

## The complaint

Ms C complains that HSBC UK Bank Plc hasn't upheld a claim she made under Section 75 of the Consumer Credit Act 1974 ("Section 75") for a purchase she made using her credit card.

## What happened

In 2022, Ms C purchased a vehicle from a garage I'll refer to as "S". She paid a deposit using her HSBC credit card.

In October 2024, Ms C called out roadside assistance as she wasn't able to start the vehicle. The car couldn't be fixed on the roadside and so it was taken to S, whereby she was told that the main fuse in the car had blown, and it would cost £677.44 to fix – Ms C says she paid for the repair with her HSBC credit card. She explains S informed her that the fuse had blown as a result of the car having been incorrectly jump started by the roadside assistance.

However, the roadside assistance explained that this was a fault with the type of car, and it was being looked into by the manufacturer.

Ms C says she believes the car is not as described and of unacceptable quality. And because the manufacturers guarantee wasn't honoured, there has been a misrepresentation. She adds that she has lost out because of having to pay for the repair, and if she'd have known about the issue with the car, she wouldn't have purchased it in the first place.

HSBC didn't think Ms C had a valid Section 75 claim, and so ultimately didn't provide her with a refund or other remedy. It explained that the contract price was more than the £30,000 upper limit for a Section 75 claim. And it couldn't find any evidence of a breach of contract or misrepresentation.

An Investigator considered the evidence provided by both parties, but they didn't uphold Ms C's complaint. They explained that Ms C didn't have a valid Section 75 claim, because the total contract price was more than the upper limit to make a claim. The Investigator also explained that the upper limit is based on the price of the total contract, and therefore the items for insurance and other such that Ms C had said shouldn't be included in the purchase cost, shouldn't be deducted from the total amount.

Ms C didn't agree with the Investigator's view. She referred to a decision which says shows that individual items on a contract are treated separately. She added that in her case, the cost for the three insurances showing on the contract shouldn't be included in the total contract amount – and she says the insurances are separate single items as described in Section 74 (3) (b). There is no mention of "single agreement" or "single contract" under Section 75. She adds that the insurances are three separate contracts with separate insurers and can be cancelled individually without affecting the use of her car.

Because an agreement couldn't be reached, the complaint was passed to me to decide on the matter.

I previously issued a provisional decision on this case, that's because I reached different findings to that of the Investigator. So, before I came to my final decision on the matter, I wanted to give both parties the chance to reply.

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.*

*Having considered all of the available evidence, I don't intend to uphold Ms C's complaint. I appreciate this will come as a disappointment to her; however, I will explain my findings below.*

*I'm sorry to have read of the issues Ms C has had with her car and ultimately S. However, as HSBC aren't the supplier of the car, I can only consider whether it acted fairly and reasonably in light of its role as the finance provider.*

*In deciding if HSBC has acted fairly and reasonably, I have thought about the ways it could have helped Ms C get a refund or remedy for the car she says isn't of satisfactory quality. In this case, I consider the chargeback process and Section 75 of the Consumer Credit Act 1974 ("Section 75") to be relevant.*

#### Chargeback

*I can see the Investigator explained that it is now too late to raise a chargeback under the rules. Neither party has disputed this, so I haven't gone into it in detail here. However, for completeness, it is also my view that it is too late for HSBC to try and get Ms C's money back using a chargeback.*

#### Section 75

*Section 75 allows Ms C to make a claim against HSBC in respect of the item she paid for using its credit. However, for Section 75 to apply, certain criteria need to be satisfied relating to things like the parties to the transaction, the way the payment was made and the cost of the item.*

*Both HSBC and the Investigator didn't think HSBC were required to consider Ms C's claim because the contract price was more than the £30,000 limit which applies to Section 75 claims. However, I don't agree. Section 75 of the CCA states:*

- (3) Subsection (1) does not apply to a claim—*
- (a) under a non-commercial agreement, F1. . .*
  - (b) so far as the claim relates to any single item to which the supplier has attached a cash price not exceeding [F2£100] or more than [F3£30,000] [F4, or]...*

*So, for Section 75 to apply, the claim must relate to a single item with a cash price of more than £100 and less than £30,000. In this case, it is clear Ms C's claim relates to the car she purchased, which is a single item as set out in the invoice with a cash price of £27,134.00. While I accept that the total invoice amount is for more than £30,000, there are clearly added extras on the invoice that are separate items in themselves – for example, the insurances Ms C purchased.*

*As Section 75 relates to the cash price of the single item, and not the total price on the invoice, I'm persuaded that the single item Ms C is making a claim about is for the car, which*

has a cash price of £27,134.00. So, I don't think the cash price of the item means that Ms C didn't have a valid Section 75 claim, as it is within the limits as set out in the Consumer Credit Act.

So, I have gone on to consider what would likely have happened if HSBC had considered Ms C's claim under Section 75. And I'm sorry to disappoint Ms C, but I don't think it likely her claim would have been successful, based on the evidence that had been supplied to HSBC.

In order for Ms C's claim under Section 75 to be successful, there would need to be evidence that either there has been a breach in contract, or a misrepresentation with the supplier.

A breach of contract can be a breach of an "express" term of a contract – meaning something which is written into it. Or it can be a breach of what is usually referred to as an "implied" term, which is a term treated as being included in the contract due to, for example, legislation which says that it must be. I have gone on to consider whether there were any express or implied terms in Ms C's contract with S, and which meant it was in breach of contract by not providing her with a refund of the full cost of the car plus the cost she paid for a repair.

I haven't seen a copy of the terms that were applicable at the time Ms C purchased the car. So I can't conclude that there was a breach in the expressed terms in Ms C's contract with S. But in any event, I think it's the implied terms in the contract that are more relevant here.

The relevant implied terms are set out in the Consumer Rights Act 2015 (CRA). In summary, the CRA states that goods must be of satisfactory quality, and that goods will be of satisfactory quality if they meet the standard that a reasonable person would consider satisfactory. In addition to this, because Ms C didn't start having a problem with the car until more than six months after she purchased it, the burden of proof is on her to evidence that there was a fault, and that the fault was present at the point of sale.

In this case then, there really isn't any evidence available to suggest that there was a fault, and that it was present at the point of sale. Information provided by S states that the problem was caused by the roadside assistance in how they had tried to jump start the car, and the roadside assistance firm says that the issue is with the type of car Ms C purchased. Neither of these things are conclusive about if there was a fault, and whether it was present at the point of sale.

I note that Ms C did provide HSBC with a copy of a health check that was completed on the car in November 2023. This states "Although Hybrid Health Check was successful, we detected a drop in the performance of the conventional 12v battery. Please consult with your service advisor." This health check was completed over a year after Ms C took possession of the car. And it doesn't provide much context about whether there is a fault, that was present when the car was purchased.

In these types of situations, I would usually consider an independent report provided by an expert in the field – that's because neither myself nor HSBC are an expert in this field (nor would I expect HSBC to be) and so it would need to rely on something from an expert when deciding whether a breach had occurred. In this case, I've seen no evidence of an independent report which confirms that there was a fault with the car, and that the fault was more likely than not present at the point sale. And because of this, I don't think it likely that even if HSBC had considered Ms C's claim under Section 75, that it would have been successful.

*If Ms C wants to get an independent report from an expert in the field, then she is welcome to do this, and she will need to provide a copy of this to HSBC in the first instance if she wants it to reconsider her claim. That said, it is my understanding that Ms C has had the problem rectified now, so it might be difficult for even an expert to safely conclude that there was a fault that was present at the time of sale.*

*I note that Ms C says that because she wasn't able to claim on the manufacturer's warranty, that there has been a misrepresentation. It isn't clear exactly why she thinks this would amount to a misrepresentation; but I'm not of the same view. A misrepresentation would be where, for example, the features of the car are different to what she ordered. The fact she couldn't claim on the warranty, in my view, doesn't amount to a misrepresentation. And therefore, I'm still not of the opinion that HSBC are liable for any remedy in this case."*

HSBC accepted the findings I made in my provisional decision, and it didn't provide me any other additional information to consider.

Ms C provided a detailed response to my provisional findings, and I have summarised what I consider to be her main points below:

- She explained why she felt both S and the roadside assistant companies are both experts as they belong to the same group as the car manufacturer. The roadside assistance explained that there had been a few scenarios similar to hers and that it was a problem with the make and model of her car. And S explained that the issue was down to how the roadside assistance had jump started her car.
- She provided evidence available online to show the other owners with the same make and model car as hers have had similar issues; and that it is the battery that is causing issues. This is also supported by the car health check that had been completed previously.
- Based on all of the evidence she had gathered, she felt that her vehicle isn't of satisfactory quality and not fit for purpose. She adds that the manufacturer knew of the vulnerabilities with the car and were investigating this.
- She said that there had been a breach in contract because:
  - She wasn't informed about the vulnerabilities with the vehicle at the point of sale. There was a false statement of facts which induced the purchase, which in her view amounted to a misrepresentation.
  - She has referred to various sections of the manufacturer's warranty, which she feels shows that it has breached the terms of the warranty, which she says amounts to a breach of contract or misrepresentation.
- HSBC hadn't acted fairly and reasonably, because it didn't consider her claim in enough depth, given that its view was that the cost of the car exceeded the financial limits set out in Section 75.

### **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 all of the available evidence again, I'm sorry to disappointment Ms C, but I don't uphold her complaint for much of the same reasons as set out in my provisional decision. However, I will respond to the points she has made below.

Before I go on to explain how I have reached my outcome, I think it's important to firstly explain I've read and taken into account all of the information provided by both parties, in reaching my decision. I say this as I'm aware I've summarised Ms C's complaint in considerably less detail than she has. If I've not reflected something that's been said it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a fair and reasonable outcome is. This also means I don't think it's necessary to get an answer, or provide my own answer, to every question raised unless I think it's relevant to the crux of the complaint.

Ms C believes that she has already had experts in the field consider the issue with her car. But from what I've seen; neither of these things are conclusive about what the fault is, if there is one, and what the parties has said has been contradictory. So, I don't think even if HSBC had considered Ms C's claim further, that it would have been able to reach the outcome that there had been a breach in contract; because it isn't clear based on what S and the roadside assistance have said, what the issue is with the car.

I note Ms C has provided links to forums with other owners of the same make and model as her car reporting issues with the battery; and while it appears clear that some people have had problems with the battery, this doesn't mean that this is the issue with Ms C's car, and as I've explained, the information relating specifically to Ms C's car is contradictory. And so, a report from an independent expert, having looked at the car, setting out if there is a fault, what the fault is, and when the fault likely occurred is what would be required here to understand more about the issue with Ms C's car. To be clear, obtaining such report isn't a requirement for a valid Section 75 claim; but here, without one it is difficult to determine what the issue is with the car for the purposes of making a claim.

Ultimately, based on all of the information available, I don't think it would have been unreasonable of HSBC to conclude that Ms C's car was of satisfactory quality when she bought it. I say this because she had been able to drive the car for at around two years before it didn't start. I accept that there might have been a problem with the battery, and it was losing performance in November 2023 when she had the health check; but none of the evidence I have seen leads me to conclude that there was a problem with the car when she bought it; which is what I'd need to be satisfied of to determine that there had been a breach in contract.

I can see Ms C has referred to various sections of the manufacturer's warranty; and that the fact she hasn't been able to make a successful claim under the warranty amounts to a misrepresentation or a breach in contract; but I don't have the same view. It isn't clear whether the manufacturer's warranty formed part of the contract Ms C had with S or not. That said, the manufacturer's warranty appears to cover manufacturers or assembly defaults – but for the reasons I've already explained, there is no evidence of a manufacturing or assembly default. So even if I were to accept that the warranty did form part of the contract, I still wouldn't be able to conclude that there had been a misrepresentation or breach in contract.

I note Ms C has made other comments, including that there was a false statement of fact when she entered into the contract, but I haven't seen any evidence of such. I'm also not of the view that S having not explained to Ms C that some cars with that make and model experience problems with the battery amounts to a breach or misrepresentation; because ultimately, it was required to provide Ms C with relevant information about the car she was

purchasing – I haven't seen anything to suggest that there is or was a problem with the car battery when she bought it, and therefore it wouldn't be reasonable for me to make the finding that this is something that S should have told Ms C.

Overall, I haven't seen anything to suggest that S made a misrepresentation or breached the contract for the reasons I've set out above. I've also considered more broadly whether any other aspect of the contract Ms C entered with S could be said to have been breached or misrepresented, but I haven't found that to be the case either. It follows that, based on the information HSBC had available to it at the time of assessing Ms C's claim, I don't think it acted unfairly or unreasonably in declining her claim.

### **My final decision**

For the reasons set out above, I don't uphold Ms C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 10 April 2026.

Sophie Wilkinson  
**Ombudsman**