

The complaint

Ms E complains that Sainsbury's Bank Plc ("Sainsburys") misadvised her leading to missed credit card payments and a default on her credit file.

What happened

The background to this complaint is well known to both parties, so I won't repeat everything here. In brief summary, Ms E took out a Sainsburys credit card in 2019. But in 2020 she noticed she had two regular monthly payments going to Sainsburys, so she called Sainsburys to ask about this. Sainsburys didn't let Ms E know the second regular monthly payment going to Sainsburys was for a second Sainsburys credit card taken out in Ms E's name previously in 2001 with a different address registered to the account. Not knowing or realising what the payment was for, Ms E therefore cancelled this monthly payment and was credited back her previous payments, leading to an increasing unpaid balance and ultimately a default on the card taken out in 2001.

Ms E and Sainsburys weren't able to reach agreement about things, so Ms E referred her complaint about Sainsburys to us. Our Investigator wasn't able to resolve the matter informally, so the case has been passed to me for a decision.

I emailed Ms E and Sainsburys in December to let them know the conclusions I was intending to reach, and to see if agreement could be reached, giving both parties a further opportunity to comment. Agreement between the parties on how the case should be fairly resolved couldn't be reached. Now both parties have had fair opportunity to provide further comment, I'm now ready to explain my final 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.

Having done so, and whilst I've considered everything Ms E and Sainsburys have said including their recent comments, I've reached materially the same conclusions and for the same reasons as explained in my most recent emails to both parties on 19 December 2023. That is, I've decided to uphold this complaint in part. And I'm satisfied a fair outcome to this complaint is for Sainsburys to: (1) remove from Ms E's credit file all negative references to the credit card and default since September 2020; and (2) amend the credit card debt appropriately to an amount of £95.59 plus any amount of the previous payments Ms E was credited back but hasn't repaid. I've explained my reasons again below.

I've summarised this complaint briefly and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This reflects the informal nature of our service as a free alternative to the courts.

Like our Investigator, I think Sainsburys could and should have done a better job in the 2020 calls responding to Ms E's queries about the direct debit. I take on board everything Sainsburys has said about this, including it being Ms E's responsibility to have kept her address details on the card taken out in 2001 up to date. Nevertheless, I still think it wasn't unreasonable for Ms E to take from what Sainsburys said in the 2020 calls that it didn't know what the monthly payment was for; and that a financial business like Sainsburys really ought to have had been able to see on its systems, and to be able to clarify to Ms E, what the monthly payment was for if it was something she should still be paying (irrespective of how Sainsburys had such information internally arranged). I don't suppose it would be completely irregular for a customer to have an old card registered at a different address, and this ought to have been something Sainsburys considered.

I understand Sainsburys has said that even though it accepts it should have asked Ms E on the relevant call if she had any other accounts with it, it doubts this would have made a difference because it seemed she had forgotten about this card. But for the reasons I've explained, I do think, if Sainsburys had dealt with things as I'd reasonably expect it to, things ought to have been uncovered. I also think it's clear from what's happened that it was never Ms E's intention to miss any payments, it's just she'd forgotten about the card, and Sainsburys didn't set her straight on it when it most likely reasonably should have. I have no doubt that had Sainsburys done a better job with the calls as I'd reasonably expect it to, it's most likely this would have led to Ms E not then missing the payments on her card. The card balance on 19 September 2020 was only £95.59. I think it's fair to assume that had Sainsburys made Ms E aware she had this second card and this is what her second direct debit was for, Ms E would have agreed to pay the £95.59 down and close that account. This would then, obviously, have avoided the default and negative credit file references that consequently followed.

Ms E, however, wasn't as cautious or careful about things as I'd reasonably expect her to have been. I say this because in my opinion what Sainsburys said about the direct debit on its calls with her – at least in terms of the recordings available – wasn't exactly conclusive or definitive. Yet Ms E proceeded to cancel the direct debit which also resulted in previous payments being credited back to her, when she might have checked for example with credit agencies (although I admit that as a layperson this might not have been an option that would necessarily have crossed her mind). But in any case, there is also the matter of Ms E not having kept Sainsburys updated on her address for this card, which was her responsibility; and Ms E then not responding to some communications about the debt as carefully as I'd reasonably expect. For example, I understand Ms E has said that around March 2022 she was initially getting voicemails from Wescot with an automated voice asking her to call them, and Ms E googled them and saw they were debt collectors. I understand what Ms E has said about the nature of the calls and one of the letters she received, but I would expect Ms E not only to be cautious about potential scams but first and foremost to have done more sooner to make sure there wasn't an outstanding debt she'd forgotten about (particularly given the direct debit she'd cancelled, which I would expect to be something Ms E might have recalled given she'd, as a result, been credited back over £800 of previous payments). I take on board what Ms E has said about her calling Sainsburys about this and being told Sainsburys would leave her a personal voicemail if they wanted to speak to her so, she says, she *did* take steps to try to understand what was going on, and her actions were led wholly by the information Sainsburys gave her. But this still doesn't persuade me to change my mind, for the reasons I've already explained. This means that whilst I have no doubt this whole episode has caused Ms E distress and difficulty with her credit record, I don't think it would be fair here, given what I've said, to ask Sainsburys to pay Ms E compensation for distress and inconvenience.

Overall, in this particular case, whilst I acknowledge neither party may be particularly pleased about things, I am satisfied the fairest way to resolve things would be to say both

Sainsburys and Ms E could have done things better here. And ultimately it's fair that Sainsburys should remove from Ms E's credit file all negative references to the credit card and default since September 2020, and amend the credit card debt appropriately to £95.59 plus any amount of the previous payments Ms E claimed back but hasn't repaid; but Sainsburys shouldn't have to do more than this. For clarity, since I think the credit card would otherwise have been repaid but for what happened (as I've explained), and Ms E wasn't being charged interest on the debt by the relevant time anyway, I'm satisfied that no interest should be applied to the debt but that Sainsburys is entitled to pursue Ms E for repayment of it.

My final decision

For the reasons explained, I uphold this complaint in part and I direct Sainsbury's Bank Plc to:

- remove from Ms E's credit file all negative references to the credit card and default since September 2020; and
- amend the credit card balance appropriately to £95.59 plus the amount of previous payments made to the card that were paid back to Ms E as a result of the direct debit being cancelled in 2020.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms E to accept or reject my decision before 19 February 2024.

Neil Bridge
Ombudsman