

The complaint

Mr M complains about how HSBC UK Bank Plc dealt with a claim he made to it.

What happened

Mr M used his HSBC credit card on 18 July 2023 to make a payment of £1,214.47 to an accommodation booking service I'll refer to as 'T'. His stay was for 31 October to 1 December 2023. The accommodation, amongst other things, was described by the 'host' as having been recently refurbished. But Mr M said on arrival he noted it was extremely dirty, dishevelled and didn't look recently refurbished. Mr M complained to T and unhappy with its response, he asked HSBC for help. He wanted it to refund him under section 75 of the Consumer Credit Act 1974 ('section 75'). HSBC advised Mr M to wait for a final response from T and return if he remained dissatisfied. In early December 2023, Mr M contacted HSBC again requesting it help him obtain a refund from T.

In an email dated 22 April 2024, HSBC declined Mr M's claim. It didn't think his claim met the relevant section 75 conditions. It also declined to initiate a chargeback as it said it'd been made outside the relevant timeframes. Unhappy with HSBC's response, Mr M complained. In terms of the section 75 claim and chargeback, HSBC maintained its position. However, it apologised for the delays it caused and credited his account with £50 in compensation. Mr M referred his complaint to our service. He said he felt HSBC had misled him when it told him it was considering his claim under section 75 but, in fact, it had failed to do so until he complained. He was also unhappy with the delays and communication issues caused by HSBC.

Our investigator thought the £50 HSBC had paid Mr M was fair and reasonable for the service issues. Overall, she didn't think HSBC had acted unfairly or unreasonably in not initiating a chargeback or accepting liability under section 75. Mr M disagreed with the investigator's view. He said that this complaint wasn't necessarily about his section 75 claim being upheld if this wasn't something that was possible – rather he was unhappy about the way HSBC considered his claim. Amongst other things, he said the claim should have been considered under T's protection cover. He was also unhappy about the level of compensation for HSBC's service failings. Mr M asked for an ombudsman's decision on this matter.

I issued a provisional decision and told both parties that I was intending to award an additional £150 which was in addition to the £50 already paid to Mr M by HSBC. This was compensation for claim handling issues. I haven't received a reply from either party so I'm issuing my final decision.

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 I said in my provisional decision, I want to acknowledge I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. What I need to consider here is whether HSBC – as a provider of financial services – has acted fairly and reasonably in the way it handled Mr M's request for getting money back. With that in mind, I've gone on to think about the specific card protections that are available to

Mr M in seeking a refund for the accommodation issues he is unhappy about. In situations like this, HSBC can consider assessing a claim under section 75 or raising a chargeback.

Chargeback

The chargeback process provides a way for a card issuer (HSBC) to ask for a payment to be refunded in certain circumstances. This process is subject to rules made by the relevant card scheme (Visa). It's not a guaranteed way of getting money back. While it's good practice for a card issuer to attempt a chargeback where certain conditions are met and there's some prospect of success, there are dispute conditions set by the relevant card scheme that need to be considered. If these are not met, a chargeback is unlikely to succeed.

The most relevant chargeback here was under Visa's reason code 'services not as described, or defective'. HSBC didn't initiate a chargeback because it said Mr M hadn't met the Visa chargeback timeframes. But I note the timeframe under the relevant Visa reason code was 120 days from the date of the service being provided – the service was provided to Mr M at the end of October 2023 and, at the latest, he asked HSBC for help in early December 2023 which is within the 120-day timeframe set down by Visa. And, in fact, HSBC has now confirmed that the actual reason it didn't raise a chargeback was due to it failing to log Mr M's request correctly. This is the reason matters weren't progressed as they should've been until April 2024. I don't think Mr M can be held responsible for that.

However, based on the evidence he supplied, even if HSBC had initiated a chargeback, I don't think it would've changed the outcome. I say this because Mr M used all of the service he paid for – he stayed in the booked accommodation for the whole period and the only amount that can be claimed under the relevant chargeback reason code is for the 'unused portion of the cancelled service' which isn't the case here. So, I don't think there are grounds to say HSBC should've initiated a chargeback on Mr M's behalf as, in my view, there wasn't a reasonable chance of success.

Section 75

In certain circumstances, section 75 gives a consumer a 'like claim' against the provider of credit if there's been a breach of contract or misrepresentation by the relevant supplier. There are certain technical criteria that need to be met for section 75 to apply such as monetary requirements (claims must relate to a single item to which the supplier has attached a cash price of between £100 and £30,000). And there needs to be a debtor-creditor-supplier ('DCS') agreement in place.

I note what HSBC said on the issue of the DCS agreement but whilst I agree there isn't one in place for the issues related to the host, there is one for the services rendered by T – T charged a 'service fee' as part of the arrangements with Mr M and had its own contractual obligations towards him. I note that Mr M hasn't provided a breakdown of the cash price charged for T's services other than the total price paid for his stay of £1,214.47 which included T's service fee. However, I can see T's terms say, whilst it can vary, its service fee is usually around 14.2% from the total cost paid for the accommodation – this would amount to approximately £177 in Mr M's case. In the absence of anything to the contrary, and the fact I don't think this makes any difference to the outcome, I consider Mr M's claim has met the relevant criteria to bring a section 75 claim in relation to T's services. In considering whether there's been a breach of contract, I've taken into account the Consumer Rights Act 2015.

Amongst other things, T's terms say: *"...If the listing is significantly different than advertised and your Host can't resolve the issue, we'll help you find a similar place, depending on availability at comparable pricing. If a similar place isn't available or you'd prefer not to rebook, we'll give you a full or partial refund."* And: *"...Rebooking assistance or the amount refunded*

depends on several factors including the severity of the Reservation Issue, the impact on the guest, the portion of the stay affected, whether the guest vacates the accommodations, other mitigating factors, and the strength of evidence provided of the Reservation Issue.”

From the evidence Mr M submitted as part of his section 75 claim, T accepted the issues he raised about the accommodation were covered under its protection cover. As such T offered to find him alternative accommodation, but he declined this offer. So, instead T offered, and paid, Mr M a partial refund – this consisted of a payment of £76.75 which T and Mr M both accepted was equal to eight days’ stay at the booked accommodation. I understand T also arranged for the host to refund the cost of cleaning for the whole period which Mr M said was a separate item on the invoice. I note Mr M asked T for a refund equal to a further two days on top of the eight days he’d already been refunded because whilst most of the problems had been resolved within eight days, the host hadn’t dropped off a heater for another two days.

I appreciate Mr M was unhappy with the situation and this was totally understandable. But most of the issues he raised were about the contract he had with the host. In terms of T’s protection cover, these say, as I’ve set out above, that it will determine the level of refund that’s due under this cover. And that its decision on this particular issue is ‘binding’. Overall, in light of T’s terms and the refund it paid to Mr M, which appears to have covered most of the period that Mr M said there’d been problems, I’m not persuaded there’s been a breach of contract or misrepresentation for which HSBC could be held liable. I should also note that as HSBC isn’t the supplier, I can’t hold it responsible for issues related to T’s customer service.

So, my finding is that it wouldn’t be fair or reasonable in these circumstances for me to require HSBC to refund Mr M the payment he made for the accommodation booked through T.

Claim handling issues

I agree that HSBC could’ve handled the claim more efficiently. It caused unnecessary delays, and it didn’t keep Mr M up to date with the progress of his claim, mainly because it hadn’t progressed it at all from early December 2023 up until April 2024. HSBC has confirmed the reason for this was because it hadn’t logged Mr M’s refund request correctly. While there’s no regulatory timescale for dealing with a section 75 claim or chargeback, I’m mindful the Financial Conduct Authority expects firms to progress such matters within a reasonable timescale, and if this isn’t possible, firms should clearly explain the reason for any delays to the customer. I don’t think that was achieved here.

In considering the appropriate level award for the distress and inconvenience caused by HSBC’s error, I’ve taken on board that Mr M considers he should be awarded at least £350, which he says is in line with our published guidance. I should at first point out that as our investigator said and as our website also says, what we award will depend on individual circumstances, which is what I’ve done here. In particular, whilst frustrating, I don’t think HSBC’s service mistakes ultimately impacted on the outcome of Mr M’s claim.

I also note what Mr M says about HSBC’s delays leading to him not referring the matter to another organisation. But I don’t think he was prevented from doing so due to HSBC’s mistakes. And I appreciate Mr M considers HSBC should’ve initially reviewed his case as a section 75 issue. However, if its process had been properly followed, a chargeback would’ve been considered first – I don’t think this would’ve been unreasonable. The issue was that HSBC failed to log Mr M’s request correctly – this meant a chargeback wasn’t considered until it was too late, and delays were caused to it responding to Mr M’s refund request. As a result of no progress being made, I can see Mr M did make a reasonable effort to sort this matter out such as making some phone calls to HSBC.

All things considered, and in line with our published approach, I’m satisfied a further £150 in

addition to the £50 already paid to Mr M by HSBC, fairly and reasonably compensates him for the distress and inconvenience it caused. I know Mr M thinks HSBC should refund him the full amount of his booking but for the reasons set out above, I don't think there are any grounds for me to require it to do so.

My final decision

My final decision is that I uphold this complaint in part. HSBC UK Bank Plc must pay Mr M an additional £150 for the distress and inconvenience it has caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 June 2025.

Yolande Mcleod
Ombudsman