

## The complaint

Mr F complains that HSBC UK Bank plc (“HSBC”) failed to uphold his claim under section 75 Consumer Credit Act 1974 (s.75”) in respect of a damaged engine.

## What happened

In May 2022 Mr F had repairs carried out on his car including the installation of a remanufactured engine by a local garage (“the merchant”). The total bill was £6,857.46 and the engine cost £2,795. Mr F paid part of the bill using his HSBC credit card. The engine had a 12 month warranty and Mr F was required to have the engine inspected after 500 miles and have the oil and oil filter changed. An inspection was undertaken on 7 June 2022 when the mileage was 92,325. The mileage at the time of the repair was recorded as 91,914

In January 2024 Mr F had concerns about the car and took it to a different garage and it noted:

*“Car was booked in for water loss. Water was leaking from the timing chain end of engine. We first thought water pump. When we striped [stet] some part to properly asses [stet] we found the engine block was cracked just above the water pump. We never went any further we rebuilt. The car had a recon engine a short while before. We we [stet] never removed the water pump or drained the a/freeze.”*

This was dated 8 January 2024, but no mileage details were recorded.

The merchant refused to assist Mr F as the engine was out of warranty and so Mr F contacted HSBC on 16 January 2024. It asked for further information and after issuing a reminder it closed the matter down. The claim was then reopened and HSBC asked for a completed declaration form. HSBC also asked for an independent report to identify the fault was present at the time of installation or had been caused during installation. Mr F says he sent a copy of the report on several occasions. HSBC rejected his claim on 11 June as the car had been sold without an independent report.

Mr F complained, but this was rejected by HSBC so he brought a complaint to this service. It was considered by one of our investigators who didn’t recommend it be upheld. Mr F didn’t agree and said that HSBC had rejected the claim due to not having the report but it was clear that it did have it. He also said the garage had invoiced for long life antifreeze which has a minimal life of five years and the engine should have lasted more than 12,000 miles.

## 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 have every sympathy with Mr F, but I do not consider I can uphold his complaint. I will explain why.

When someone makes a payment on their credit card, in order to make a valid s. 75 claim

against their credit card issuer they need to have used the credit card to pay a company they have a claim against for breach of contract or misrepresentation. S. 75 gives the debtor (the credit card account holder) the same claim against their credit card issuer as they would have against the supplier of goods or services, so long as that claim is for breach of contract or misrepresentation.

This is because s. 75 itself is worded in the following way:

“If the debtor under a debtor-creditor-supplier agreement falling within section 12(b) or (c) has, in relation to a transaction financed by the agreement, any claim against the supplier in respect of a misrepresentation or breach of contract, he shall have a like claim against the creditor who, with the supplier, shall accordingly be jointly and severally liable to the debtor.”

The debtor in this case is Mr F, because he paid the deposit for the repairs using his credit card account. The transaction financed by the credit card account was the purchase of the engine and its fitting, and the supplier was the merchant. S. 75 says that it is the debtor who needs to have a claim against the supplier in respect of a misrepresentation or breach of contract.

It is also important to note that Mr F was asking HSBC to pay out a significant sum and it is reasonable that he provide it with sufficient evidence of a breach of contract. To that end the onus was on him to show that the engine was faulty at the point of sale or had not been fitted correctly leading to its failure. HSBC sought an independent report and it received a brief note from a garage which looked at the car and identified the engine had a crack.

HSBC said “evidence in the format of an independent inspection report would usually be required to be completed by a licensed independent professional from the relevant field.”

The response from the garage which looked at the car in January 2024 is not an independent report. It does not go into any detail as to the likely cause of the fault or how it may have arisen. It does not comment on the installation or whether the engine may have had an inherent fault. It doesn't even record the mileage. It may be that there was a misunderstanding as to what was required, but HSBC was not given a detailed independent report to allow it to properly consider Mr F's claim.

I appreciate Mr F had every reason to expect the engine to last much longer than it did, but neither I, nor HSBC, can say what caused the fault and that means it has not been established that there has been a breach of contract. It is possible that something occurred subsequent to its installation which caused it to crack.

It is both understandable and unfortunate that Mr F disposed of the car. I can appreciate he didn't want to retain it given its state, but it meant that any evidence he may have had to support his claim was also disposed of.

Our investigator also covered the possibility of HSBC making a chargeback which would cover only the sum paid by Mr F on his credit card. However, the rules for chargeback require claims to be made within certain time limits and Mr F first made his claim to HSBC long after any claim could be made.

I recognise Mr F's frustration with the situation, but I cannot say HSBC did anything materially wrong in its handling of his claim.

### **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 F to accept or reject my decision before 27 May 2025.

Ivor Graham  
**Ombudsman**