

The complaint

Mr S complains that HSBC UK Bank Plc mishandled his chargeback claim.

What happened

In or around December 2021 Mr S entered into a contract with a merchant for the supply and installation of a costal unit heat pump, a 250L solar cylinder, a 10-year parts and labour warranty and other works. A schedule of work was signed, and the work was due to commence in January 2022. Mr R made an initial payment of £8,712.15 with a final payment of £5,937.51 to be made once the work had been completed.

The merchant undertook the work but there were issues with their service/quality of work. These included that the wrong heat pump was installed, a 210L cylinder pump was fitted and Mr R says he wasn't provided with the parts and labour warranty.

Mr R made a complaint to an alternative dispute resolution service ("ADR") which was able to deal with a complaint about the supply, installation and service directly with the merchant. In March 2022 the ADR issued a report that set out what the merchant needed to do to put things right which was signed by both Mr R and the merchant. This report also stated that Mr R needed to pay a final instalment to the merchant of £5,360 following a deduction for damage that had been sustained to carpets and a bench belonging to Mr R. Mr R paid this amount with his visa credit card held via HSBC.

Mr R says that the merchant didn't then follow the recommendations of the ADR service. He therefore made a chargeback claim for the £5,360 to HSBC. HSBC credited this amount back to Mr R's credit card account and raised a chargeback under the merchandise/services not received reason code. The merchant challenged the chargeback saying that it had installed everything and had provided a 10-year warranty. It said that in respect of a 10-year parts warranty from the manufacturer, that the manufacturer only provided as standard a three-year warranty and it would cost £500 to go to the maximum warranty period offered by them which Mr S could pay. The merchant said they didn't offer anything more than the standard manufacturer parts warranty for these units and that it wasn't in Mr R's contract to be provided with a 10-year manufacturer's warranty. They also contested that the extended manufacturer's warranty would cost the amount of the chargeback.

Having received the response from the merchant, HSBC contacted Mr S and informed him of what had been said. Mr S provided a detailed challenge of his own. HSBC decided it was unable to take the chargeback further and notified Mr S of its decision in December 2022. Unfortunately, Mr S didn't receive this letter and only became aware of it when his credit card account was again debited for the £5,360 amount.

Mr S complained to HSBC about its decision. It provided its final response letter setting out it had been unable to uphold his complaint because the goods were in his possession and although it was the wrong heat pump this was to be replaced once back in stock at a later date and that the warranty had been extended. HSBC said that if that wasn't the case then Mr S could seek independent advice.

HSBC passed Mr S's claim to its section 75 claim team and opened a claim for him.

Mr S made a complaint to this service in December 2022. Following his complaint there were a number of developments. These included the merchant installing the correct heat pump and Mr S raising another issue with the other ADR service. The ADR service has issued a new settlement agreement between Mr S and the merchant which Mr R is happy to accept. However, Mr S says he remains unhappy at HSBC's handling of his chargeback claim and he would like this service to continue to investigate that.

Our investigator recommended that Mr S's complaint should be partially upheld. He said that chargeback claims weren't guaranteed to succeed, and they could be challenged and defended by the merchant/retailer. If a retailer put up a valid defence, then he said he wouldn't expect a bank to take a chargeback claim further.

Here, our investigator said there was a relatively complex situation as it was contested as to what had been installed, what was outstanding and what Mr S had paid for using his credit card. Our investigator said Mr S had only paid the last instalment via his card, the larger portion of the cost had been paid via a different method. He said no breakdown as to what had been covered by this final amount had been provided.

Our investigator said he thought HSBC had acted reasonably when it decided not to proceed with the chargeback claim. He said that HSBC had then considered a claim for Mr S under section 75 of the Consumer Credit Act 1974. However, our investigator said that as another ADR service had put a resolution in place it would be reasonable for HSBC to see if the merchant acted in accordance with that to resolve the dispute.

Our investigator said that although HSBC had acted reasonably in considering the two processes it could follow to assist Mr S, he thought HSBC could have acted faster despite the complexity. The delay had caused Mr S frustration. He said it would be fair for HSBC to pay Mr S £200 as compensation for its handling of his claim.

HSBC has agreed with the view of our investigator, but Mr S has disagreed. He says that HSBC had many lapses in the way it handled his claim. He says it shouldn't have accepted the warranty as the manufacturer's parts and labour warranty as it was for workmanship only meaning it hadn't checked the documents. Mr S says HSBC also hadn't checked that he had the correct item in his possession and that the correct unit was in stock and so available.

As the parties were unable to reach an agreement the complaint was passed to me.

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.

The issue for me to consider here is whether HSBC has handled Mr S's claim for reimbursement of the final payment of £5,360 fairly. I'm not looking at the actions of the merchant. And I also can't seek to enforce the settlement agreements recommended by the other ADR service. I, like HSBC must look at the contract that had been entered into between Mr S and the merchant.

Mr S made a chargeback claim for the final instalment he had paid after he had made a complaint with the other ADR service, and it had issued a suggested settlement which both Mr S and the merchant had signed. Mr S says that the merchant didn't keep to either the terms of the contract between them or to all of the terms of the settlement agreement. However, the signing of the settlement agreement by the merchant does, I think, show

that there was some acknowledgement by the merchant that there were issues that needed to be resolved.

A chargeback is a process that involves the card issuer disputing payments made on a card through a dispute resolution scheme operated by the companies which run the card networks, here that is Visa. It allows customers to ask for a transaction to be reversed if there's a problem with the goods or services they've paid for. There's no automatic right to a chargeback and it isn't a guaranteed method of getting a refund. A consumer can't insist that their card provider attempts a chargeback, but this service would expect a card provider to do so as a matter of good industry practice if there was a reasonable prospect of the chargeback succeeding.

A chargeback can only be for the amount that's been paid, so that would mean Mr S couldn't seek reimbursement for anything outside of that amount, such as interest or compensation.

I've seen that HSBC raised a claim under merchandise/services not received. It also credited the amount in dispute back to Mr S's credit card account while the claim was being considered.

Under the chargeback scheme a merchant/retailer is able to defend a claim and I've seen that the merchant informed HSBC that it was contesting Mr S's claim. They said the goods/services and warranty had or would be provided as per the contract. (There appears to have been acceptance that the wrong heat pump had been provided and that this would be rectified when the unit was available – which it later was). They disputed that there was an agreement to provide a 10-year manufacturer's warranty and said that wasn't part of the contract. HSBC informed Mr S what the merchant had said, and he provided a response.

While I appreciate Mr S disagrees with what the merchant has said, I've seen that the situation was complicated. I've seen there had been a contract for the supply and installation of a number of items plus the provision of a 10-year parts and labour warranty, but I haven't seen that it was set out in that schedule of works that this would be a manufacturer's warranty. I've also seen that the total contract price was over £14,000 and although there was a schedule of work, there was no itemising as to the costs for the work or the items supplied. The payments made by Mr S weren't allocated to particular items being supplied or works carried out. So, I don't think it was clear what the £5,360 payment had been for in respect of which goods or services that hadn't been received by Mr S.

Mr S says that HSBC should have done more than accept the merchant's view, but I think it's likely that HSBC had considered what both parties had said. This wasn't a straightforward claim of services/items not supplied and HSBC decided not to take the case further which it was entitled to do. As set out above, my role isn't to second-guess Visa's arbitration decision or scheme rules but to determine whether the regulated card provider (here that's HSBC) had acted fairly. And I think given the contested evidence, that the merchant said they would be fitting the correct heat pump and the overall complexity of the situation including the disagreement as to the cost of any manufacturer's warranty, that HSBC had acted reasonably in deciding that Mr S's chargeback claim was likely to be unsuccessful and so it wouldn't take it further.

I appreciate Mr S was upset to discover his chargeback claim had failed by discovering the amount had been debited from his credit card account rather than receiving a letter from HSBC first. But I don't think HSBC deliberately didn't inform him, I don't know why he didn't receive the letter that it said it sent.

HSBC then opened a claim under section 75 of the Consumer Credit Act 1974 for Mr S. I

understand from the evidence that's been provided that in April 2023, HSBC advised Mr S it didn't think it could assist him further as it couldn't establish whether there had been a breach of contract. However, I haven't considered the section 75 claim in my decision for two reasons. Firstly, I haven't seen that Mr S has complained to HSBC about its decision (if that has been finalised) to decline his section 75 claim. And secondly, I've seen that Mr S had made a further complaint to the other ADR service and they have issued another settlement agreement which Mr S felt would resolve the outstanding issues with the merchant. If that is the case, then a section 75 claim wouldn't add anything for Mr S. However, should this not be the case then Mr S can ask HSBC to consider the matter again under section 75 since it would appear that this ADR service has found that there was a breach of contract.

While I think that the decision of HSBC in respect of Mr S's chargeback claim was reasonable, I agree with our investigator that it could have dealt with things in a more timely way. I appreciate that things were changing with works being undertaken by the merchant and the input from the other ADR service, but I think Mr S has been caused unnecessary distress and inconvenience waiting for HSBC to deal with his claim. I think compensation of £200 is appropriate for its handling of Mr S's claim.

I appreciate my decision will be of disappointment to Mr S, but for the reasons given I'm partially upholding Mr S's complaint.

Putting things right

I'm asking HSBC to pay Mr S £200 compensation for its handling of his claim for reimbursement of £5,360.

My final decision

For the reasons set out above, I'm partially upholding Mr S's complaint. I'm asking HSBC UK Bank Plc to pay Mr S £200 compensation for its handling of his claim to be reimbursed the amount of £5,360.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 13 December 2023.

Jocelyn Griffith
Ombudsman