

The complaint

Mr A is unhappy with the way American Express Services Europe Limited trading as American Express (AESEL) dealt with a claim for money back for goods he bought using his credit card.

What happened

Mr A bought two gold bars and a gold coin in September 2024 from an online retailer I'll call C. He paid around £14,700 using his AESEL credit card.

He said the parcel was delivered to his house and received by a family member and a signature wasn't taken. Mr A said that when the outer packaging was opened, it was discovered part of the box inside was damaged and didn't contain the gold bars or coin. Mr A said that his family member told him, and he contacted C and was told it would be investigated. However, Mr A said as there were delays in C's investigation, he raised a chargeback dispute with AESEL.

AESEL raised a chargeback, and this was defended by C. It provided delivery records to show the package was delivered to Mr A's address, including a signature.

Mr A questioned the signature that was provided by the delivery company and the weight on the label on the package. AESEL said the evidence Mr A provided wasn't sufficient to re-dispute the charge and closed the chargeback.

Mr A said the footage from his doorbell camera didn't show that a signature was requested. He calculated the weight of the items he bought and the packaging and said this didn't match up to the weight on the delivery label. He didn't agree with the way AESEL handled the chargeback.

Mr A subsequently raised a claim under Section 75 of the Consumer Credit Act 1974 (Section 75). AESEL didn't think it was liable for a misrepresentation or breach of contract because C demonstrated that it delivered the package to Mr A's address. It thought C fulfilled its obligations.

Mr A remained unhappy and made a complaint. As AESEL didn't agree to give him a refund, he referred his complaint to our service.

An Investigator reviewed the complaint and didn't uphold it. She said that she thought AESEL processed the chargeback as expected and didn't think it was unreasonable that AESEL declined the chargeback based on what C provided in its defence. She also explained that she didn't think AESEL made an error in the way it considered the Section 75 claim. She considered the points Mr A raised about the delivery of the package and explained that she didn't think there was a breach of contract in the way the gold bars and coin were delivered to Mr A.

Mr A disagreed and made the following points and provided additional information, in summary these were:

- He didn't think AESEL considered his claim under Section 75 properly, including the implied terms from the Consumer Rights Act 2015.
- C failed to follow its own delivery policy.
- There was an incorrect assumption that the parcel was delivered to Mr A, and this was supported with a fraudulent signature and empty box.
- There was a weight discrepancy with the package.

He clarified that he made two separate orders with C – one was for the gold items and a separate order for silver items, which were delivered at the same time.

Mr A also provided details of a response from a third party that provides purchase protection for AESEL credit cards. AESEL explained the contents of the letter from the third party didn't change its position on the Section 75 claim and it reiterated it gave its position based on the available evidence it had. It didn't agree to refund Mr A.

As the matter remains unresolved, it has been passed to me for a 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.

I've read and considered the evidence submitted by both parties, but I'll focus my comments on what I think is relevant. If I don't comment on a specific point, it isn't because I haven't considered it, but because I don't think I need to comment in order to reach what I think is the right outcome. This is not intended as a discourtesy but reflects the informal nature of this service in resolving disputes.

Where evidence is incomplete, inconsistent or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

I understand Mr A wants a refund as he said he didn't receive the gold bars and coin, but I need to consider the actions of AESEL as the financial services provider in this complaint. I'm not considering a complaint about C. I've considered if AESEL has acted fairly and reasonably in the way it handled Mr A's request for getting his money back.

Chargeback

In certain circumstances a card issuer can raise a chargeback dispute under the relevant card scheme rules, in this case it's the American Express scheme. This is where the card member has a dispute with the merchant, but this is subject to strict rules and there is no guarantee that the card issuer will be able to recover the disputed amount. Whilst there is no obligation for the card issuer to raise a chargeback claim, I think it's good practice to do so, where there is prospect of success.

AESEL considered a chargeback under the reason code "goods and services not received" based on the information it was provided by Mr A, and I think it acted fairly by doing so. I think this was the most relevant reason code to try and help Mr A raise a dispute. The rules state this is where the card member did not receive or partially received goods or services. In order to request a chargeback reversal, the merchant can show "Proof that the goods or services were delivered to the address specified by the Cardmember,"

C defended the chargeback and AESEL accepted the defence and said it supported the transaction, so it told Mr A that the amount previously credited would be reapplied to his

account balance. I understand Mr A disputed the evidence that was provided in C's defence to the chargeback and said that when the packages were delivered no signature was taken. Initially he said that there was no doorbell footage when he was asked by C to provide additional information. He then later said he obtained access to the doorbell footage when he submitted his complaint to our service and provided a copy, and this showed that at the time of delivery no signature was taken.

However, I need to consider if AESEL acted fairly in the handling of the chargeback. Under the chargeback reason code used, C provided information to show the gold bars and coin were delivered to the address Mr A specified so I don't think AESEL acted unfairly by accepting this as a valid defence. I think it's reasonable that AESEL reversed the chargeback credited to Mr A's account and closed the claim.

Section 75

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.

Under Section 75, AESEL is jointly liable for any breaches of contract or misrepresentations made by the supplier of goods or services – which is C in this case. In order for there to be a valid claim under Section 75, there needed to be a debtor-creditor-supplier ('DCS') agreement in place and the financial limits have been met for a valid claim. I'm satisfied the criteria has been met.

Mr A hasn't complained the goods were misrepresented. So, I've gone on to consider whether AESEL's response to the breach of contract claim was fair.

I've thought about whether there is enough evidence to demonstrate if there is a breach of contract of express or implied terms, including the Consumer Rights Act 2015 (CRA). Here Mr A explains he didn't receive the gold bars and coin within the package.

The dispute involves a large amount of money, and I understand Mr A's strength of feeling. I'm sorry to hear about the stress and worry that he said he has experienced.

The circumstances aren't straightforward. Mr A has said he bought the gold bars and coin as a way of investing, and he was reassured with buying from C as it states on the website that high value items would be sent separately and securely. However, Mr A said that he didn't think the parcel was sent securely and the signature from the delivery company was fraudulent. He said he didn't sign for the package, and this is supported with the doorbell footage he provided. However, C provided evidence of tracked delivery, and it also provided a video to show how the items were packaged – although I note this wasn't viewed by AESEL when it considered a Section 75 claim and I've not been able to access the video footage either. C said that it reviewed the pictures provided by Mr A and referred to the video of the items being packaged. It said that the items in the package wouldn't have been able to come out of the gap – which Mr A said was there on the box. It's interesting C made this comment. I think it's unlikely to have said it if it wasn't correct. But I'm mindful I've not been able to access the videos to verify.

I note Mr A's comments that C's website says high-value items will be sent securely and separately. When AESEL asked for clarification, C didn't explain why the items weren't sent separately. Whilst I think it would have been useful to get C's comments on this, I've noted that the packages were delivered to Mr A's address and I'm not sure how much more securely they could've been delivered than with the delivery company C used.

I've taken into account Mr A's comments and the evidence suggesting he didn't sign for the package, along with the weight discrepancy on the label. However, it's not in dispute that a package was delivered to Mr A or his partner from C.

For me to conclude that AESEL acted unfairly, I'd need to be satisfied there was evidence of a breach of contract which AESEL should be held liable for. Based on the evidence provided, a number of things could have occurred, and I can't be certain what happened, given the evidential challenges.

If there's an allegation that C didn't send the goods, or that they were stolen by someone working for the delivery company, these are very serious allegations. Based on the limited evidence that can be provided, I don't think there would have been a way for AESEL to safely conclude what had happened. Like AESEL, I'm not able to take sworn evidence from C or the delivery staff, so it's difficult for me to verify or establish what happened between dispatch by C and delivery to Mr A's address, or when the package was opened.

I understand Mr A highlighted that the delivery was made in an unmarked van and not branded with the delivery company's logo. Given that the delivery time on the evidence submitted by C and the time of Mr A's doorbell footage are the same, I'm persuaded on balance, the packages were delivered by the delivery company C used.

Mr A has questioned the signature that was provided as evidence by C. I've noted that the signature isn't an exact match to the identification documents that Mr A provided but there are some similarities. It is curious it doesn't appear that a signature was taken from the doorbell footage that Mr A has provided. It's also not clear why Mr A said there was no doorbell footage when C asked him for further information when he contacted it. I agree there are unanswered questions about how the delivery company obtained a signature. It's not clear if AESEL was sent the doorbell footage when it considered the Section 75 claim however, I don't think it would be unreasonable for it to rely on it to demonstrate Mr A's own evidence showed that he was delivered two packages. So, I don't think the possible inconsistency with the signature proves the items were missing from the package, which meant there was a breach of contract.

Additionally, it's unclear why there may be a difference in the weight on the label and what Mr A expected it to weigh, it's also difficult to establish the reasons for this. It may be that the weight had a range, or it was the weight of the package covered for the delivery. Although there may have been differences with the weight on the package and what Mr A expected it to weigh, I don't think this shows that Mr A didn't receive the items in the package, which meant AESEL should be held liable for a breach of contract.

Mr A has provided correspondence from a third party about purchase protection on his credit card. AESEL has explained that this does not alter its position on the Section 75 claim. As the third party is a separate company from AESEL, I do not consider this has a bearing on the outcome of the claim. If Mr A wishes to raise a complaint about the eligibility of his claim under purchase protection, he would need to pursue this separately.

Having considered the evidence provided, I am not persuaded that AESEL's response was unfair. That is not to say something may not have gone wrong, but rather that I do not think it was unreasonable for AESEL to decline the claim given the limited persuasive evidence available.

If Mr A wishes to take this further, it may be more appropriate for him to pursue the matter through alternative routes, such as the courts or through the police.

On balance, and based on the available evidence, I don't find AESEL's final position to be unfair. Therefore, I'm not directing AESEL to provide a refund to Mr A.

My final decision

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 A to accept or reject my decision before 9 October 2025.

Amina Rashid
Ombudsman