

## **The complaint**

Mr L complained about problems he had with Sainsbury's Bank Plc when he disputed a number of fraudulent transactions.

## **What happened**

In June 2018, a number of online transactions were made on Mr L's Sainsbury's credit card. He reported to Sainsbury's that these were fraudulent. Sainsbury's verbally confirmed it had refunded him, and had removed all related charges. Mr L couldn't check online because of problems accessing Sainsbury's website, so he asked Sainsbury's to confirm in writing what it had refunded, including the charges.

Sainsbury's said it would provide this, but Mr L didn't receive anything. When he did receive statements, they didn't clearly show what had and hadn't been refunded. Mr L told Sainsbury's he wouldn't make payments until Sainsbury's provided information about the account. But as time went on, interest built up, so Mr L paid, even though he wasn't satisfied that the balance was correct. He did so because of the interest, and because he didn't want his excellent credit score to be affected.

In February 2021, Mr L contacted this service. He said that he'd recently received statements but couldn't see whether or not several thousand pounds had been refunded or not. He'd been unable to speak to anyone at Sainsbury's who would help him resolve it, and said that customer support didn't return his many calls.

Mr L said he wanted Sainsbury's to write to him with a full, easy-to-understand explanation of which charges had and hadn't been refunded. He wanted a refund of all interest paid during the time when Sainsbury's hadn't been able to provide statements, and compensation for the damage to his credit score.

### *Sainsbury's final response letter*

Our investigator asked Sainsbury's for more information, and in June 2021 Sainsbury's sent Mr L its final response to his complaint.

Mr L had asked Sainsbury's for:

- A clear breakdown of charges which Sainsbury's had accepted as fraudulent, and date of refunds;
- Refunds for charges that Sainsbury's had missed as fraudulent payments;
- Refund of interest from the start to end of the complaint process;
- He said he'd been charged a late payment fee when he'd paid on time, and this had resulted in a marker on his credit file, the only one in 10 years. This was professionally significant for him;
- There was a further £1,169.96 payment which was unusual on the account and he had no record of it.

In the final response letter, Sainsbury's said that:

- In June 2018, it wrote off 21 transactions totalling £3,615.67;
- It hadn't refunded a transaction for £271.95 which Mr L had said was fraudulent. Sainsbury's agreed it should have refunded this, and said it was happy to refund it;
- It had later refunded one other transaction for £122.99 in July 2018;
- It hadn't refunded a third transaction, for £1,169.96, because Mr L hadn't reported it as fraudulent at the time, so it had no reason to believe it was fraudulent.

Sainsbury's also noted that Mr L had cancelled his direct debit and hadn't paid his full balance off each month from June 2018, because he'd been waiting for Sainsbury's to ring him back. He'd only paid the minimum amount each month, so he'd incurred interest. Sainsbury's said it would refund the interest from July 2018 to December 2018, which totalled £331.45. Sainsbury's said it wouldn't refund all interest, because Mr L had set up a direct debit in December 2018 for the minimum payment, and he was logging in online regularly, so it expected him to have contacted Sainsbury's again.

Mr L had also queried a £12 late payment fee in September 2018. Sainsbury's said this had been charged because the 9 August 2018 statement required the minimum payment to be made by 3 September. Sainsbury's hadn't received the minimum payment until 7 September, so it had been correct to apply the late payment fee.

Sainsbury's acknowledged that Mr L had asked for statements showing the amendments it had made. But it said it could only supply copy statements.

Sainsbury's also recognised that it had received poor service from the complaints team who'd failed to ring back with updates as requested, and also from the secure messaging team, who'd given Mr L the wrong information on several times. It offered Mr L £200 compensation.

Mr L wasn't satisfied with this and confirmed to our investigator that he wished to pursue this. He said:

- He had no proof that the fraudulent sums had been refunded. Sainsbury's had provided three sets of statements all covering the same date and these didn't correlate with each other;
- Sainsbury's had agreed it had missed fraudulent charges;
- The interest charged on the account was £970.37 but Sainsbury's had only offered to refund £331.45;
- He'd made the minimum payment on time in September 2018, not late as Sainsbury's said;
- He couldn't now go back to the merchant of the disputed £1,169.96 payment because of the length of time. But he'd have reported it as a dispute promptly to Sainsbury's if it had provided statements.

Mr L told our investigator that he wanted:

- Full written proof showing payments made and refunded, with dates;
- All the interest debited ie £970.37 not £331.45;
- £1,000 for the disputed £1,169.96 transaction;
- £394.94 which Sainsbury's had offered for the two agreed fraudulent transactions which hadn't been refunded, ie £122.99 and £271.95;
- £200 compensation.

### *Our investigator's view*

The investigator recognised that the situation had been confusing and frustrating for Mr L. He said he didn't think Sainsbury's procedure had been clear at all – though he didn't think Mr L had been over-charged unfairly. His review of Mr L's account showed that Sainsbury's

had closed Mr L's first credit card on 11 June 2018, and had written off the transactions it had marked as disputed, and issued a statement dated July 2018. It had then set up a new credit card account and had transferred over the genuine balance from June, minus the disputed transactions. Mr L's new spending was then applied to the new account.

The investigator explained that this was an unusual process. Usually, a bank would credit the disputed transactions to the existing account, to show a transparent audit trail with the debits and credits.

But he'd found just three which hadn't been refunded. One of those, for £122.99, had been refunded in July 2018. Sainsbury's final response had offered £271.95 for one of the others. The investigator considered the £1,169.96 transaction – but he didn't think Sainsbury's need refund that. He'd asked Sainsbury's for more information, which showed that Mr L had used that retailer before, and that the transaction had originally been declined as a possible fraud – but Mr L had confirmed that it was genuine, so the transaction had then gone through successfully. The investigator made it clear that he believed Mr L had disputed this transaction because of genuine concerns. It had taken place several years earlier; was high value; and was close to the other disputed transactions.

In respect of the interest charged on Mr L's account, the investigator considered that Sainsbury's offer to refund interest between July and December 2018 was fair. He explained that Mr L had been logging onto his online banking regularly, so would have known the outstanding balance. And the interest had been charged on genuine purchases – it wasn't solely on disputed transactions. The investigator also pointed out that Mr L was obliged to maintain payments, as set out in the terms and conditions, even during a dispute.

The investigator also asked Mr L for evidence that he'd paid the minimum payment from the August 2018 bill by the payment due date of 3 September. Mr L's evidence showed a date of Monday 10 September, but with a reference of "ON 06 SEP BDC." The investigator accepted Mr L had sent the payment on 6 September, but this was late for 3 September. So the investigator didn't consider Sainsbury's need refund Mr L with the £12 late payment fee.

But the investigator thought Sainsbury's should remove the marker on Mr L's credit file for this late payment. He said this because Mr L provided evidence that he had a perfect history of payments with other lenders. So the investigator accepted that the late payment in September 2018 was out of character, and a result of the wider circumstances in this complaint.

So the investigator's conclusion was that Sainsbury's should:

- Refund the £271.95 disputed transaction;
- Refund interest of £331.45 applied to the account from July to December 2018;
- Pay £200 compensation;
- Remove the marker it placed on Mr L's credit file for the September 2018 late payment.

### *Mr L's response*

Mr L said he was very disappointed. He said:

- Sainsbury's had admitted wrongdoing, so it was proportionate to withhold payment until it had been resolved. The only reason he'd accrued interest on genuine payments was that Sainsbury's hadn't provided a bill showing genuine information. It had only been possible to see that most of the interest had been on genuine purchases, years later;
- the responsibility should be on Sainsbury's to prove he'd authorised the £1,169.96 payment;

- he'd asked for a clear breakdown of payments made, payments refunded, and dates, so he could check, but he still hadn't received this. He thought it was reasonable for Sainsbury's clearly to prove what said it had done;
- he wasn't happy that the investigator had accepted Sainsbury's statement that the September 2018 payment had arrived late, whereas his evidence showed it was made on the day it was due. Mr L said it had been due on 6 September, which was when he'd made it;
- he didn't think the investigator's view was impartial. There was a catalogue of errors by Sainsbury's, but he'd suffered damage to his credit file, had had to pay interest, had wasted days, and had to pay for a transaction which no-one could prove he'd made. The £200 compensation didn't even cover the interest.

Mr L asked for an ombudsman's 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.

I can see that Mr L has found this a very frustrating experience, over a long period of time. It's entirely understandable that he'd want to see for himself that the disputed transactions had been credited back to his account. I've looked at the documents provided by Sainsbury's, and it isn't at all clear from these what happened. This is largely due to the fact that Sainsbury's hasn't shown credits on Mr L's former account but just transferred the balance to his new account. This service can't order a bank to change its systems, but here, I consider the lack of clear accounting information provided by Sainsbury's meant that Mr L suffered frustration, over a significant period of time.

#### *Transactions*

However, trying to make sense from the statements which Sainsbury's sent to us and to Mr L, the only apparent remaining transactions not dealt with in June 2018 were the three I've listed above. One was refunded in July 2018, and Sainsbury's agreed in June 2021 that it would refund the £271.95 transaction. If it hasn't already done so, I order Sainsbury's to refund Mr L for this amount.

The transaction for £1,169.96 is more problematic. Sainsbury's refused a refund on the grounds Mr L didn't challenge it at the time, but Mr L said he would have done if Sainsbury's had sent him proper statements. I've looked at Mr L's account history and he did make payments to that retailer on previous occasions.

But most important, the computer evidence provided by Sainsbury's showed that the first time this was attempted, its anti-fraud systems had blocked it. This means that there was a request for confirmation from Mr L – and Sainsbury's has provided evidence to show that he looks to have confirmed this. I've also borne in mind that this transaction took place on 24 May. All the other fraudulent transactions – over 20 of them, including the other two which weren't refunded at the time - took place between 30 May and 2 June. This pattern of multiple transactions in a short space of time is much more typical of fraud, as a fraudster tries to maximise their gains before the card is blocked. So I consider it's more likely than not that Mr L has forgotten about the transaction, but it was genuine. So I don't order Sainsbury's to refund him.

#### *Interest*

I recognise that Mr L didn't want to pay his credit card bill when he didn't have a clear picture of the transactions. And he may have hoped that not paying would incentivise Sainsbury's to provide this. But the terms and conditions of the credit card, which provide for the charging of interest, don't make any exceptions when there's a dispute. So Sainsbury's was entitled to continue to charge interest on the transactions.

Looking at fairness, however, I consider the lack of clarity in the information which Sainsbury's provided to Mr L, means that Sainsbury's should refund some of the interest. Sainsbury's final response letter told Mr L that the interest charged between July 2018 and when Mr L paid off the full balance and interest in February 2020, was £970.37. It offered to refund the interest charged between July 2018 and December 2018. This is on the basis that in December 2018, Mr L set up a direct debit again, and had been logging in online so he could see his outstanding balance.

I consider Sainsbury's offer here was a fair compromise. Sainsbury's hadn't provided Mr L with clear information – but on the other hand, Mr L was aware of his balance by logging in. Apart from the £271.95 transaction which I've listed above, all the balance, which was several thousand pounds, consisted of Mr L's genuine transactions. Mr L said he was only able to see that most of the interest was on genuine payments some years later. But I think he'd have known the amount of his own genuine spend. So I find that a cut-off date of December 2018 for the interest refund was fair and reasonable. This means Sainsbury's is to refund Mr L with £331.45 – which was the figure it quoted in its final response letter. I've seen nothing from either side to make me think that this figure is incorrect – and so I think it's fair to say that this is what Sainsbury's should pay to put things right here.

#### *Late payment*

Mr L sent us evidence that he authorised payment on 6 September. This appeared to clear on 10 September, but Mr L has argued that it would have arrived immediately. But even if it had arrived on 6 September, the bill dated 9 August 2018 clearly states "*Payment due date 03/09/2018*". So the payment arrived late, and I don't require Sainsbury's to refund Mr L with the £12 late payment fee.

#### *Credit file*

As a result of the late payment, Sainsbury's put a marker on Mr L's credit file. Mr L has explained that because of his business, this had a significant impact on him. He also sent us evidence showing that in other respects his credit file was excellent.

Financial organisations have a duty to report credit information accurately. And here, it's accurate that Mr L paid late in September 2018. But having taken into account all the circumstances of this case, I find it would be fair and reasonable for Sainsbury's to remove this marker. I recognise that this is unusual – because it's accurate that Mr L paid late. But there were exceptional circumstances here because of Sainsbury's ongoing failure to provide information about the disputed transactions and credits – and as Mr L points out, he's still not had full details of all the debits and credits relating to these.

I recognise that there isn't a direct causal link between the frustration and the failure to pay on time. But I think removal of the marker would reflect that it's likely that Mr L would have paid on time if this complaint hadn't arisen.

#### *Compensation*

Mr L received poor service from Sainsbury's. It didn't return calls, and provided him with incorrect information. It also failed to provide clear information about what it had done in

relation to the disputed transactions – and over a long period of time. It simply wasn't possible for Mr L to be able to see what Sainsbury's had and hadn't refunded, because of the way it handled the refunds. And there was one disputed transaction, for £271.95, which it didn't refund and should have done.

So I consider Sainsbury's should pay Mr L £200 compensation for distress and inconvenience caused to Mr L.

### **My final decision**

My final decision is that I uphold this complaint and I order Sainsbury's Bank Plc to:

- refund Mr L with the £271.95 disputed payment on 1 June 2018, if it hasn't already done so;
- pay Mr L £331.45 for the interest from July 2018 to December 2018, if it hasn't already done so;
- remove the credit file marker against Mr L's name relating to the September 2018 late payment;
- pay Mr L £200 compensation for distress and inconvenience.

I do not require Sainsbury's to:

- refund Mr L for the £12 late payment fee for the late September 2018 payment;
- refund Mr L for the £1,169.96 disputed payment on 24 May 2018.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 3 August 2022.

Belinda Knight  
**Ombudsman**