

The complaint

Mr T is unhappy with how HSBC UK Bank Plc trading as first direct ('HSBC') handled a claim under the chargeback scheme.

What happened

Around May 2023 Mr T was in discussions with a dental clinic, who I'll refer to as 'K', about various potential dental treatments. Mr T then attended K in June 2023 for a consultation. Mr T paid a transaction on his HSBC debit card to K for £496.33. This was for 'wax up modelling', which I understand to be for the production of a model of Mr T's mouth following impressions being taken. Mr T was also charged a 'non-sterling transaction fee' of £13.65.

K then provided Mr T with a proposed treatment plan. Mr T then questioned the amount he'd paid for the model and asked for a refund. K explained a dental lab had already started work on the model and so a refund couldn't be given.

Mr T asked HSBC to raise a dispute about the transaction. HSBC raised a chargeback in July 2023. K defended the chargeback claim and HSBC contacted Mr T for further information at the end of August 2023.

HSBC wrote to Mr T at the end of November 2023 and said the claim had been rejected. The reasons given were stated in the letter as "*quality issues*" and "*failed to provide updated Cardholder letter*". Mr T was unhappy with this and complained to HSBC.

HSBC issued its final response in December 2023. This said, in summary, that the chargeback claim had been defended by K on two occasions. It said K had initially explained the model needed to be handed over with a dentist present and said it couldn't be posted. When Mr T disputed this, HSBC said it submitted his further comments via the scheme. It explained K then defended the claim again and reiterated the model was ready and available for Mr T at the clinic. HSBC explained the case couldn't be taken forward to arbitration at this stage.

HSBC did say however that it shouldn't have taken two months to contact Mr T following K defending the chargeback for the second time. And it said the letter it sent to Mr T at the end of November 2023 didn't explain the situation. HSBC said it had paid Mr T £100 to reflect this.

Mr T remained unhappy and referred the complaint to our service. He said, in summary, that he didn't think HSBC handled the chargeback claim correctly. He said he never received the model, nor an invitation to collect it from K's premises. And he said he believes the model was never produced.

Our investigator issued a view and did not uphold the complaint. She said, in summary, that it wasn't unreasonable for HSBC not to take the dispute further as it had been defended by K and there wasn't sufficient evidence to suggest the claim would succeed. She also said she thought £100 was fair to reflect the issues HSBC noted with its handling of the chargeback claim.

Mr T remained unhappy. In response to the view he said, in summary, that K had 'concocted' the charge for the model. He said he was put under pressure by K at the time. He said he was limited with how much he could write when contesting the chargeback. He said he never agreed for the model to be produced. And he said the reason the case wasn't taken to arbitration was due to an administration error by HSBC.

Our investigator explained this didn't change her opinion. Mr T remained unhappy, so the complaint has been passed to me to decide.

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.

Having done so, I don't think this complaint should be upheld. I'll explain why.

I'd firstly like to explain to Mr T and HSBC that in my findings, as I've done in the background above, I'm going to focus on what I think are the key points and the crux of the complaint. Where I haven't commented on a specific issue or point made, this isn't because I haven't considered it, nor that I think it unimportant - I've carefully thought about everything Mr T and HSBC have said. This approach reflects the informal nature of our service.

Mr T complains about a claim made under the chargeback scheme. A card issuer such as HSBC can attempt a chargeback under certain circumstances when a consumer has a dispute with a merchant – for example when goods or services aren't provided.

Mr T didn't have a legal right for a chargeback. And there are no guarantees, if a chargeback was attempted, that he would be reimbursed. But I'd consider it good practice for a card issuer to raise a dispute if there is a reasonable chance of it being successful. The chargeback process is subject to the rules of the scheme and strict criteria apply. It's worth pointing out here that these rules are not set by HSBC.

What I need to consider here is whether HSBC acted reasonably and did what I would expect under the circumstances.

I would've expected HSBC, when Mr T raised the dispute, to check there was a relevant reason for the chargeback – or a relevant 'code', ask Mr T for information about what happened and then submit the claim to the scheme if it thought the chargeback may be successful.

When Mr T contacted HSBC and told it about the dispute, it raised a chargeback claim in July 2023 under the code 'goods/services not received'. And when Mr T raised further issues, it submitted this information through the scheme in September 2023. This is what I would expect to see.

K disputed Mr T's version of events. It said the impressions for the model were taken at the time. It said the model couldn't be posted and needed to be used in the joint presence of Mr T and a dentist. And it said Mr T needed to bear the cost of the completed model.

K also explained Mr T was asked several times when he attended the clinic if he understood everything or if he had any questions. It said it was explained to Mr T that the model would be used to show him the results of the proposed treatment and could be used as temporary crowns during dental work. It provided an invoice for the wax modelling. And it said the payment was made with Mr T's consent and provided a receipt.

At this point, HSBC needed to decide whether to accept this, or if it should refer the matter to the card issuer for it to arbitrate and ultimately decide the outcome. After K disputed things, HSBC did not take things further. So, what I now need to consider is whether this was reasonable.

I need to think about the lack of evidence from Mr T here. I fully understand and accept the difficulty Mr T would have obtaining proof of what happened at the time, beyond his testimony. And I understand the limitations of his ability to back up what he said and show that the model wasn't produced. But I still need to weigh this up against the response and evidence from K when the chargeback claim was defended.

Having carefully thought about this, I'm not persuaded there was enough evidence to give the chargeback claim a reasonable chance of success if it went to arbitration. It follows that I don't think HSBC did anything wrong by not continuing to pursue the claim.

I've considered that Mr T believes the reason the claim wasn't progressed was because of an administration error by HSBC. I've not seen enough to persuade me this was most likely the case. But, even if it was, I still don't think there was a reasonable chance of the claim succeeding. So, either way, I can't see Mr T is at a loss here.

I do think HSBC has caused Mr T some distress and inconvenience because of how it handled the claim. I agree with it that the letter sent at the end of November 2023 doesn't explain things and I think Mr T would've found the contents of this letter confusing. I've also noted he was waiting around two months to hear about the second response from K, which HSBC has said it believes was too long. Thinking about this, I'm satisfied the £100 its already paid to Mr T fairly reflects this.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 14 February 2025.

John Bower
Ombudsman