

## **The complaint**

Mr P has complained about how Santander UK Plc (Santander) handled his claim regarding a faulty phone purchased in the US.

## **What happened**

Mr P purchased a phone from a supplier I shall call 'N' via an online marketplace I shall call 'B' in November 2023 using his Santander credit card. This was to the sum of £635.59. The purchase occurred during a trip abroad to the US and so the phone was ordered through the marketplace website while there.

Mr P says the phone ceased working in September 2024 which was after he'd returned home to the UK. He contacted B's US customer service who in turn asked him to contact N's US customer service team. He was then told that as he had returned to the UK, he needed to speak to N's UK support about this.

N then told Mr P that they couldn't help him and that the phone would need to be returned for repairs within the US. As Mr P remained dissatisfied he contacted Santander to raise a chargeback claim against B and a Consumer Credit Act 1974 ("CCA") section 75 claim ("S75") against Santander.

Santander provided a response to Mr P's chargeback claim at the end of October 2024 saying that they didn't have enough information to progress it further. They also subsequently sent two outcome letters in November 2024 stating they couldn't uphold the S75 claim.

The first said Mr P hadn't contacted B who Santander felt was the merchant here. They did however acknowledge Mr P had contacted the manufacturer N who had agreed a return. The second letter then provided additional details that the parts needed to repair Mr P's phone weren't available in the UK and so he needed to contact the N's US branch regarding repairs under its warranty. Santander concluded that an appropriate remedy had been provided and so there was insufficient evidence of a breach of contract by N.

Mr P remained dissatisfied and brought the complaint to our service. Our investigator considered the evidence available and reached the conclusion Santander hadn't done anything wrong in declining his claims. Regarding the chargeback claim, our investigator noted that this would've been out of time with mind to the card issuer rules in any event.

In terms of the S75 claim, our investigator concluded that Mr P's warranty applied to the US and so it could only be repaired there. They felt that Mr P hadn't provided sufficient evidence that N had breached their contract to him.

Mr P didn't agree and said his phone hadn't lasted for a reasonable amount of time and he hadn't received appropriate assistance from either B or N. He therefore asked for an ombudsman to issue a decision on the matter.

I previously issued a provisional decision and said the following:

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 the parties but won't comment on it all – only the matters I consider to be central to this complaint. This isn't intended as a discourtesy but reflects my role in resolving disputes informally.*

*It's important to note that Santander aren't the provider of the goods here – so in deciding what is fair and reasonable, I'm looking at their particular role as a provider of financial services. In doing so I note that because Mr P paid for this transaction using a Santander credit card, both chargeback and a S75 claim could possibly help him. So in deciding what is fair and reasonable I've focussed on this.*

### **Chargeback**

*Chargeback is the process by which settlement disputes are resolved between card issuers and merchants. A consumer isn't entitled to chargeback by right. But where there are grounds to raise one and it has reasonable grounds for success, it is good practice for one to be raised by the card issuer.*

*However, a chargeback isn't guaranteed to succeed and is governed by the limitations of the particular card scheme rules (in this case Mastercard's own rules). I've considered the relevant chargeback rules in deciding whether Mastercard acted fairly.*

*Santander said that they had insufficient evidence from Mr P to progress the chargeback claim. The chargeback code that most likely would've applied here was 'Goods or Services Were Either not as Described or Defective' (for B's responsibilities for defective goods sold on their site).*

*I've considered Mastercard's time limits, which under this chargeback rule state the claim would need to be raised within 120 calendar dates of the delivery of the goods. As the phone was purchased in November 2023 and the issues with the phone arose almost a year later at the end of September 2024, the claim was brought to Santander outside that timeframe.*

*This means that even if Santander had attempted to raise the chargeback, it was unlikely to succeed for the above reasons. Therefore I don't think they need do anything more here.*

### **S75**

*S75 provides that in certain circumstances the borrower under a credit agreement has an equal right to claim against the credit provider if there is either a breach of contract or misrepresentation by the supplier of goods and services.*

*There are certain requirements for a valid Section 75 claim. And I am broadly satisfied these have been met here in order that Santander can be liable for a potential breach of contract or misrepresentation in respect of the supply of goods financed by their card.*

*I note here that Mr P purchased the phone through a US based web marketplace. However, it appears the transaction financed a supply of goods between Mr P and N and not Mr P and B. Therefore, I consider that the relevant agreement here is between Mr P and N so I will be focusing on this.*

## *Breach of contract*

*There are a few contract considerations relating to Mr P's S75 claim due to the circumstances of his purchase and I've addressed these in turn:*

- *N's US terms and conditions*

*I've reviewed Mr P's evidence regarding his faulty phone. These show the phone not opening beyond a certain angle nor closing fully and a significant portion of his screen remains black. He says that a fault with the hinge has then resulted in the issues with the screen which rendered the phone unusable.*

*It's not clear whether the fault is a manufacturing issue or due to accidental damage but a repair has been offered in any event by the supplier. Mr P has said the key issue here is having to return the item abroad to get this service but this in itself does not appear to be a breach in respect of the relevant terms of the contract for sale which sets out the repair coverage offered by N.*

*I've reviewed N's terms and conditions, and this says their liability is limited to the warranties provided alongside the goods purchased. I therefore can't say N breached their terms and conditions to Mr P here as their liability was limited to the terms of the warranty. In addition N's US branch is governed by US terms and Illinois law.*

*I've considered this with respect to how Santander has handled the claim. As the governing contract is subject to US terms and Illinois law, UK consumer rights legislation such as the Consumer Rights Act 2015 (CRA) wouldn't apply here. The CRA would ordinarily under a contract to supply goods add an implied term that the 'quality of goods is satisfactory'.*

*While I empathise with Mr P's situation, and appreciate the photos suggest faults, the issue is whether this fault gave rise to a remedy under the governing contract and I've insufficient evidence that there has been a breach of N's US terms and conditions.*

*In summary I don't think there has been a breach of contract, by N here and I don't think Santander could've done more in their handling of the claim.*

## *N's warranty terms and conditions*

*With regard to N's warranty, as this was purchased from N directly and formed a part of the original purchase contract, I consider it reasonable for this to be considered for whether there has been a breach of contract here under S75.*

*Mr P was told in N's UK webchat on 24 September 2024 that his phone couldn't be repaired in the UK as his specific model is not sold in the EU and therefore the repair parts weren't available. They asked for Mr P to contact N's US branch who also confirmed the phone couldn't be repaired in the UK.*

*I've reviewed Mr P's phone warranty from the IMEI number provided and note it says this under 'What will we do if you make a claim under this Limited Warranty?'*

*"To obtain service under this Limited Warranty, the claim should be made in the country in which the Product was intended for sale; otherwise repair services are limited to the options available in the country in which the service is requested".*

*While both of N's UK and US branches have said the phone can't be repaired in the UK, the possibility of this limitation was confirmed in the warranty terms. Therefore if Mr P wanted to use his warranty, it would require the phone to be collected for repairs within the US only.*

*I'm therefore satisfied that the warranty was limited to repairs in the US as the relevant repair parts weren't available in the UK. I've also considered Mr P's web chats with both of N's UK and US branches and note he was advised correctly of this on both instances. I conclude there hasn't been a breach of contract here by N in declining repairs to Mr P's phone in the UK based on their warranty terms and conditions.*

### **Misrepresentation**

*I note that Mr P hasn't claimed there has been an element of misrepresentation here and the focus has been a breach of contract by N. Having considered all the relevant evidence I also consider there is insufficient evidence there has been a false statement of fact by N and therefore I don't think Santander were unreasonable in not considering this further.*

*In summary I don't consider there has been a breach of contract by N here and likewise I've insufficient evidence of misrepresentation. I therefore can't say Santander did anything wrong in declining Mr P's S75 claim.*

Santander responded to the provisional decision stating their position remained unchanged and they had nothing further to add. Mr P did respond with some comments and while I addressed them directly, I'll summarise this below.

Mr P has said that he expected his phone to last more than nine months and while I appreciate his position, I'm looking at how Santander administered his claims. I've explained why the chargeback was out of time and so my considerations are on the S75 claim, the evidence available and most importantly N's relevant terms and conditions, both explicit and implied.

I've gone into detail on these in my provisional decision but the key aspect to note is that while Mr P was entitled to raise a S75 claim here, this wouldn't extend to the implied terms afforded by the CRA and so considerations of quality of goods and issues of durability as stated there. The reason for this is, as explained, because the purchase was outside the UK and so where these UK consumer protections wouldn't apply.

So while a claim can be raised against the credit provider for issues with the supplier under S75, I'd need to consider what this means for breach of contract with mind to the relevant terms and conditions and the applicable legislation. And so in this case I can't say Santander did anything wrong due to the limitations explained prior.

I know this'll be disappointing to Mr P as he wasn't aware of the impact of the purchase abroad and the various limitations but this is why I won't be asking Santander to do anything more here.

### **My final decision**

For the reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 17 October 2025.

Viral Patel

**Ombudsman**