

The complaint

Mr A is unhappy HSBC UK Bank Plc (HSBC) allowed him to spend funds that would have taken him into an unarranged overdraft on his bank account. He feels HSBC shouldn't have allowed this.

What happened

In January 2019 Mr A made some deposits on a gambling website, using the details of the bank account he holds with HSBC. Because Mr A didn't have enough funds in his account to cover the deposits, these payments would have taken Mr A's bank account into an unarranged overdraft.

Recognising this, Mr A paid some money into his account, so as not to enter the unarranged overdraft – or to incur charges. He also emailed HSBC and asked whether there was a way transactions that would take him into an unarranged overdraft could be stopped, because he had difficulties with gambling online. Mr A chased a response from HSBC a few days later. He noted his situation had worsened, and that he would like his local branch to call him about the issue.

Mr A's account was due to enter an unarranged overdraft again, because of further gambling transactions. This ultimately didn't happen – because Mr A said he borrowed some money from a family member to pay the funds off. But, he wanted to stop the possibility of going into an unarranged overdraft again.

HSBC responded to Mr A's emails and said it couldn't discuss his bank account over email as this wasn't secure. It provided Mr A with options to call its customer service centre, discuss the matter over 'live chat' or said he could visit his local branch. Mr A took the option to write to his local branch – to ask whether there was a way to stop any transactions that would take him over his arranged overdraft limit.

Mr A received a response to this letter in April 2019, when an account review was arranged. During the review a stop was placed on Mr A's account – for one year. But Mr A feels HSBC should have taken action before this. He said HSBC shouldn't have accepted requests for payment in January 2019, knowing he didn't have money to cover the transactions. Mr A also said it was clear he had a gambling vulnerability, and that the requests were in relation to this. So, he raised a complaint with HSBC.

HSBC didn't think it had done anything wrong in allowing the payment requests made to go through. It said the terms and conditions of Mr A's account explained that if a payment request was made that took an account holder over an arranged overdraft limit, it would treat this as a request for an unarranged overdraft. And this was what happened in Mr A's case. HSBC also said it didn't offer a service to restrict the use of gambling websites. So, it didn't think it should have done anything to stop the payments. Because Mr A was unhappy with this, he referred his complaint to this service for an independent review.

Our investigator reviewed Mr A's complaint and didn't think it should be upheld. He said Mr A's account was generally well run, and HSBC weren't aware Mr A had difficulties with

gambling – before he told them this in January 2019. So, he wouldn't have expected HSBC to take any steps to stop Mr A going into his unarranged overdraft at that time.

Our investigator also said that when HSBC did become aware Mr A's gambling vulnerability, it took steps to assist where it could – although there was a delay in this being carried out. But he said HSBC had offered £100 compensation for this delay. And he thought this level of compensation was fair.

Mr A didn't agree. He said;

- he had spent a large amount of funds on gambling websites over a 21 month period – and that this should have raised concerns for HSBC, before he told them of the problem;
- HSBC shouldn't have allowed funds that weren't there to be debited from his account
- HSBC now has the facility for their account holders to put a stop on their account, so that deposits to gambling websites couldn't be carried out.

Because Mr A didn't agree, this complaint has been referred 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.

Having done so, I've decided not to uphold this complaint. I've explained why below.

I've reviewed the terms and conditions of Mr A's account – and I can see these do say HSBC won't allow payments to leave an account if there is no money left in it (including the any overdraft). But, the terms do also say HSBC may allow an unarranged overdraft, where it thinks the account holder can afford it. So, I'm satisfied it can allow a payment to go through, where there are no funds in the account at the time – if this looks affordable.

But Mr A has said that because of his difficulties with gambling, HSBC shouldn't have allowed this to happen. He said that he had carried out a lot of gambling transactions on the account in the past – in comparison to his income. And that if HSBC had refused the payments, he wouldn't have lost money on the gambling website. Given this, I've needed to think about whether HSBC acted fairly in allowing the payments to go through.

I've thought carefully about this. I can see Mr A has taken several steps himself to assist with his gambling difficulties. But I don't think HSBC did anything wrong in this case by allowing the payments to go through.

HSBC wasn't aware of Mr A's difficulties with gambling at the time he made the first transaction in January 2019. It wasn't until after this Mr A contacted HSBC to let it know he had difficulties with gambling and needed support. So, I'm satisfied that HSBC didn't have any cause to take action to support Mr A at this point.

Mr A has said the amount of gambling transactions on his account should have alerted HSBC to his relationship with gambling websites before he told it. So, he feels it should have taken steps before the branch meeting. But I don't think there was enough evidence to alert HSBC that it should refuse the payments or an unarranged overdraft.

I say this because I've reviewed Mr A's bank account statements. I can see a large number of transactions were made to gambling websites before the payment requests in question. But it is an account holder's decision as to what they spend money on. And it wouldn't be for a bank to make this decision for its account holders, where it didn't know of vulnerabilities.

An account holder is entitled to spend their money and agreed overdraft as they see fit – if these are in line with the terms of their account.

Mr A was managing his account well prior to January 2019. His account rarely went into its overdraft, and never over the agreed overdraft limit. It's possible the account could have gone into an unarranged overdraft in January 2019. But this didn't happen at this point either. Mr A had deposited funds into his account, to ensure this wouldn't take place.

I do understand what Mr A has said about the amount of money he had spent on gambling before, in comparison to his income. But given that Mr A's account was managed well at the time, I don't think there was enough evidence to highlight to HSBC that Mr A was in difficulties, or needed assistance, until he told it this was the case. So, I don't think it did anything wrong in allowing the payments to go through or agreeing to provide an unarranged overdraft.

Once Mr A had told HSBC he was experiencing difficulties with gambling, and managing his account as a result, HSBC explained how he could seek assistance with his account – via the branch, a live chat or on the customer helpline at this point. I think this was the right thing for HSBC to do. Mr A's account would need to be discussed securely – and it provided options for Mr A to do this.

At the time Mr A's concerns were raised, HSBC has explained there wasn't a facility for restrictions for gambling websites to be added to an account. But, when Mr A visited the branch in April 2019, it did put a stop on his account for the period of a year, to assist Mr A. So, I'm satisfied it did take a fair step to help Mr A once it knew of the problem and met with Mr A to ensure Mr A wasn't able to spend over his agreed overdraft limit.

Mr A has also raised concerns about the length of time it took HSBC to deal with his request for support. I can see that when Mr A wrote to his local branch in February 2019 it took HSBC until early April 2019 to respond. So, just under two months to provide some assistance.

I do think HSBC should have contacted Mr A sooner to arrange a discussion about his account. HSBC has recognised it should have responded more quickly – and offered an amount of £100 compensation to apologise for this error. So, I've needed to consider whether this offer is reasonable.

Between February and April 2019, when Mr A received a response from HSBC, Mr A didn't make any further payment requests. So, HSBC's failure to act more efficiently didn't lead Mr A to incur further gambling losses. But, I do think this delay caused trouble and upset to him. Mr A was anxious to receive a response from HSBC. He chased for a response, and understandably wanted to do everything he could do to get his gambling difficulties under control. So, I think it's right that HSBC provided compensation for the trouble and upset this caused to Mr A.

I also think the amount already offered to Mr A for this is fair and reasonable. I think it fairly reflects the inconvenience in Mr A needing to chase for a response from HSBC, and the upset waiting the matter to be discussed would have caused. It's my understanding HSBC has paid this amount to Mr A. So, I'm satisfied it doesn't need to do anything more.

My final decision

Given the above, my final decision is that I don't uphold this complaint. I think the £100 compensation offered and already paid by HSBC UK Bank Plc is fair. So, I don't require it to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 18 February 2020.

Rachel Woods
Ombudsman