

## **The complaint**

Mr C is unhappy with how HSBC UK Bank Plc handled his Section 75 claim.

## **What happened**

Mr C bought a three-seater sofa, two-seater sofa and a standard chair in April 2021 along with a certificate of insurance for £2,075.

Mr C said he purchased the furniture for his sister and her partner (Mr K), as they didn't have a credit card.

When there were issues with the sofas, including splitting and cracking, an independent report was arranged in June 2023. The technician who inspected the sofas said it was down to accidental damage and there were no manufacturing faults. When Mr K contacted the retailer, it said it had reviewed the report with its senior technician, who also agreed the concerns with the sofas were due to accidental damage and not manufacturing faults.

When this couldn't be resolved with the retailer, Mr C contacted HSBC in September 2023 to raise a Section 75 claim. He was seeking to get a full refund for the sofas and £75 for consequential losses for the independent inspection that had been carried out.

On 11 September 2023 HSBC wrote back to Mr C to request further information regarding his claim. Mr C contacted HSBC for further updates but when he didn't hear back, he referred his complaint to our service in January 2024.

In February 2024 there was an exchange of correspondence between HSBC and Mr C. In summary HSBC explained that as it couldn't locate Mr C's account details and as Mr K's information had also been provided as part of the claim, it contacted Mr K for further information instead of him. Mr C said as the account holder HSBC should have contacted him which it agreed with. Mr C went on to provide further information for HSBC's consideration.

In March 2024 HSBC sent Mr C a final response. It said it was unable to determine a breach of contract or misrepresentation by the retailer as the evidence supplied confirmed the damage was as a result of an accident rather than a manufacturing defect.

When one of our investigators looked into the matter, she noted Mastercard had set a time limit of 120 days from the date of a transaction in which a chargeback had to be made. As Mr C had contacted HSBC outside of this timescale, the investigator didn't think HSBC had made any errors by not raising a chargeback for him.

In terms of a valid claim under Section 75 of the Consumer Credit Act 1974 ("CCA"), the investigator didn't think Mr C had a valid claim because he'd purchased the sofa for his sister and Mr K, and she didn't think there was a valid debtor-creditor-supplier ("DCS") agreement which would allow Mr C to make a claim against HSBC. The investigator explained how whilst Mr C may have bought and paid for the sofas, it was Mr K who had the contractual relationship with the retailer as his name was on the invoices along with his address.

In terms of the level of service Mr C received, the investigator thought there were avoidable delays caused by HSBC with progressing Mr C's claim, so she thought it should compensate him £100 for the stress and inconvenience this matter had caused him.

Whilst HSBC accepted the investigator's view, Mr C asked for his complaint to be reviewed by an ombudsman as he still felt he had a valid claim. The matter has now 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.

As Mr C used his credit card to pay for the goods in dispute, I consider the chargeback scheme and Section 75 to be relevant here.

#### Chargeback

A chargeback is the process by which payment settlement disputes are resolved between card issuers and merchants, under the relevant card scheme rules. It allows customers to ask for a transaction to be refunded in a number of situations.

There's no automatic right to a chargeback; the chargeback process doesn't give consumers legal rights; and chargeback is not a guaranteed method of getting a refund because chargebacks may be defended by merchants. There are also strict timescales for a chargeback to be raised.

Given the original transaction took place in April 2021 and Mr C did not approach HSBC until September 2023, Mr C was outside of the timescales in which a chargeback could have been attempted for him for this transaction. And for that reason, I don't think HSBC did anything wrong by not considering a chargeback here for Mr C.

#### Section 75

Mr C used his credit card to pay for the sofas which means that Section 75 is relevant to this case. Section 75 allows Mr C in certain circumstances to hold HSBC responsible for breach of contract or misrepresentation in respect of goods or services purchased using his credit card.

However, there are certain technical criteria that have to be met for a Section 75 claim to be valid. One of those is for a 'debtor-creditor-supplier' (DCS) agreement between the parties to the transaction.

Mr C paid for the sofas using his credit card, so he is the 'debtor', while the 'supplier' for the purposes of the transaction is the sofa retailer receiving the payment. In order for there to be a valid 'debtor- creditor-supplier' agreement I would need to be satisfied that Mr C contracted with the supplier of the sofas for the purchase.

From what I can understand the sofas were purchased for Mr C's sister and her partner, Mr K. Mr C has explained that they didn't have a credit card, so he paid for the sofas. This indicates Mr C did not intend to contract with the retailer of the goods from the outset – and had simply agreed with his sister and Mr K to provide a means where he could facilitate the payment for those goods. This is further reinforced by the contractual paperwork for the sale of the goods and the certificate of insurance on which Mr K is named as the customer of the retailer along with his home address being used for the delivery of the sofas.

I appreciate Mr C paid for the sofas, but this in itself isn't enough to satisfy me that he formed a contractual agreement with the retailer here. The evidence in this case strongly points to Mr K having a contractual agreement with the retailer for the goods with Mr C providing a means to facilitate the purchase.

Overall, for the reasons given here I don't agree there is the requisite DCS agreement for Mr C to have a valid Section 75 claim against HSBC in respect of the quality of goods that were bought using his credit card, which means we can't look into the claims for the sofas any longer without this DCS agreement.

#### Delays and poor service

HSBC has agreed with the investigator's recommendation of £100 for the delays Mr C experienced, and I too find this to be fair and reasonable in the circumstances of this complaint. It's clear HSBC did cause some avoidable delays here by contacting Mr K instead of Mr C, during the claims process, which I agree shouldn't have happened given Mr K wasn't the account holder. I can also see when he was asking for updates, he didn't always receive them, and for those reasons, I agree £100 is fair and reasonable here for the inconvenience caused to Mr K.

#### **Putting things right**

I am recommending HSBC pay Mr C £100 for the poor level of service it provided whilst looking into his Section 75 claim.

#### **My final decision**

My decision is that HSBC UK Bank Plc should pay Mr C £100 for the poor level of service it provided.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 21 March 2025.

Farhana Akhtar  
**Ombudsman**