

complaint

Mr W complains that HSBC Bank plc will not refund to him the money that he paid for a watch when he was overseas and which he says is a counterfeit. His complaint is made against HSBC under section 75 of the Consumer Credit Act 1974.

our initial conclusions

The adjudicator did not recommend that this complaint should be upheld. He concluded that the debtor-creditor-supplier relationship required for a claim under section 75 was not present in this transaction and that HSBC had made a chargeback claim but it had not been successful. Mr W has asked for his complaint to be considered by an ombudsman. He says, in summary, that he should be entitled to a refund from the recipient of his payment.

my final decision

I have considered all that Mr W and HSBC have said and provided in order to decide what is fair and reasonable in this complaint.

One of the requirements for a successful claim under section 75 is that there must be a direct relationship between the debtor, the creditor and the supplier. In this case, Mr W is the debtor because he has been provided with credit by HSBC, HSBC is the creditor and the supplier is the shop which supplied the watch to Mr W. However, Mr W's payment was made to a party that was not the shop that supplied the watch to him. The name of the supplier is clearly set out on the receipt that was provided to Mr W but the credit card payment slip and Mr W's credit card statement both show that the payment was not made to the supplier. I am not persuaded that there is enough evidence to show that the supplier and the recipient of the payment are "associates" as defined in the Act. I therefore do not consider that it would be fair or reasonable for me to require HSBC to refund to Mr W under section 75 the money that he paid for the watch.

HSBC claimed a chargeback for the payment but it was successfully defended by the supplier – which is an authorised supplier of the manufacturer's watches - which said that the watch was genuine. I consider that HSBC acted fairly and reasonably in dealing with the chargeback.

For these reasons, my decision is that I do not uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr W either to accept or reject my decision before 1 May 2015.

Jarrold Hastings

ombudsman at the Financial Ombudsman Service

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

ombudsman notes

what is a final decision?

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

what happens next?

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.