

The complaint

Miss K complains about the outcome of a chargeback claim, in relation to dental work that she paid for on a debit card provided by HSBC UK Bank Plc.

What happened

In December 2022, Miss K travelled abroad to get some treatment done by a dental surgery I'll refer to as 'Y'. She paid £3,610 on her HSBC debit card. Unfortunately, Miss K says she had issues with the work done shortly after.

Around January 2023 Miss K contacted HSBC and said she wanted to dispute the transaction. In summary, she said that shortly after receiving the treatment two teeth had fallen out. She said Y told her to visit a UK dentist to resolve the problem, or said she could return but she would have to pay for flights and accommodation herself. Miss K said she was in a lot of pain.

Miss K told HSBC she then had the teeth put back in by a dentist in the UK, but had been left with unaligned teeth that had caused various ongoing problems. And she said she had developed an infection. Miss K also said she was given the impression Y would provide a lifetime or 10/15 year warranty on the treatment, but then found out it was only for three years.

When gathering information from Miss K there were some communication issues and delays. HSBC apologised and paid Miss K £50 and £75 to reflect this.

HSBC then raised a chargeback and the money was refunded to Miss K's account while it investigated things. In April 2023 HSBC wrote to Miss K and said the chargeback claim had been unsuccessful as Y's bank had rejected it. HSBC said it would re debit the amount from Miss K's account.

Miss K was unhappy with this response and complained.

At the end of April 2023 HSBC issued its final response. This explained, in summary, that the process for managing the claim was set by the card provider. It said that Y had disputed the chargeback claim as it said the service had been used in full, there was no evidence of any cancellation and no independent report had been provided by Miss K. HSBC explained this meant it couldn't help her further.

Miss K remained unhappy with this and referred the complaint to our service.

Our investigator issued an opinion. He explained, in summary, that while Miss K had given HSBC some photos of the issues, he thought that because she hadn't provided any further evidence that the card issuer would likely have not determined the dispute in her favour. So, he said he thought HSBC didn't act unreasonably when it didn't continue with the claim. Miss K was unhappy with this. So, the complaint was passed to me to decide.

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.

I'd firstly like to explain to Miss K that in my findings, as I've done in the background above, I'm going to focus on what I think are the key points and the crux of the complaint. Where I haven't commented on a specific issue or point made this isn't because I haven't considered it, nor that I find it unimportant. I've carefully thought about everything Miss K and HSBC have said and this approach reflects the informal nature of our service.

Miss K complains about a claim made under the chargeback scheme. A card issuer can attempt a chargeback under certain circumstances when a consumer has a dispute with a merchant – for example when goods or services aren't provided.

It isn't a legal right and it's not guaranteed any funds will be recovered. But I'd generally consider it good practice for a card issuer to raise a dispute if there is a reasonable chance of it being successful. The chargeback process is subject to the rules of the scheme and strict criteria apply. It's worth pointing out here that these are not set by HSBC.

When Miss K contacted HSBC and disputed the transaction, HSBC did raise a chargeback claim as '*Not as Described or Defective Merchandise/Services*'.

After HSBC raised the chargeback, Y disputed it. Y raised various counter points and provided supporting evidence. At this point, HSBC needed to decide whether to accept this, or if it should refer the matter to the card issuer for it to arbitrate and ultimately decide the outcome. After Y disputed things, HSBC did not take things further. So, what I need to consider here is whether HSBC acted reasonably.

I've carefully thought about what evidence Miss K provided. This particular case involves a complex medical procedure. While Miss K provided some testimony, screenshots and photos, there is a lack of independent expert evidence and other documents to clearly show she didn't get what was described or that the service was sub-standard. For instance, there's no reports nor testimony from any dentist to back up what Miss K says or to explain what went wrong and why. It's also worth explaining that the chargeback scheme does not have the same powers a court does to compel witnesses or gather further evidence.

Having considered this very carefully, I don't think it's likely there was enough evidence to give the chargeback a reasonable chance of success if it went to arbitration. So, I don't think HSBC did anything wrong when it told Miss K the chargeback was declined.

I have also considered the earlier communication issues and delays. It isn't in dispute that the service provided by HSBC fell below what Miss K would've expected. Having thought about this, I'm satisfied the total of £125 already paid to her is reasonable to reflect what happened.

I would like to explain to Miss K that I've only looked at HSBC's very specific role and responsibilities under the chargeback scheme here. I do not want to appear unsympathetic to her situation and I was very sorry to read about the problems and ongoing issues this has caused. But, I still do not think this complaint should be upheld.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 10 June 2024.

John Bower
Ombudsman