

The complaint

Mr W complains that HSBC UK Bank Plc has treated him unfairly in relation (to its obligations with regard) to payments he made on his John Lewis credit card.

What happened

In November 2020 Mr W paid the merchant (who I will refer to as C) to help him exit his existing timeshare agreement and gain compensation. Mr W paid for the contract in two payments of £4,516 and £1,376.48. In addition, both payments attracted a non-sterling transaction fee and so the total amount which Mr W paid using his credit card was £6,054.52.

In January 2021 Mr W contacted his timeshare provider directly and exited the contract. It appears Mr W was initially contacted by the timeshare provider to pay annual maintenance fees and in response to this he exited the timeshare contract.

Mr W raised a “*like claim*” under s.75 of the Consumer Credit Act 1974 (CCA) with HSBC. He argued that the contract was misrepresented to him and that C breached the contract. Mr W says he made multiple attempts to contact C but didn’t get a response, so he didn’t believe it was taking steps to help him exit the timeshare contract. He’s also argued that C has since stopped trading which he feels demonstrates it wasn’t intending to fulfil the contract.

HSBC didn’t uphold the claim. It concluded that Mr W had breached the contract by contacting the timeshare provider directly. It argued there was also no evidence that C had ceased trading prior to Mr W exiting the timeshare contract directly. Mr W complained and HSBC maintained its position, so he referred his complaint to our service.

One of our investigator’s considered Mr W’s complaint. However, they also didn’t think HSBC had unfairly declined the claim. Mr W didn’t agree and asked for an ombudsman to consider the complaint.

I reviewed the complaint and felt the claim should be upheld. I wrote to HSBC setting out my thoughts and why I intended to uphold the complaint. HSBC agreed to pay the claim as a gesture of good will and in line with what I recommended. I had recommended HSBC pay the claim in full plus compensatory interest at 8% from the date it declined the claim until the date of payment.

Mr W didn’t accept the offer as he thought HSBC should pay interest from the date the payment was made. He argues that the principle regarding interest is to put him, as far as possible, back in the position he would have been in had the breach not occurred. He argues the s.75 CCA claim comes from the payment made and so interest should be paid from this point. He doesn’t agree that his delay in complaining to HSBC should have a bearing on when he is paid interest as he has complained within the limitation period. And that the point of loss was when HSBC allowed the fraudulent payment to be made and so it is only fair that compensation be paid from this point.

As an agreement couldn’t be reached, I will now reach a 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 HSBC has offered to meet the claim in full, I see no need to address the merits of the complaint. Instead, I will focus on the only issue outstanding – what is the fair point at which Mr W should be paid compensatory interest on the claim amount?

Mr W strongly argues that this should be when the payment took place. He says it's at this point his loss occurred which (by virtue of s.75 CCA) HSBC is jointly and severally liable for. I have summarised his key arguments above.

I've thought carefully about everything both parties have said in this matter and I don't agree compensatory interest should be paid from the date of the payment. I think it should be paid from the date HSBC declined the claim in September 2024. I appreciate that this will be disappointing for Mr W and I'll explain below why I've come to this decision.

Our power to award interest comes from Section 229(8) of the Financial Services and Markets Act 2000. DISP 3.7 of the Financial Conduct Authority (FCA) handbook explains the types of award and directions we can make to put things right, including our ability to award interest. The award that an ombudsman may make is generally grounded in the principle of fairness.

In addition, the CCA 1974 does not specify how interest should be awarded when there has been a breach of contract or misrepresentation, or from when it should be applied. So, I have considered what I think is fair and reasonable in the circumstances of this complaint.

Generally, when we award interest, the aim is to compensate the consumer for not having use of that money due to the business' actions/ failure to act. In these circumstances, where it is the business who has made the error and caused the customer to be out of pocket, this principle works well. However, where the business had been brought into the situation through connected lender liability it doesn't work as well as HSBC didn't cause the initial loss. I appreciate Mr W has said HSBC did cause the loss by allowing a fraudulent payment to take place. However, I don't agree. Mr W contracted with C and agreed for the funds to be taken by it. So I don't think HSBC was wrong to follow Mr W's instructions and allow the funds to be paid. I appreciate that, as it turned out, C may not have been a legitimate company, but there was no way for HSBC to know this at the time and to have taken action.

I therefore need to think more practically in the circumstances of a s.75 CCA claim about the fair point at which to award compensatory interest. In this case, the event that triggers Mr W's ability to complain is the review and outcome of the s.75 CCA claim. This is the point HSBC was notified of the situation, and it became its responsibility to investigate the claim. So, I think the point that HSBC had undertaken that review and declined the claim is the fair point at which interest should be charged from.

I'm also mindful that Mr W waited a substantial period of time before making his claim to HSBC, as the transaction in question took place in November 2020. Whilst I appreciate Mr W's argument that he was within the limitation period applicable to make a claim, I still don't think it's fair or reasonable to require HSBC to compensate Mr W further for his delay in claiming.

So for the reasons explained above, I think HSBC should pay 8% interest on the full claim amount (in addition to the claim amount) from the date it declined the claim in September 2024 until the date of payment.

My final decision

For the reasons explained, I uphold this complaint in part and require HSBC UK Bank Plc to put things right in the way I've detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 October 2025.

Claire Lisle
Ombudsman