

## **The complaint**

Mr D is unhappy that Sainsbury's Bank Plc refused his claim under section 75 of the Consumer Credit Act 1974.

## **What happened**

In May 2018 Mr D paid a garage, H, for some work on his car for £499 using his Sainsbury's credit card. When the car broke down the next day, H agreed to repair the car. Mr D was unhappy with the repair work, as he thought H caused further damage to his car whilst repairing it and was also responsible for a diesel spill which damaged his driveway.

H carried out further remedial work to the car and arranged for the driveway to be cleaned.

When Mr D remained unhappy with H, he contacted Sainsbury's.

Sainsbury's offered Mr D a settlement of £506.07, representing a refund of the £499 he'd paid H and the cost of water and electricity used when his driveway was cleaned.

On 4 October 2019 Mr D signed and accepted Sainsbury's offer in full and final settlement.

Later in June 2023 Mr D asked Sainsbury's to raise an additional section 75 claim. Mr D said that the diesel spill from 2018, which H arranged to have cleaned, had now caused a crack in his driveway and it needed a full replacement.

In September 2023 Sainsbury's wrote to Mr D. It said it was unable to assist Mr D further with his claim as he had already been refunded, for the failed repairs of his car, which he accepted in full and final settlement of the claim in 2019. Sainsbury's also said the offer of the driveway repairs was made to Mr D directly by H, which he accepted. Sainsbury's said it was unable to make any further reimbursement about the driveway as the contractual agreement for this work didn't include them.

Mr D remained unhappy and referred the matter to this service, where one of our investigators considered it. The investigator wasn't persuaded by the evidence that Mr D had provided to show the issues he was now facing with his driveway was because of the work carried out in 2018. The investigator didn't uphold Mr D's complaint and didn't think Sainsbury's needed to do any more to resolve his complaint.

Mr D didn't agree with the investigator and asked that an ombudsman review the case.

The case has now been 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.

Section 75 provides that, under a very specific set of circumstances, a consumer may seek to recover money paid under a contract with a supplier from his or her credit card provider.

This means that the credit card provider can, in some circumstances, be held equally liable with the supplier for a breach of contract or misrepresentation.

However, in this case, Mr D accepted a full and final settlement from Sainsbury's on 4 October 2019 when he initially made his section 75 claim.

The settlement form which he signed said:

*"I the undersigned accept the sum of £506.07 in full and final settlement of all claims against Sainsbury's Bank under Section 75 of the Consumer Credit Act 1974 arising out of, or in connection with, the transaction on my credit card account..."*

In accepting Sainsbury's offer of a refund in 2019, in full and final settlement, Sainsbury's had remedied the breach of contract that was caused by the repairs H carried out, which weren't carried out with reasonable care and skill. I've also not seen anything to suggest that Mr D was misled, pressured, or didn't understand what he was signing and agreeing to at the time.

And so, I don't think it would be fair or reasonable for me to ask Sainsbury's to do anything else here.

In any event, if Mr D had not accepted the offer in full and final settlement, I don't think it would have been reasonably clear to Sainsbury's that there was an outstanding breach of contract to remedy here.

I say this because Mr D hasn't provided what I consider to be sufficient evidence to reasonably conclude why his driveway cracked, and whether this was in relation to his original claim.

Overall and on balance, I don't think that it would be fair or reasonable for me to require Sainsbury's to do anything further here.

I appreciate Mr D feels very strongly about this, and I realise he is likely to be disappointed by my decision. He is not bound to accept it; if he does not, he will be free to pursue the matter against Sainsbury's by other means – including in court – if he wishes.

### **My final decision**

For the reasons I have given, my final decision is that I do not uphold this complaint against Sainsbury's Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 2 August 2024.

Farhana Akhtar  
**Ombudsman**