

The complaint

Mr O complains about the decision taken by HSBC UK Bank PLC to decline his claim for a refund of payments he made using his credit card account.

What happened

My provisional decision of 10 June 2025 set out the background to this complaint:

"In June 2024, Mr O hired a car for his holiday abroad from a company I'll refer to as H. H's booking confirmation said he had reserved a "premium" car from the "Intermediate, SUV, Automatic, Aircon" class/category. The booking said the car would be a "Volvo XC40 or similar". The car hire was paid over two instalments using Mr O's HSBC credit card.

Mr O says that when he arrived on holiday, he was told no 'premium' cars were available and had to accept the rental of a Lynk & Co 01 car that had numerous scratches and dents as well as a broken sat-nav. Mr O added he tried to resolve things with H when he collected the car and dropped it off to no avail.

In July 2024, Mr O contacted HSBC to dispute his payments to H, saying it had not provided the service it described at the time of booking. HSBC said Mr O hadn't provided enough information for it to raise a chargeback. HSBC considered a claim under Section 75 of the Consumer Credit Act 1974 ('Section 75') but declined it. HSBC said what constitutes a 'premium' car is subjective and Mr O used the service he paid for. Unhappy with this response, Mr O referred his complaint to our service.

Our Investigator thought HSBC's decision not to attempt a chargeback was reasonable as there was no evidence to show Mr O contacted H to resolve the situation. The Investigator also said H had not guaranteed to provide Mr O with a specific model of car and there was insufficient evidence to show a breach of contract or misrepresentation on H's part. Overall, the Investigator thought HSBC's decision to decline Mr O's Section 75 claim was also reasonable.

Mr O asked for an Ombudsman to consider his complaint, emphasising his belief that H failed to provide a suitable "premium" car to him. Mr O was unhappy with H's business practices."

I then set out my provisional findings:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I note Mr O has complained about H's business practices, so I think it is helpful to clarify that I am not considering H's actions here and have no power to tell H to change how it operates. Instead, my role is to consider whether HSBC has treated Mr O fairly and reasonably, given its limited role as a provider of financial services.

When a person approaches their credit card provider for assistance when something has gone wrong with a purchase they've made, there are a couple of ways in which their provider may be able to help. The provider could potentially attempt what is known as a "chargeback" on any payments made with the card, and they could consider a claim under Section 75.

Chargeback

In certain circumstances, chargeback provides a way for HSBC to ask for the payments Mr O made to H to be refunded. There is no requirement for HSBC to raise a chargeback, but it's often good practice to do so where a chargeback has a reasonable prospect of success. However, a chargeback isn't guaranteed to succeed and is governed by the limitations of the particular card scheme rules (in this case Mastercard).

Under Mastercard's rules, which HSBC has no power to change, the deadline for raising a chargeback has now passed, but I've considered whether HSBC should have raised a chargeback when Mr O first contacted them.

For a successful chargeback for goods that were not as described or defective, it must be shown that the card holder (Mr O) at least attempted to contact the merchant (H) to resolve the dispute. Mr O says he had no alternative to raising his complaint verbally (although H's website provides numerous ways to get in touch and it has a disputes process). Even if HSBC were to have accepted Mr O contacted the retailer to resolve his dispute, as required under Mastercard's rules, I don't think it's likely a chargeback would have succeeded. I'll explain why.

For a successful chargeback, it must be shown the service Mr O received did not confirm to its description. Here, Mr O has said he was not provided with the 'premium' car he booked, so I've considered whether there was any misrepresentation on H's part about the type of car it would provide or whether the Lynk & Co car constituted a breach of contract. Mr O says he says he booked a 'premium' car and notes the displayed image of a Volvo. When I clicked on the image or description of the 'premium' car, the website displays a disclaimer that says:

"The vehicles shown are examples. Specific models within a car class may vary in availability and features, such as passenger seating, luggage capacity and mileage. Transmission and fuel type are not guaranteed."

H's website also says it tries to provide a car from the group or "collection" reserved but, in rare circumstances, it may have to provide a suitable alternative. The website says for some "collections", the customer is guaranteed to receive the car booked. But I've seen no evidence to show H guaranteed to provide Mr O with a Volvo XC40 – instead, it would provide this car or a similar alternative within the "intermediate, SUV, Automatic, Aircon" class/category.

Mr S says the Lynk & Co 01 model he was provided with was not 'premium' or a suitable, similar alternative. HSBC has said what is a 'premium' car is subjective, and I agree. There is no definition of what a 'premium' car is on H's website and what is a premium brand to one customer may not be premium to another. I note both models of car are similarly priced in Spain and the Lynk 01's design is based on the XC40. There is also no objective evidence here, such as an independent report, that comments on whether the Lynk 01 is dissimilar to the Volvo XC40 as Mr S claims, notwithstanding the association between both car manufacturers. The concept of a 'premium' brand is subjective, and I think there's insufficient evidence to show H failed to provide a car in the same class or category shown on the order confirmation. So, even if a chargeback had been raised, I don't think it's likely the chargeback would have succeeded.

Section 75

In some circumstances, Section 75 of the Consumer Credit Act 1974 allows a customer to submit a claim for breach of contract or misrepresentation by a supplier to their credit provider. Having considered the evidence, I think the technical conditions for a Section 75 claim have been met, so I don't intend to cover this point in detail.

Again, as Mr O has said he was not provided with the 'premium' car he booked, I've considered whether there was any misrepresentation on H's part about the type of car it would provide or whether the Lynk & Co car constituted a breach of contract.

For the reasons explained above, I don't think the evidence shows H guaranteed to provide Mr O with a Volvo XC40 – instead, it would provide this car or a similar alternative. As I said above, I don't think there's insufficient evidence to show the Lynk 01 was not similar to an XC40 or that H failed to provide a car in the same 'class' shown on the order confirmation. Overall, I do not think there is sufficient evidence of misrepresentation or a breach of contract on C's part.

I note Mr S has made a number of comments about the quality of the Lynk & Co car itself, so I've further considered whether the condition of the Lynk & Co car provided was of reasonable satisfactory quality as required by the Consumer Rights Act 2015.

Mr S has said the car's sat-nav was broken but hasn't been able to provide any evidence to support this claim, so I think there's insufficient evidence to show the sat-nav meant the car was not of satisfactory quality.

The vehicle condition report clearly lists there was a number of scratches and dents on the car. However, these appear to be cosmetic and there's been no suggestion that these affected the performance and comfort of the car. I don't think, therefore, that the evidence shows the car was not of satisfactory quality. I note H's terms and conditions, found on its website, don't say the cars it rents out will be free from defects. Instead, H's terms and conditions say it will provide a summary of any pre-existing damage on its vehicle condition report at the start of the rental. It appears that is what H did, so I cannot reasonably conclude H breached its contract with Mr O here.

Overall, I think HSBC's decision to decline Mr O's Section 75 was reasonable for the reasons explained above."

Neither party to this complaint responded to my provisional decision by the deadline set, so I have not reconsidered 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.

As neither party has disagreed with my provisional decision, I see no reason to depart from it. So, I've not upheld this complaint for the reasons set out in my provisional decision.

My final decision

For the reasons set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 23 July 2025.

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Victoria Blackwood
Ombudsman