

## **complaint**

Mr W has complained about how Santander UK Plc dealt with a claim he made under section 75 of the Consumer Credit Act 1974.

## **background**

Mr W bought a educational/subscription package costing 2,999 US Dollars from a third party business, which I will call 'B', using his Santander credit card. He's explained that it was not as described, and not fit for purpose. Specifically, he said he was mis-sold the subscription, because it included share options for a product that B was then unable to fulfil. Further, B said the e-learning materials were worth more than £8,000, but were actually short and low quality recorded video monologues, with no structure. B refused to give a refund.

As he was unhappy with this, he brought a claim to Santander under section 75. However, Santander declined to meet the claim. This was because it said section 75 does not apply to deposits into online gambling accounts and crypto currency schemes, which it considered to be what Mr W had purchased.

Mr W then complained to our service. One of our investigators looked at what had happened. He noted that Santander had declined the claim because the transaction revolved around online gambling and crypto currencies. However, he didn't think this was correct. He considered that Mr W had purchased a subscription for course material and the option to purchase the crypto currency once it was released.

However, our investigator didn't think there was sufficient evidence that there had been a breach of contract or misrepresentation. This was because the only information he had about what Mr W had bought was a receipt with the amount paid and the name of the product, with no further details.

Mr W asked that his complaint be passed to an ombudsman.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I think it's important to set out my role here. In considering a complaint about a financial services provider, I'm not determining the outcome of a claim that a party might have under section 75. Rather, in deciding what's a fair way to resolve Mr W's complaint, I have to take account of relevant law, amongst other things. Section 75 is relevant law. Therefore, I've taken it into account. But that doesn't mean I'm obliged to reach the same outcome as, for example, a court might reach if Mr W pursued a claim for misrepresentation or breach of contract. Our service is an informal alternative to the courts.

The general effect of section 75 is that if Mr W has a claim for breach of contract or misrepresentation against the supplier (B), he can bring a like claim against his credit provider (Santander).

So, I've considered whether or not I think it was reasonable of Santander to decline Mr W's claim. I'm aware it has said it considers the transaction to relate to gambling/crypto-currency. Although I'm perhaps inclined to agree, at least in part, I don't think there's enough

information about what Mr W bought to even get this far. So, my decision does not turn on this.

I have seen no evidence of what Mr W actually bought, or was promised, except the names of the packages. This is a screenshot which says “What you’re gonna get”, then lists ‘portfolio blueprint’, ‘research bundle’, ‘money investment package’, ‘it takes a village package’ and ‘digital underground’. There is no information as to what these include. A search to find historical webpages that may have more information have not shed any further light on this.

Although I’m aware Mr W is dissatisfied with what he received (or, didn’t receive), I don’t think it was unreasonable of Santander to decline his claim. This is because, on a fair and reasonable basis, I don’t consider there to be sufficient evidence of a breach of contract or misrepresentation – or indeed what any contract related to.

### **my final decision**

For the reasons given above, it’s my final decision not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr W to accept or reject my decision before 28 November 2020.

Elspeth Wood  
**ombudsman**