

The complaint

Mr T complains about the way HSBC UK Bank Plc (“HSBC”) handled a claim he made to it in respect of a purchase he made using his credit card.

What happened

In January 2022 and February 2022, Mr T made two payments totalling £1,800 on his HSBC credit card to pay for legal services through a firm I’ll refer to as “M”. He says he was provided with a poor service, and the service wasn’t carried out with reasonable care and skill.

Mr T initially complained to the Legal Ombudsman (“LeO”), who upheld his concerns and said M should pay Mr T £4,000 in total. £3,500 was for the costs Mr T was ordered to pay by the court, and £500 as compensation for other service failings. Mr T says the LeO’s report is evidence the service he paid for wasn’t carried out with reasonable care and skill.

Mr T submitted a claim to HSBC under Section 75 of the Consumer Credit Act. He was claiming for the costs of the services he paid for to be returned to him. He says he’s been left out of pocket as a result of the fees he’s paid to M, and he now needs to pay for another firm to correct M’s mistakes. As a result, he’s had to pay for expenses for ongoing travel, he misses out on time with his son, and he has suffered stress.

HSBC considered Mr T’s claim, but it wasn’t successful. It explained to Mr T that it hadn’t been able to determine a breach of contract or misrepresentation by the retailer. That’s because M had represented Mr T in court as agreed in the contract. It said that the fact the service he received was of poor quality doesn’t constitute a breach of contract or misrepresentation by the retailer.

An Investigator considered what both parties had said, but they didn’t think Mr T’s complaint should be upheld. They explained that they’d considered the LeO’s report when coming to an outcome, and the LeO could have awarded a refund of M’s fees, but it decided not to do this. The Investigator said they hadn’t seen anything to show why additional funds should be paid to Mr T in excess of what had already been recommended by the LeO. Because of this, the Investigator felt that HSBC had acted fairly and reasonably.

Mr T didn’t agree with the Investigator’s view. And so the complaint was passed to me to decide on the matter.

I previously issued a provisional decision on this case. That’s because I wanted to provide more reasoning to that of the Investigator. Because of this, I wanted to give both parties the opportunity to respond with anything else they wanted me to take into account before I came to my final decision on the matter.

I have copied my provisional findings below, which also form part of this final decision.

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. And having done so, I don't intend to uphold Mr T's complaint.

When a consumer approaches their credit card issuer about a problem with a payment made using their credit card, there are two avenues via which the business might be able help.

The card issuer can try to reclaim the amount (or part of the amount) the consumer paid on their card, via the dispute resolution mechanism operated by the card scheme and which is often known as "chargeback". It can also consider honouring a claim under Section 75. I will consider each of these mechanisms in turn below.

Before doing so, I think it'd also be helpful to explain that while I understand Mr T is unhappy with M and its actions, I can only look at the actions of HSBC and its handling of Mr T's claim to it as a financial service provider. I'd like to assure Mr T I've read everything he's submitted, and I acknowledge the impact this issue has had on him.

Chargeback

Chargebacks are governed by rules set by the card scheme to which the consumer's card belongs.

While a consumer can't require their card issuer to attempt a chargeback, as it isn't a right, our Service does consider it good practice to do so in certain circumstances.

I can't see evidence of HSBC attempting a chargeback in this case. And it isn't clear if it considered this option or not. Even if it had considered a chargeback as an option, I don't think this would have been a successful way for Mr T to get his money back. I say this because there are restrictions on the time HSBC would have to submit the claim. In this case, the chargeback rules relevant to the circumstances of what has happened give 540 days from the transaction processing date (January and February 2022) to raise the chargeback. And because Mr T didn't contact HSBC until 2024, it would have been too late for HSBC to have submitted a successful chargeback.

In addition to this, given the potential losses involved in Mr T's claim and the restrictive nature of the chargeback reason codes available, I don't think a chargeback was the most suitable avenue for Mr T to have got his money back.

So, even if HSBC had attempted a chargeback on Mr T's behalf. For the reasons I've explained here, I don't think it would have been successful in getting Mr T his money back.

Section 75

Section 75 allows consumers who've purchased goods or services using a credit card, to claim against their credit card issuer in respect of any breach of contract or misrepresentation by the supplier of those goods or services, so long as certain conditions are met.

One condition which needs to be met for Section 75 to apply to a transaction is the claim must relate to an item, or service, with a cash price of over £100 and no more than £30,000. The cash price here met this condition. I say this because Mr T has provided evidence to show that the service cost £1,800 and he used his HSBC credit card to fund this purchase.

A further condition is that there needs to be what is known as a debtor-creditor-supplier (“DCS”) arrangement in place. I’m satisfied that’s the case here. As Mr T (debtor) paid for the services by M (supplier), using his credit card with HSBC (creditor).

In order for Mr T’s claim under Section 75 to be successful, HSBC would need to find that either there has been a breach in contract, or a misrepresentation of the services M provided.

HSBC considered the contract Mr T entered into with M. It decided on this basis that there hadn’t been a breach in contract because Mr T paid M to represent him in court, which it had done. I too have considered the express terms in the contract, and I haven’t seen any evidence to suggest that M had breached the terms of the contract – or misrepresented the service it provided.

I’ve noted that HSBC rejected Mr T’s claim, stating that just because the service he received was of poor quality doesn’t constitute a breach of contract or misrepresentation by the retailer. I don’t entirely agree with this point. That’s because the Consumer Rights Act 2015 (“CRA”) implies a term into the contract that a service will be carried out with ‘reasonable care and skill’.

Mr T has explained why he doesn’t think this happened in his case. He says that M’s conduct was so poor that it resulted in him having to pay additional costs to the other party, it had impacted on the time he could spend with his son, and he now needed to pay for additional legal fees – alongside the impact to his life and the distress the matter had caused.

What is considered reasonable care and skill is not focused on the results achieved but the manner in which the service was carried out. There is no specific definition to assist me with what would be reasonable or unreasonable and this matter is made particularly challenging when considering the complexity and variables around legal services.

In these types of situations, I would usually consider any evidence provided by an expert in the field, or some form of independent report – that’s because neither myself nor HSBC are experts in the field.

Mr T has provided this Service with a copy of the report issued by the LeO. I consider this to be a report provided and produced by an expert in the field. And I have considered this when deciding whether HSBC has handled the claim fairly and reasonably. The report concludes that:

- M failed to advise Mr T that his notes would be sent to the other side without review or further consultation. This resulted in the judge awarding £3,500 in costs against Mr T.*
- M delayed sending a response to the drafted child arrangement for a month, which caused a delay.*
- M accepted points in the drafted child arrangement without consent or confirmation from Mr T.*

Based on this, LeO’s assessment of the service provided by M, I think it’s fair to conclude there were aspects of the service which were not carried out with reasonable care and skill. LeO, as an alternative dispute resolution (ADR) service, told M to pay Mr T £3,500 and an additional £500 for “service failings”.

I’ve thought about this report in the context of whether HSBC acted fairly and reasonably when it declined Mr T’s Section 75 claim, and I think it did.

I say this because, the LeO, as the expert in the field and an ADR service, considered Mr T's concerns, and decided what appropriate compensation for the service failings should be. It was within the remit of the LeO to award a refund of the cost Mr T paid for the service, but it decided not to do this. In the absence of any contradictory evidence, I'm of the view that the LeO's report on the matter is a good indication of what a fair resolution should look like in the circumstances. I think it would have been reasonable for HSBC to have considered this report and taken the view that the LeO had decided what needed to happen to put things right. And given that M had agreed to compensate Mr T in the way the LeO suggested, it didn't consider its liability under Section 75 any further. I don't think this approach would have been unfair or unreasonable.

In addition to what I've said here, based on the information I've seen, it appears Mr T accepted the outcome reached by the LeO at the time, which M also accepted. I can see Mr T had the option of taking matters further with the LeO if he didn't agree with the proposed resolution, which he doesn't appear to have done. I appreciate Mr T no longer thinks the resolution he accepted through the LeO goes far enough in compensating him for his losses, which is why he's decided to raise a Section 75 claim. But given that Section 75 provides an equal right for a claim against the credit provider, as it does the supplier, Mr T had effectively agreed that the matter with M had been resolved when he accepted the resolution proposed by the LeO.

Because of this, it wouldn't be fair or reasonable of me to order HSBC to reconsider the Section 75 claim for additional losses. That's because ultimately, the dispute against the supplier has been settled and resolved, even if, with the benefit of hindsight, one of the parties no longer thinks the settlement was one they should have accepted. Re-considering matters under a Section 75 claim against HSBC could effectively unwind the agreement already reached by the parties and undermine the whole purpose and efficacy of parties agreeing to settle a matter under an ADR process.

So, even while I don't necessarily agree with HSBC's comment that the poor service doesn't constitute a breach of contract or misrepresentation by the retailer, I don't find that HSBC had any further liability under Section 75. And so even if it had considered the poor service in more detail, it wouldn't have led to a different outcome for Mr T.

I would like to offer my sympathies to Mr T, as he's clearly been through a difficult time. I appreciate he'll likely find this decision disappointing - I can understand why. In reaching my conclusion, I don't wish in any way to downplay or disregard the situation Mr T is in. But being independent means, I must take a step back and consider what both parties have said. And having done so, for the reasons I've explained, I don't currently find that HSBC has done anything wrong in declining Mr T's Section 75 claim."

HSBC didn't respond by the deadline set out in the provisional decision.

Mr T didn't agree with the findings I reached in my provisional decision. I have summarised his main points below:

- The LeO confirmed that the service hadn't been carried out with reasonable care and skill. This establishes a breach of contract under the CRA.
- The LeO awarded all that it could do within its remit, which was a total of £4,000. This fell short of fully remedying the situation or restoring him to the position he would have been in had the service been carried out competently.
- Section 75 exists to protect customers in the same situation he is in – where a supplier fails to meet contractual standards. Since the LeO has already substantiated

a failure, HSBC should accept liability under Section 75. And it should reimburse him £1,800 in the cost he paid for the service.

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.

Having considered everything again, and in light of Mr T's comments, it is still my decision not to uphold his complaint – for the same reasons as set out in my provisional decision.

I have considered Mr T's points in response to my provisional decision; however, I'm of the view that these points were already addressed in my provisional findings, so I don't intend to go over these again in detail again. That said, I have provided my comments to the points he raised below.

- The LeO confirmed that there had been "service failings" by M. Even if I were to agree that this amounted to a breach of contract under the CRA, the LeO, as the expert in the field, has already explained to M what it needed to do to put things right. It wouldn't be fair and reasonable of me to now find that HSBC are required to do more.
- I have checked the LeO's website to see what it has the power to award. The website states that it can award up to £50,000 in compensation, and amongst other things, it can instruct a supplier to refund or reduce the bill for the cost of service. Mr T hasn't provided any evidence to contradict this. And I've seen nothing to support his comments that the LeO awarded all it could within its power. The LeO decided not to award a refund (or reduction) of costs, so it wouldn't be appropriate of me to now go against the experts view of how the matter should be put right. Mr T had the opportunity to take matters further with the LeO, which I can't see that he did.
- Section 75 does exist as a form of protection for customers who make purchases on their credit cards, as is the case here. But I have already explained in my provisional decision the reasons why I don't think HSBC were wrong to decline Mr T's claim under Section 75. Mr T hasn't provided me with any further comments or evidence that I hadn't previously considered. So I'm sorry to disappoint Mr T, but my decision on the matter hasn't changed.

HSBC didn't provide me with any additional information to consider and because of this, I see no reason to depart from the findings made in my provisional decision. It follows that I don't uphold Mr T's complaint.

My final decision

For the reasons set out above, I don't uphold Mr T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 8 August 2025.

Sophie Wilkinson
Ombudsman