

The complaint

Mr C has complained about how American Express Services Europe Limited (AESEL) handled a refund claim he made.

What happened

The details of this complaint have been set out previously and aren't in dispute, so I won't repeat them again here. Instead I'll focus on giving the reasons for my 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 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 AESEL aren't the provider of the services 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 AESEL has considered Mr C's Section 75 (S75) Consumer Credit Act 1974 claim as he paid for this transaction using an AESEL credit card. So in deciding what is fair and reasonable I've focused on this.

Mr C's complaint is regarding repairs carried out by a garage I shall call 'M' to his vehicle at the end of 2023. The vehicle was suffering from gearbox issues and Mr C paid £5,450.00 in cash to M to address these issues. He says a 12 month warranty was also provided regarding the repairs undertaken.

Unfortunately he experienced further issues following the repairs and this meant subsequent visits to M to try and address these. As the vehicle issues persisted, Mr C used his AMEX credit card in July 2024 to fund further repairs with M for £2,498.38. Mr C says that this still didn't fix the issues he was experiencing. As a result he considered he was due a refund of both repair costs as there had been a breach of contract.

While M were willing to undertake further repairs if information was provided to any persisting issues, Mr C felt that they'd not provided the required quality of service and so contacted AESEL to raise a refund claim.

I'd like to add that while I'm focussing on the S75 claim here, a chargeback claim can be considered as Mr C used his credit card to make the payment for the second repairs. However, and as our investigator mentioned, this wouldn't be appropriate here as chargeback generally relates to the specific card transaction and wouldn't cover losses connected to earlier cash-paid work.

AESEL declined the S75 claim as they said there was insufficient evidence to show there was a required contractual agreement for the repairs in 2023. They noted all the conversations tied to this were through chat messaging where the repair and costs were agreed along with the warranty.

They also said that regarding the second set of repairs, M had offered to resolve the issue if further information was provided. Lastly Mr C has also claimed he has been charged again in 2024 for repairs undertaken in the previous year. AESEL didn't consider there was sufficient evidence to support this, and with all of this in mind, declined the S75 claim for breach of contract.

I've considered what has happened and can summarise these below:

- For the initial works undertaken in 2023, I'm not satisfied there is sufficient evidence to establish a binding contract with clear, enforceable terms.

There was no invoice or written agreement, and the arrangement proceeded informally. The only contemporaneous evidence was what was discussed in chat exchanges.

While those messages refer to proposed work and costs, they don't provide the sort of reliable contractual record I would normally expect to identify clear, enforceable terms. I can't fairly or reliably identify the contractual obligations said to have been agreed.

In those circumstances, I can't fairly identify the contractual obligations said to have been assumed by the garage or assess whether these obligations have been breached. As S75 liability depends on there being a relevant breach of contract or misrepresentation by the supplier, and I'm not satisfied that can be established on the evidence in relation to the initial work, I can't say AESEL did anything wrong in reaching these conclusions.

Mr C says the later, card-funded repair should be treated as part of a single continuous course of dealing, and that the earlier cash-paid work should therefore fall within S75. S75 liability would depend on whether they formed part of the same contract as the later card-funded repair. However, I don't consider to be the case for the reasons I explain below.

- For the second repairs in 2024, the position is quite different to the prior repairs as there is a clear invoice and therefore evidence of an agreed contract for those works.

Under the Consumer Rights Act 2015 (CRA), services must be carried out with reasonable care and skill. Where a service isn't performed to that standard, the usual remedy is for the trader to be given the opportunity to put things right, for example, by carrying out a further repair, before other remedies are pursued.

Based on what I've seen, M offered to address further concerns, but that opportunity hasn't yet been taken up. In those circumstances, I don't think it would be fair or reasonable to conclude the garage failed to meet its obligations. Any existing faults hadn't been evidenced and M hasn't been given the chance to remedy them. Because of that I'm not persuaded there is sufficient evidence at present to establish a breach of contract to the second repair for the purposes of S75.

- Mr C has provided detailed further comments and an item-by-item breakdown of the later works which he says demonstrates that the initial work was incomplete and that certain charges on the later invoice were unnecessary or duplicated.

I've considered all of these points carefully. However, they don't change my findings for the reasons explained above. In relation to the initial works, the additional material doesn't provide sufficient basis for me to be satisfied there was a binding agreement with clear, enforceable terms capable of giving rise to a S75 claim.

- Mr C has also said that it isn't necessary for every term of the earlier arrangement to be documented, only that there is enough evidence of the nature and scope of the previous work to assess if the later charges were appropriate.

However, to determine whether charges were truly duplicative, I would need to be satisfied about the precise scope and contractual terms of the earlier work. For the reasons explained, I don't have sufficient evidence of clear enforceable terms for those earlier works.

In those circumstances, I'm not persuaded I can conclude that any particular items were improperly charged. In any event, concerns about the quality or effectiveness of the later repair would ordinarily require the garage to be given the opportunity to inspect the vehicle and put things right under the CRA.

I've also noted the invoiced works show certain items not charged such as diagnostics 'as agreed' and for 'dropping and disassemble box multi times' as well as for 'first lot of stripping labour for rod'.

However, these entries appear to reflect pricing or billing decisions on that invoice rather than reliable evidence of the precise scope of contractual terms of any earlier work. They don't establish what was agreed as completed or contractually included in the initial repair. In the absence of clear contemporaneous evidence of those earlier obligations, I'm not persuaded I can fairly conclude that any of the later charges were improperly duplicative.

- Mr C also says the later repair should be treated as part of the same overall arrangement as the initial works and that the costs should therefore be considered together. He also says the second repair was covered under an agreed warranty period. I've considered that carefully.

However, any potential liability for S75 can only arise if the credit-funded repair itself involved a breach of contract or misrepresentation. For the reasons I've explained, I'm not satisfied these have been evidenced or M has been given a fair opportunity to put things right, as stated under the CRA. In those circumstances, I'm not persuaded a breach has been established.

- I've considered breach of contract under S75 but I note that there could also be consideration under misrepresentation for whether there is a refund due. However these also require clear evidence of a false statement of fact that induced Mr C into taking out the relevant contracts.

As stated earlier I don't consider an appropriate contract exists for the first repairs, and to establish if there was a false statement of fact for the second, there would need to be evidence of the persisting issues tied to this. I do think this is more suited for breach of contract rather than misrepresentation, especially as the usual remedy for the latter is to rewind the contract in question, which isn't usually possible when repairs have already been undertaken.

- Mr C has also said he holds additional technical data logs to support his complaint and could obtain an independent report analysing them. My decision is based on the evidence provided to AESEL as a part of their claim assessment. I'm not able to place weight on evidence that hasn't been supplied or assessed as a part of this complaint. If Mr C obtains further evidence, he can raise this with AESEL in the first instance.

To summarise, I'm not satisfied there's sufficient evidence of a binding or enforceable contract for the initial works, and M hasn't yet been given a fair opportunity to remedy the later repair. I therefore don't find liability under S75.

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 C to accept or reject my decision before 2 March 2026.

Viral Patel
Ombudsman