

The complaint

Mr A complains that HSBC UK Bank Plc declined his Section 75 claim.

What happened

In June 2022 Mr A purchased an Apple watch from a supplier and paid using his HSBC credit card. The purchase price of the watch was £364.

In September 2023 Mr A noticed that the screen of the watch had shattered. Mr A contacted the supplier who sent the watch off to be inspected. The supplier then advised Mr A that the repair wasn't covered under warranty because the damage had been found to be accidental.

Unable to resolve things with the supplier, Mr A contacted HSBC and raised a Section 75 claim. HSBC asked Mr A to provide details of the extended warranty and evidence from the repair expert that the damage wasn't accidental. HSBC subsequently declined the claim. It said the damage had been found to be accidental and that under the suppliers warranty, accidental damage wasn't covered.

Mr A complained to HSBC, but it rejected the complaint for the same reasons.

Mr A remained unhappy and brought his complaint to this service. Our investigator didn't uphold the complaint. They said there wasn't enough evidence to show that the cause of the damage was likely to be due to a fault with the materials, or that the watch wasn't sufficiently durable. The investigator said they didn't have grounds to direct HSBC to refund the cost of the watch, or to meet the costs of repair.

Mr A didn't agree. He said there hadn't been an "event" which caused accidental damage and the watch had simply shattered in between him placing it on his wrist and mowing the lawn. Mr A said he'd found information on the internet which showed that the same thing had happened to other people watches.

Because Mr A didn't agree. I've been asked to review the complaint.

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.

In certain circumstances, Section 75 gives a consumer the right to claim against a supplier of goods or a provider of credit if there's been a breach of contract or a misrepresentation.

In order to uphold Mr A's complaint, I would need to be satisfied that there's been a breach of contract or a misrepresentation and that HSBC's response to the claim wasn't fair or reasonable.

The Consumer Rights Act 2015 is relevant to this complaint. This legislation implies a term into the contract that goods will be of satisfactory quality and fit for purpose. Goods are of satisfactory quality if they are of a standard that a reasonable person would consider to be

satisfactory, taking into account factors like the description of the goods, the price paid and all other relevant circumstances.

If the goods are found not to be of satisfactory quality, then a breach of contract can be said to have occurred.

I've had regard to what Mr A has said about the watch. He says that the watch functioned as expected for around 15 months until one day the screen shattered for no reason. Mr A has said that the watch wasn't dropped and didn't come into contact with anything which could've caused the damage.

I've also read the repair experts report. This isn't particularly helpful as it comments on whether the watch could've been damaged in scenarios which (on Mr A's testimony) didn't happen, such as being dropped on the floor or dropped on the lawn. It's clear from the report that the expert didn't carry out any tests on the watch so it's impossible to know whether (for instance) the glass used in the watch face was compromised in some way. The expert was asked to consider whether the damage could've been due to a design issue or manufacturing issue. He stated that design issues were minimised due to evolution and that perfection wasn't possible in the manufacturing process.

Having considered the report, there isn't enough evidence to persuade me that there was a manufacturing fault with the watch which made it of unsatisfactory quality. If there had been a manufacturing fault with the watch, I would've expected this to present itself within a few months of use. In this case, Mr A was able to use the watch for around 15 months. So I'm unable to say that the watch wasn't sufficiently durable.

I've thought about whether HSBC handled the Section 75 claim fairly. It considered the evidence it received from the supplier and from Mr A. Looking at the available information, there isn't enough evidence to show that the watch wasn't of satisfactory quality. In the circumstances, I don't think HSBC acted unreasonably when it declined the Section 75 claim.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 11 December 2024.

Emma Davy
Ombudsman