dog would have had to be revaccinated and quarantined for 21 days.

The timeframes that both S and BCP2 gave is that any "pre-check" documents should ideally reach the relevant BCP a week in advance of the flight, or there's a risk it won't be carried out in time. On that basis, I don't think less than 24 hours' notice is nearly enough time to ensure a pre-check would be carried out before the flight. And I think it's too speculative to say it would have been conducted in time if S had sent the documents over to AC or BCP2.

In summary, if S hadn't sent the documents over for pre-checking on 24 February 2023, I don't think this would have amounted to a breach of contract. But even if I accept a failure to send the documents for a pre-check is a breach of contract, I'm not persuaded this would have caused any loss because I think it's unlikely BCP2 had enough time to carry out the check anyway. In either circumstance, it's likely the pet dog would have still ended up in quarantine, and Mr K would still be liable to pay the quarantine fees.

Should S have told Mr K that AC's process changed?

For completeness, I also considered Mr K's claim that S failed to warn him about AC's change in process – in particular, that it would no longer send any documents to BCP1 for a pre-check. S confirmed it found out about the change on 7 February 2023, but it hadn't told Mr K. It's my understanding that if Mr K had known about the process change, he believes he could have ensured the pre-check was carried out in time.

I accept that as part of S' service, any material change in process should be communicated to its customers within a reasonable time. I can see AC officially started using BCP2 from 1 February 2023, and this was updated on AC's website on 3 February 2023. S says it only found out on 7 February 2023, and that it "shocked the industry" as AC gave no prior warning. S also recently produced an email dated 13 February 2023 from AC, informing it that any "pre-check" request would henceforth need to be sent directly to BCP2.

In the circumstances, I'm persuaded S didn't have advance warning of the changes. But I think it reasonable to expect S to have notified its affected customers that AC's process had changed soon after it found out on 7 February 2023. I think it would have taken some time for it to identify and reach out to those affected, but I don't think this should have taken more than a few days. And I accept its failure to reach out to Mr K does amount to a breach of its contractual obligation to exercise reasonable care and skill under s.49 CRA.

That said, I can't see how this makes any material difference to Mr K's situation. The only change in process here is that instead of forwarding any "pre-check" documents to AC, S would instead forward the documents directly to BCP2. Under both processes, Mr K would still need to forward the documents to S first, which he did on 14 February 2023, the day he said he received those documents. For the same reasons above, I still don't see how Mr K would have likely ensured a pre-check was carried out before the pet dog was in the air. There doesn't appear to be enough time. It follows that I don't think he'd have likely avoided the dog being put in quarantine or the associated fees.

Customer service

Mr K says Santander provided poor service. In particular, he says Santander failed to question S further about the events on 24 January 2023, and he doesn't think Santander's reasons for declining his section 75 claim were correct.

Santander should conduct a proper investigation as part of its regulatory duties to pay due regard to the interests of its customers and treat them fairly. But having reviewed Santander's actions, I think it did enough before declining the section 75 claim.

Mr K set out his complaint in multiple correspondences with S, including a very detailed "Letter of Claim" he sent on 27 March 2023. Santander had also sent further information via the chargeback process to S, outlining Mr K's complaint. S' responses to both Mr K and to the chargeback claim make clear that S fully understood what Mr K was unhappy about, including his issues with how the conversation went on 24 January 2023. Although it could have done more, I think Santander did enough to find out from the other side what its position was and what information it was relying on, before declining Mr K's section 75 claim.

I've also considered the reasons Santander gave for declining Mr K's section 75 claim, as Mr K said Santander were inaccurate in its investigation. He said Santander were wrong to say the Animal Health Certificate was only evident upon scanning the dog.

I agree Santander could have more accurately identified the Animal Health Certificate's issues. But I don't think it was obvious from the limited and broken wording BCP2 used that the issue with the chip was clearly a paperwork rather than a physical issue. This reason was also ancillary to the main reasons for why Santander declined the claim, relating to the contract terms and verbal assurances. So, Santander would have still declined the claim. I appreciate the inaccuracy would have caused Mr K some frustration, but I think the impact is minor and not of a level that justifies compensation.

Overall, I think Santander did enough to investigate the section 75 claim properly and I think it gave clear reasons for why it declined the claim. I appreciate I had a different opinion on how to interpret ambiguous contract terms, but I don't think Santander's conclusions about the contract terms were unreasonable, and I note our investigator had also agreed with its interpretation. I'm not minded to award compensation for simply a difference of opinion.

Santander handled the claim quickly, and there's nothing from what I've seen that suggests Santander's service was so poor that it should warrant compensation.

In summary, I don't think there's been any misrepresentation, and I don't think Mr K has shown that any breach of contract caused him to incur quarantine costs or other fees. So I don't think Santander are liable under section 75. Overall, I think Santander handled the section 75 claim fairly and I'm not recommending it needs to do anything further.

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.

Mr K didn't respond to my provisional decision by the deadline, and Santander has accepted my recommendations. As no party raised any objections to what I've said, I see no reason to depart from my provisional findings.

My final decision

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 10 April 2025.

Alex Watts
Ombudsman