

## **The complaint**

Mr A is unhappy with how Sainsbury's Bank Plc handled his two chargeback claims.

## **What happened**

Mr A used his Sainsbury's Bank's credit card to make three transactions to two merchants for some high value electrical goods.

Mr A made a transaction, for a custom hand-built item, with a merchant who I will refer to as 'K' in January 2023.

Mr A also purchased several other items, across two transactions, on 24 March 2023, to a merchant who I will refer to as 'C'.

For the transaction involving K, Mr A said when the item was delivered it was incorrect, and not the one he ordered, so he sent it back. He received an email from K indicating it would process his refund shortly. For the transaction involving C he returned four items in store on 25 March 2023. When the credit wasn't processed on his card for either transaction, he contacted Sainsbury's Bank to dispute these transactions.

For the transaction involving K, Sainsbury's Bank raised the chargeback under 'credit not processed'. When K defended the chargeback, Sainsbury's Bank didn't think it was a valid defence so continued with the chargeback claim to pre-arbitration stage. K defended the chargeback with new evidence. It said as the item Mr A ordered was hand built and packaged, and the warehouse from where this item was being shipped didn't stock any other items, it couldn't have sent anything other than the original item ordered by Mr A. K also said, the item it had received back from Mr A, appeared to be one which had been purchased by him previously using a different card under his name with his phone number too. Having considered things further Sainsbury's Bank declined the chargeback.

For the transaction involving C, Mr A contacted Sainsbury's Bank in April 2023, and it said it sent a declaration form to him. However, Sainsbury's Bank closed the claim when it didn't receive a response back from Mr A. In early July 2023, Mr A followed up with Sainsbury's Bank, and explained that he hadn't received the declaration form, so it sent another one.

Mr A completed the declaration form and provided receipts, but in July 2023, Sainsbury's Bank responded stating that more information was needed. Sainsbury's Bank requested full details of the items Mr A had purchased and returned, as the receipts he'd provided were unclear about which items had been returned and the amount refunded. It also asked for the reason for the returns, and evidence that he had attempted to resolve the dispute with the merchant first.

In August 2023 Mr A sent further information for Sainsbury's Bank to review. However, Sainsbury's Bank noted discrepancies between the product codes on the new receipts for the four returned items and the return receipts he previously provided. Sainsbury's Bank also said there was no evidence showing Mr A had contacted the merchant to resolve the issue before initiating a chargeback and stated that a chargeback could only be raised within 120

days from the date the products were returned, in accordance with the scheme's rules.

Despite continued correspondence between Mr A and Sainsbury's Bank, Sainsbury's Bank concluded that by the time Mr A had provided all the necessary information, it was no longer possible to initiate a chargeback, as he was out of time in accordance with the scheme rules.

In November 2023 Sainsbury's Bank wrote to Mr A to say it was closing his account.

Mr A contacted this service as he was unhappy Sainsbury's Bank did not get him a refund for both disputes and for how it handled his account closure. Mr A did however confirm since the dispute, he had now received a refund from merchant C but not from K.

Our investigator considered Sainsbury's Bank's actions. He wasn't persuaded that it should have refunded Mr A in the circumstances for both transactions and thought when Sainsbury's Bank closed his account, it did so in accordance with the terms and conditions of the account.

Mr A disagreed and in summary said the chargeback disputes weren't properly considered, he wanted an explanation of the evidence Sainsbury's Bank relied on for the chargeback disputes and the outcomes it had reached, along with a detailed explanation for his account closure. He also felt for merchant K by receiving the incorrect item, this had been misrepresented to him.

As Mr A has not agreed with the investigator the matter has come to me for a 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.

In deciding what I believe to be fair and reasonable in all the circumstances, I'm required to consider relevant law, rules, guidance, codes of practice as well as what I consider to have been good industry practice at the time.

Although I've read and considered the whole file, I might not comment on everything (only what I consider key) and this is not meant as a discourtesy to either party – but rather it reflects my role of resolving disputes informally.

I appreciate Mr A has mentioned issues around his account closure, but I can see that this is being dealt with under a different case reference at our service, so I won't be commenting on this aspect of Mr A's complaint. This decision will instead focus on the chargeback disputes against merchant K and C and how Sainsbury's Bank dealt with both disputes.

It is important to note here that Sainsbury's Bank is not the supplier of goods. Therefore, when I consider if it has acted fairly, I am looking at its role as a provider of financial services only – and if Sainsbury's Bank acted fairly in its handling of the disputes based on the information it was provided or was reasonably available to it at the time.

As Mr A used his credit card to pay for the goods in dispute, I consider the chargeback scheme and Section 75 of the Consumer Credit Act 1974 ("Section 75") to be particularly relevant here.

### **Chargeback**

A chargeback is the process by which payment settlement disputes are resolved between

card issuers and merchants, under the relevant card scheme rules. It allows customers to ask for a transaction to be refunded in a number of situations.

There's no automatic right to a chargeback; the chargeback process doesn't give consumers legal rights; and chargeback is not a guaranteed method of getting a refund because chargebacks may be defended by merchants.

It's important to note that chargebacks are decided based on the card scheme's rules – in this case Mastercard – and not the relative merits of the cardholder/merchant dispute. While it's good practice for a card issuer to attempt a chargeback where certain conditions are met and there's a reasonable prospect of success, there are grounds or dispute conditions set by the relevant card scheme that need to be considered. If these are not met, a chargeback is unlikely to succeed. And something going wrong with a merchant won't always lead to a successful claim.

Here I note that for the chargeback disputes against both merchants, the relevant chargeback rule for Mr A's disputes would relate to a 'credit not processed' as he is claiming a credit was not processed from the merchants following the return of goods.

#### Chargeback for dispute involving merchant K:

For this dispute I can see that Sainsbury's Bank did attempt a chargeback here when Mr A contacted it, which seemed like a fair step to take in order to help Mr A. When K defended the chargeback, Sainsbury's Bank considered that defence to be weak in relation to the chargeback code 'credit not processed', so it continued with the chargeback further. It wasn't until K provided a highly detailed defence at pre-arbitration stage with new compelling evidence, when Sainsbury's Bank decided not to take the chargeback further.

Although Sainsbury's Bank could have potentially taken the chargeback further and pushed it to arbitration, looking at the circumstances here I don't think it was acting unfairly. In response to the chargeback, K provided a highly detailed testimony, and considering the nature of the dispute and the allegations being made in the defence, Sainsbury's Bank's decision to discontinue the chargeback was not clearly unreasonable. I say this because:

- this is a complex dispute with the merchant strongly contesting Mr A's account and vice versa;
- there is a lack of compelling evidence at this stage to show K received the right item back (giving Mr A a right to a refund); and
- due to the nature of the dispute and what's been claimed by the merchant regarding the goods it received back, I think there are doubts as to how the card scheme would be able to effectively arbitrate in Mr A's favour here. Particularly noting that it would be unlikely to compel evidence or cross examine in a similar way to a court (which this matter is arguably better suited to than the chargeback scheme).

I appreciate Mr A provided Sainsbury's Bank a document from the merchant showing an item had been received back, with an initial indication he would be refunded. However, in light of the subsequent claims that were made by the merchant, namely that the item he ordered was hand built and the warehouse it was sent from didn't store any other items, along with the fact that the item which he sent back appeared to be one that had been paid previously using another credit card belonging to him, I don't think there was enough to say Mr A would likely have got a positive outcome here had the chargeback progressed to arbitration.

And so it seems Sainsbury's Bank was not acting unreasonably in not pushing the chargeback further here. But even if I agreed that Sainsbury's Bank should have pushed things further (which I don't) – I don't think there is a clearcut case to show that its actions have deprived Mr A of funds he would likely have recovered through the chargeback scheme in any event, so I don't think it did anything incorrect by not taking the chargeback further.

#### Chargeback for dispute involving merchant C:

Here, I am satisfied that Sainsbury's Bank did what it could've with the information it had at the time Mr A raised his dispute against C.

Mr A said he returned the goods back to C on 25 March 2023. With chargeback, given its time limits, Sainsbury's Bank had until 23 July 2023 to raise a chargeback for him, and Mr A would've had to provide all the relevant information to Sainsbury's Bank before then.

Having looked at the available evidence, it appears Mr A caused some initial delays with not providing the declaration form back sooner, and the information he did provide to Sainsbury's Bank in July 2023, wasn't enough to satisfy the conditions for the chargeback code, 'credit not processed'. So, I don't think it was unreasonable for Sainsbury's Bank not to have raised a dispute then. I say this because the amount on the receipts Mr A provided, and the amounts he was claiming for didn't match and there was no further commentary provided by Mr A to explain the discrepancies. There also didn't appear to be a copy of the original invoice receipt for the items that were bought.

Whilst Mr A went on to provide other information relevant to the chargeback, this was unfortunately too late for Sainsbury's Bank to have been able to raise a chargeback. Whilst I do think it would have been helpful for Sainsbury's Bank to have told Mr A earlier than it did that he was out of time to raise a chargeback, I don't think it would have made a difference, as I consider Mr A had enough time from when he first contacted Sainsbury's Bank to provide the relevant information for his dispute before the 120 days had been reached.

Whilst Mr A has since confirmed that he has received a refund from the merchant directly, I can't say that Sainsbury's Bank did anything wrong in terms of how it handled the chargeback against C.

#### Section 75

Although, it's unclear if Sainsbury's Bank reviewed Mr A's disputes under Section 75, given he has said he has been refunded for the dispute against C, I have considered whether Mr A could've had a refund through Section 75 for his claim against K.

Under Section 75 Mr A can hold Sainsbury's Bank liable for a 'like claim' that he would have against the supplier in court for breach of contract or misrepresentation.

There are certain requirements for a valid Section 75 claim to be in place, such as those relating to the cost of goods or the relationship of the parties to the agreement. In this case I am satisfied those requirements are met. So, in order to decide if Sainsbury's Bank acted fairly in declining the claim, I need to consider if there is persuasive evidence of a breach of contract, or misrepresentation by the supplier here.

Whilst Mr A mentioned the item, he received, wasn't what he had ordered and for that reason he thought the item had been misrepresented, I don't consider Mr A's understanding of misrepresentation to be correct in relation to a Section 75 claim. When Mr A initially contacted the merchant to say he had been given the wrong item, there was no issue with how the merchant said it would rectify this. It said it would refund him when the item was

returned. When it subsequently provided evidence to say it hadn't received the correct item, and the item it did receive was from a previous order placed using another card of Mr A, and why it now wouldn't refund him, this essentially is about a claim about an alleged breach of the terms of the merchant's refund policy when goods are returned, rather than one of misrepresentation.

In terms of an alleged breach of contract, I note that the merchant will issue a refund if goods are returned within a certain time period – so a failure to do so would be a breach of contract which Sainsbury's Bank is potentially liable for.

The issue here however is not straightforward given what has been alleged by the merchant. In coming to my findings, I have to keep in mind that I am unable to compel witnesses or investigate in the manner a court or other authorities might. There appears to be no dispute that Mr A did send an item to the merchant. However, the underlying dispute is over what was sent back to the merchant.

Although I fully take into account what Mr A has said about receiving the incorrect item initially, and never receiving the goods he had actually ordered, my decision is about whether Sainsbury's Bank acted fairly in not refunding Mr A based on the evidence it had available to it. And I don't think it acted unfairly by not considering Section 75 further considering:

- the nature of the dispute, the value of the goods, and the defence and serious allegations made by the merchant;
- the lack of compelling evidence to show the merchant received the correct item back; and
- its inability to compel witnesses or other evidence in a way a court might be able to.

It is important to note that I am not saying definitely what happened here or indicating that Mr A did something wrong. However, fundamentally I don't think Sainsbury's Bank was presented with evidence that would have reasonably meant it should have concluded a breach had taken place and refunded Mr A in full here. I think there are too many questions and insufficient evidence to say the supplier has likely breached its contract with Mr A by not issuing a refund in the circumstances.

I know this will come as a disappointment to Mr A and I am sorry to hear about the financial difficulties this situation has caused him. However, as I have indicated, my role here is limited to informal dispute resolution looking at Sainsbury's Bank's handling of the claim only and I don't think it has done anything wrong in how it handled Mr A's claims.

Mr A also does not have to accept my decision – and is free to consider other avenues to pursue this matter – such as court and may wish to seek independent legal advice.

### **My final decision**

For the reasons given above, I do not uphold Mr A's case against Sainsbury's Bank PLC

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 14 March 2025.

Farhana Akhtar  
**Ombudsman**