

The complaint

Mr B has complained that AMERICAN EXPRESS SERVICES EUROPE LIMITED (“AmEx”) declined his claim under Section 75 of the Consumer Credit Act 1974.

What happened

In January 2025, Mr B ordered some glasses from a supplier I’ll refer to as H. He paid £696 for the item, and this was to be delivered to his home address. Mr B used a credit card provided by AmEx to pay for the item.

H says it delivered the item to his home address, but Mr B says he never received it. He initially tried to resolve matters directly with H, but unable to do so, contacted AmEx to raise a dispute.

AmEx considered the claim as a potential breach of contract under Section 75 of the Consumer Credit Act 1974 (“s.75”). AmEx declined the claim as it said H had provided evidence that the item was delivered to his home address. It provided a picture of the package inside his building and a GPS location tracker of the delivery driver which showed it had delivered the item to his address. Mr B lives in a building with multiple apartments. AmEx said, the item was delivered to the address Mr B gave, and H specified in its terms that any losses arising out of consumers living at properties with multiple occupants is for consumers to bear. It therefore felt there hadn’t been a breach of contract. It added that Mr B had enabled the delivery options for leaving the item in a safe place.

Mr B remained unhappy explaining that he hadn’t selected a safe place option and expected the delivery to be made to his apartment. Once notified the item had been delivered to the communal area in the building, he went downstairs to look for it but could not find it. He says, no one had taken the goods or signed for it. Mr B complained saying that H had breached the contract by not delivering the item to him or leaving it in a safe place, as it had been left in a communal area where all occupants had access to it. Mr B also explained the building management had put a sign up saying that packages couldn’t be left there, that there was a safe cupboard and a concierge service that the driver hadn’t used. He also added that he’d been at home all day so if the driver had contacted him, he would have accepted delivery directly at his apartment.

AmEx didn’t uphold his complaint saying it stood by its earlier decision that there hadn’t been a breach of contract.

Still unhappy, Mr B referred the complaint to our service. Mr B explained that he had not received the item reiterating his complaint points.

Our investigator looked into things and didn’t think Mr B’s complaint should be upheld. He said the evidence indicated the item was delivered to his address, and that there wasn’t evidence of a breach of contract.

Mr B reiterated that he hadn’t selected a safe place to leave the goods, and leaving the item in an open accessible area wasn’t in any event a safe place. He said that the building

management prohibits leaving the item like that and had a sign up. He also said the delivery wasn't received by a specific person. He said irrespective of H's terms, they are required to safely deliver the item under the law and they cannot avoid that with terms.

Our investigator still didn't agree and felt the terms allowed the driver to deliver the item to the building rather than direct to him and didn't require the delivery to be given to a specific person. So, he still didn't think Mr B had a valid claim. But as things weren't resolved the complaint has been passed to me to decide.

On 9 October 2025, I sent Mr B and AmEx my provisional decision setting out why I was minded to not upholding the complaint. I asked both parties to submit any further evidence or make any final comments before I completed my review of the complaint. AmEx responded and accepted my provisional findings, but Mr B did not make any further submissions.

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.

In my provisional decision I explained the following:

Firstly, I'd like to reassure Mr B, that I have considered all his concerns carefully, but I will only be dealing with the most salient parts of the complaint in this decision as I'm required to decide matters quickly and with minimum formality. I would add that I'm sorry to hear that Mr B is unhappy and the impact it has had on him. I appreciate this has been a distressing time for him.

But it may be helpful to explain that I need to consider whether AmEx – as a provider of financial services – has acted fairly and reasonably in the way it handled Mr B's claim. And it's important to note AmEx isn't the supplier. S.75 is a statutory protection that enables Mr B to make a 'like claim' against AmEx for breach of contract or misrepresentation by a supplier paid using credit it provided. But Amex is not H and isn't responsible for everything that might've gone wrong. AmEx will only be liable under s.75 if Mr B can evidence that H has breached the contract, in which case it'd be liable to offer a remedy.

There are certain conditions that need to be met for s.75 to apply. From what I've seen, those conditions have been met, and AmEx also appears to agree that s.75 applies.

I've considered if there is persuasive evidence of a breach of contract by H that means AmEx should have offered a remedy when handling Mr B's claim. But I want to explain from the outset that I can only consider Mr B's complaint on that narrow basis – that is, whether it was fair and reasonable for AmEx to respond to his claim in the way that it did.

In order for me to uphold Mr B's s.75 claim for breach of contract, I'd have to be satisfied that H either breached an express term of the contract or an implied term. The Consumer Rights Act 2015 (CRA) is relevant to this complaint as it implies certain terms into a contract. The CRA specifies when consumers become responsible for the goods and essentially that's when they're delivered in a way that's been authorised by the consumer. The CRA also sets out what remedies are available to consumers if statutory rights under a goods or services contract are not met.

So, I've gone on to consider whether there has been a breach of a term in the contract, both H's express terms, as well as any implied terms under the CRA.

I appreciate Mr B feels like the evidence H has submitted isn't in his view good enough evidence to show proof of delivery – but I don't agree. The GPS location tracker clearly shows the delivery driver went to his specific address. The photo H submitted, shows packages left inside the building. I appreciate it's not possible to tell from the picture which package belonged to Mr H, but I think it's more likely that the driver placed the package there and took a picture of it rather than entering the building and generally taking a picture of all the packages. This is bearing in mind, the driver wouldn't have known what was inside the package or its value.

H's terms do specify that consumers bear the loss of any item that are delivered to buildings with multiple occupants and consumers can order the item to be delivered into such buildings at their own risk. I appreciate Mr B believes that he hadn't selected a safe place for H to leave the item because he hadn't specified a specific place. But H explained that while Mr B didn't specify a specific safe place or a specific neighbour, the options to leave the delivery in a safe place or with a neighbour were enabled on his delivery options. Had they not been enabled, my understanding is that the delivery would have been returned to a nearby pick up point and Mr B would have had to collect it. I can see there are multiple packages left inside the building where Mr B's package was likely left, so I don't think it was unreasonable for the driver to have left the package there as a designated safe place.

So, it seems to me that no express terms have been breached, and the item was delivered to Mr B's building in line with the terms and conditions of the sale that he agreed to when he purchased the item. I also don't think there's sufficient evidence that any implied terms have been breached, it was left in a manner Mr B authorised even if he didn't mean to.

I would add that I appreciate there is a sign left by Mr B's building management that no parcels should be left in the lobby area/parcel locker room (unless in a locker), and if drivers do leave the packages there, then the building management will not be held responsible for any missing parcels. But this is not a contractual term H is bound by, so a breach of it doesn't make AmEx liable under a s.75 claim. AmEx is only responsible for H breaching a term of the contract. And it looks like it was routine for drivers to leave packages here, as so many packages can be seen in the photo.

I also appreciate Mr B's comments that it wasn't safe to leave such an expensive item in the open area like that when its accessible to all, but as explained above, the driver wouldn't have known the value of the item, and where so many other packages were left there I don't think it was unreasonable for him to have thought this was a safe place to leave it – bearing in mind this option was enabled on Mr B's delivery options.

Where there is a dispute like this, I must decide on the balance of probabilities, based on the available evidence what I think is more likely. Based on the evidence submitted by both parties, I think it's more likely the item was delivered correctly to the delivery address, and someone who had access to the property let the driver in to leave the package alongside many other packages. So, I think that the item was delivered in line with H's terms. So, I don't think there's sufficient evidence here that there's been a breach of contract either implied or express. Based on this evidence I don't think it was unreasonable for AmEx to not accept this claim under s.75.

I understand Mr B feels that H could have carried out a number of other steps to ensure the item was delivered safely such as delivering to his specific apartment where he was in, or leaving it with the building concierge team or a secured locker. He had the option to choose a specific safe place which it doesn't look like he did. So, I can't see the driver was given any instructions to do this, so I don't think H is contractually obligated to do this. While I appreciate that Mr B is disappointed with the level of service provided by H, in this instance, this doesn't constitute a breach of contract on the part of H – and therefore is not something

AmEx is responsible for remedying under a s.75 claim. As explained above, AmEx isn't responsible for everything H might've done wrong and things like poor customer service or not meeting consumer expectations are not issues AmEx is responsible for under a s.75 claim.

I want to reassure Mr B that I don't disbelieve him, Mr B complained quickly on realising the package was not in the communal area the driver had left it and has put considerable effort in trying to sort matters out. But the evidence doesn't support his claim that the item was not delivered to his address resulting in a breach of contract. And once delivered to the address, in line with H's terms, due to him living at a property with multiple occupants, any subsequent loss was for Mr B to bear. I would suggest Mr B report this to the police to see if they can help him retrieve the item.

It's not clear whether AmEx considered raising a chargeback on behalf of Mr B or what happened to any claim it may have considered. But as explained by the investigator, given that I'm satisfied that H likely delivered the item, I don't think there would have been any reasonable prospect of success in any event. So, I don't think Mr B has lost out because of anything AmEx might have done/not done in relation to a chargeback claim.

Overall, I don't think there's sufficient evidence that there's been a breach of contract. So, I don't think AmEx acted unfairly for declining this claim. While I am sorry to hear Mr B is unhappy, with s.75 in mind, I don't find there are grounds to direct AmEx to refund him the full cost of goods. I also don't think he's lost out in relation to a claim under AmEx's chargeback scheme.

I will consider any final comments either AmEx or Mr B wish to make. But I should also point out Mr B doesn't have to accept my final decision. He will also be free to pursue the complaint by more formal means such as through the courts.

As neither party has made any final comments or made any new submissions, I see no reason to depart from my findings as set out in my provisional decision. So, having considered this complaint again in its entirety, I'm satisfied that the goods were likely delivered so there is insufficient evidence of a breach of contract. So, I don't think it was unreasonable for AmEx to decline Mr B's claim. For the reasons explained, I do not uphold this complaint.

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 25 November 2025.

Asma Begum
Ombudsman