

The complaint

Mr J complains that HSBC UK Bank Plc ("HSBC") turned down his claim for a refund in respect of a charge levied for repairs to a car.

What happened

Mr J hired a car for use on a track day in April 2023 from a company I'll call 'T'. He paid £2,000 to T for this. Unfortunately, Mr J spun the car while he was driving it, and it went backwards across the grass. Mr J says the car slowed considerably and hit the tyre barrier at around 10mph.

Mr J drove the car back to the pit lane and says the left rear of the car, which was made of fibreglass, suffered some damage. Mr J also says that T asked him to pay a £4,500 deposit to cover repair costs to the car, which he paid for using his HSBC credit card. Mr J says T assured him they would return what remained from the £4,500 once the repair costs were factored in.

Mr J subsequently received an invoice from T setting out that the repair and labour costs totalled £4,560. T didn't therefore refund any of the £4,500 Mr J had paid.

Mr J complained to T saying he'd been charged additional sums by them as if a service had been provided to him, when it had been agreed he'd only be charged for damage and losses incurred by T. Mr J noted that he'd been charged VAT which he said contravenes HMRC guidance. He also said he'd been wrongly charged £1,680 profit on labour costs and that the car had been restored to a higher cosmetic standard than necessary to restore its value in use, as T had arranged for a new wrap to be installed.

T felt they were entitled to hold Mr J liable for the £4,560 cost shown on their invoice, although it seems they limited this to £4,500.. Mr J then contacted HSBC seeking a partial return of £3,040 of the £4,500 deposit.

HSBC considered Mr J's claim for a refund under section 75 of the Consumer Credit Act 1974 (s.75). Having done so, they told him that they hadn't been able to determine a breach of contract or misrepresentation by T. HSBC said the advert for the car stated that an insurance excess of £4,500 was applicable and that Mr J had agreed to those terms when he agreed to hire the car from T. They did though subsequently pay Mr J £120 for their delay in considering his claim.

Mr J didn't agree and referred his complaint to our service. Our investigator didn't recommend that it should be upheld. He felt the contract clearly set out that Mr J would be liable for an insurance excess of £4,500 and didn't think T had misrepresented this to him.

Mr J remained unhappy. He said the £4,500 was a deposit and T had made it clear that this was to cover damage up to the insurance excess. And he said he reasonably expected this to be returned less the cost of reasonable/economic repairs of any damage incurred to the car because of his actions. He said it wasn't reasonable for T to charge him for general improvements to the car, or for them to charge a profit in addition to the direct losses

incurred. And Mr J said T wrongly charged him VAT as this wasn't payable on damages where there was no continuation of service, which was the case here.

As the matter remains unresolved, Mr J's 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.

I want to acknowledge that I've summarised the events of this complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and with minimum formality. But I want to assure Mr J and HSBC that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

Where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

I've taken into account relevant law which in this case includes s.75. This says that in certain circumstances, if Mr J paid for goods and/or services, in part or in whole, on his HSBC credit card, and there was a breach of contract or misrepresentation by the supplier, HSBC can be held responsible.

Section 56 of the Consumer Credit Act 1974 is also relevant. This essentially sets out that any negotiations between Mr J and T are deemed to have been conducted by T as an agent of HSBC.

The initial contract Mr J entered into with T was to hire the car at the track day. It seems all parties agree that Mr J was potentially liable for an insurance excess of £4,500 if T needed to make an insurance claim for losses caused by Mr J. And I've looked at the link Mr J provided showing T's advert for the track day and for the use of the car he used. This sets out that the hire fee agreed between T and its customers included insurance subject to the specific excess of £4,500.

Mr J says that T agreed that he would pay £4,500 following the accident he had in the car, and that they would refund the difference between this and the costs they incurred in fixing the car. On balance, I'm inclined to accept Mr J's version of events here. I say this noting that Mr J has sent us a copy of an e-mail chain between him and T in which T essentially agreed to this.

T then fixed the car and charged for its repair and included labour costs as well as VAT. I realise Mr J feels that the cost was excessive. But I'm afraid I don't agree. Overall, I think a total cost of £4,560 doesn't appear unreasonable to a prestige car such as this in view of what happened, and the cost of the work T did was itemised clearly on its invoice. I've not been persuaded that the work T carried out was unnecessary or that they inflated the cost of this to make a profit, as Mr J claims. And I've not been sufficiently persuaded that T improved the car to how it was before Mr J drove it. I would be more persuaded on these points had, for example, Mr J sent in evidence from an independent expert in the auto industry that corroborates what he's said. Plus, assessing what is an unreasonable labour cost and whether T weren't entitled to charge what they did is in my view rather subjective. It doesn't appear those costs were wholly unreasonable though.

I also note that Mr J has said that he shouldn't be held liable for the VAT charged by T. I'm no expert on the law surrounding this. But it doesn't strike me as unusual that a company who has incurred repair and labour costs, and paid for those, wouldn't have to pay VAT on those costs, for which they would then charge their customers. And, while Mr J says no service was provided to him by T that would give rise to him being liable for VAT, the agreement between them was that he would be liable for the costs incurred by T for fixing the car, rather than them agreeing to provide him with a service of some kind. And I've seen no evidence to suggest that VAT was merely added on by T to make a profit, rather than it being a cost on the repair and labour costs that they would incur.

Overall, I've not seen enough to make me think that T breached the contract with Mr J in respect of what was agreed relating to the costs incurred in fixing the car, or that they misrepresented those things to him when he agreed to pay them the £4,500. So, for those reasons, I don't find that HSBC needs to do anything in respect of the claim he made to them for a refund.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 5 June 2025.

Daniel Picken
Ombudsman