

The complaint

Miss D complains HSBC UK Bank Plc has not treated her fairly when she tried to dispute a number of payments on her credit card.

What happened

I issued a provisional decision on this case on 17 May 2023 in which I outlined the background leading up to my review of Miss D's complaint, so I don't propose to narrate everything that has happened again. However, in brief summary:

- Miss D's son made purchases using her HSBC credit card from an online marketplace ("E"), on 15 May 2020. The payments were made via a digital wallet operator ("P").
- Miss D believed the purchases had declined or failed, so she says she made them again with her credit card with another bank. However, Miss D said she noticed later that the original payments had gone through and so she'd paid twice for the same things. She asked HSBC for help shortly after.
- HSBC provided temporary refunds while it considered whether it was able to claim back the payments in question. It tried to reach Miss D to obtain more information but was unsuccessful. It reversed the temporary refunds, without warning Miss D, in April 2021.
- This prompted a complaint from Miss D, who said she had heard nothing from the bank about needing more information or anything else. HSBC said this was because Miss D had failed to tell it that she'd moved address, meaning she'd not received its letters. It maintained that it couldn't help with obtaining refunds for the disputed payments but offered £100 compensation for poor customer service. Dissatisfied with this response, Miss D brought her complaint to the Financial Ombudsman Service for an independent assessment.

In my provisional decision I made the following key findings:

- In certain circumstances a consumer's bank might be able to help them reclaim funds paid by credit card, via the process known as a chargeback, or by honouring its potential liabilities under section 75 of the Consumer Credit Act 1974 ("CCA").
- I was unable to conclude that the two sets of transactions were duplicates of one another. The amounts did not match up exactly, with the individual transactions in each "set" being for different amounts and the overall totals being different too. Additionally, the transactions were not made with all the same sellers on the E marketplace and appeared to have taken place two days apart. This indicated that, rather than being the same items being paid for twice, they were two different sets of purchases.
- We had contacted P to try to find out more, and they had confirmed Miss D had

declined purchases on her account with them, on 15 and 16 May 2020. These were all to the same supplier ("ACI"), and one of the declined amounts (£854.36) matched the total of the transactions Miss D had disputed with HSBC. But there was still a problem in that the £854.36 Miss D had disputed was spread across multiple sellers on the E marketplace. Ultimately my view was that the discrepancies between the amounts and the sellers meant I couldn't say with any confidence that the transactions on the HSBC or other bank's credit card were the same purchase being paid for multiple times.

- While chargebacks could potentially have been pursued by HSBC in relation to a duplicated series of transactions, persuasive evidence would have been needed to support that they were in fact duplicates, in order for the chargebacks to succeed. Given the findings I had made about the transactions, I didn't think Miss D would have been able to provide this evidence and it therefore wasn't unreasonable of HSBC to have not proceeded further with the chargebacks, regardless of whether Miss D had responded to their requests for further information.
- Section 75 of the CCA could potentially have applied to the two disputed amounts over £100. Section 75 would cover breaches of contract by the suppliers Miss D had paid – specifically that she had paid twice for goods but only received them once. However, the same evidential issues I'd outlined earlier in my provisional decision meant that I didn't think Miss D could show that she'd paid for goods she hadn't received. And so it wasn't wrong of HSBC not to have honoured a potential claim under section 75.

Concluding, my view was that HSBC shouldn't have to refund Miss D in respect of the disputed transactions to the sellers on the E marketplace, as she was unable to evidence that they were simply duplicate payments for goods she had only received once. However, I went on to make further findings about the level of service Miss D had received from HSBC, which I thought had been very poor in places:

- I couldn't fault HSBC for Miss D's failure to receive its letters. She hadn't updated her address with the bank, and it was generally accepted that customers were responsible for keeping their bank up to date with changes in address. I didn't think it was likely the bank had asked her to pay £25 to change her address, as that would have been highly unusual and not something HSBC charges for generally.
- Miss D had originally called the bank in late May 2020 about her problem. It had attempted to contact her several months later to obtain more information. It hadn't been able to get hold of her but it provided temporary refunds in August 2020. It didn't reverse the temporary refunds until April 2021 and it gave no warning before doing so.
- While HSBC had said Miss D wouldn't have received any warning letter it sent due to her not updating her address, I didn't think this excused it from making no attempt at all to contact her about reversing the refunds. Eight months had passed since it had refunded Miss D, which could have left the impression the refunds were permanent. And the refunds added up to a large amount overall, so it was very important that HSBC did all it could to alert Miss D to the fact it was going to debit her account. The bank had a phone number and an email address for Miss D, but didn't attempt to reach her on either. While it might not have been HSBC's usual process to email customers, this was an unusual situation and it should have done more.

Concluding in relation to the service HSBC had provided Miss D, I said that its handling of the chargeback process had been notable for its delays, not all of which could be excused

by operational issues caused by the early days of the COVID-19 pandemic. It had failed to communicate the important fact that it was going to reverse the refunds it had given Miss D. This compounded her shock and disappointment when the refunds were reversed, and gave her no time to prepare or make financial arrangements to mitigate the situation. I considered HSBC should pay an additional £150 compensation (making a total of £250) to reflect the impact of its errors, as well as refunding any fees or charges incurred on Miss D's account as a result of the refunds being reversed, for a period of one month from the reversal of the refunds.

I invited both parties to the complaint to respond to my provisional decision. HSBC responded to say that it would agree to settle the complaint in line with the provisional decision. Miss D has not responded, and so the case has been returned to me to review once more.

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.

Neither party to the complaint has provided any new evidence, comments or arguments for me to consider, so I see no reason to depart from the findings set out in my provisional decision as summarised above.

It follows that I find HSBC acted reasonably in, ultimately, not refunding Miss D for the disputed transactions made via E and P. However, I also find the service provided by HSBC around the chargeback process was very poor in places, especially when it came to communicating the reversal of the temporary refunds, which it had failed to communicate at all. To put things right, the bank will need to pay a total of £250 compensation (including what it had already offered to pay previously) and refund interest, fees and charges incurred on Miss D's account for a period of one month from the reversal of the refunds.

My final decision

For the reasons explained above (including the summary of my provisional decision contained in the "What happened" section), I uphold Miss D's complaint in part and order HSBC UK Bank Plc to:

- Pay Miss D £250 compensation (made up of the £100 already offered and £150 additional compensation).
- Refund any fees and charges incurred on Miss D's credit card account as a result of the refunds being reversed, for a period of one month from the reversal of the refunds.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 30 June 2023.

Will Culley
Ombudsman