

The complaint

Mr F complains that HSBC UK Bank Plc didn't do more to limit the gambling transactions he made from his basic account.

What happened

In 2019 Mr F contacted HSBC to say he didn't recognise a number of gambling transactions on his account. HSBC looked into the matter but declined Mr F's request for a refund as it thought he'd authorised them. Mr F later accepted he'd authorised the transactions but felt HSBC was wrong to allow gambling related payments.

HSBC explained gambling is legal and it wouldn't refuse to pay a merchant if it received a valid instruction from an account holder. HSBC did, however, agree to call Mr F to discuss ways to control his spending, such as reducing cash machine withdrawal limits, withdrawing his debit card or allowing a third party to manage his account.

In 2020 Mr F gambled again which placed him in a very difficult situation. He complained to HSBC saying it had said it would restrict gambling on his account when the agreed call took place. HSBC declined his request for a refund. But it did apply a new feature – a gambling restrictor – to his account. Mr F didn't think he'd been treated fairly so he asked our service for an independent review.

The investigator thought HSBC had acted fairly. She said that whilst she couldn't see a call had been made, she didn't feel there was anything more that HSBC could have done at that time that would have helped control these later transactions.

Mr F didn't accept this. He didn't think he had been treated fairly or HSBC had done what they said they would. He felt that HSBC should have contacted him when the restriction feature was available, so he could put it in place. As he remains unhappy, it's 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.

Having done so, I have to tell Mr F that I think the investigator has reached a fair outcome here. So, I don't uphold his complaint in this matter. I'll explain why.

I think it is important to start with the responsibilities of the bank. Whilst Mr F banks with HSBC, they are required to make payments on receipt of authorised transactions. Mr F made a number of these to various websites for the purposes of gambling. He thinks HSBC should have done more to restrict these transactions and has asked for a refund of these

amounts. However, I wouldn't expect HSBC to monitor individual spending and/or place restrictions, unless there had been an agreement to or there was a trigger, such as suspicious activity. Which wasn't the case here.

I have looked at what both parties agreed in 2019. Mr F is said to have acknowledged that HSBC couldn't monitor individual spending but both parties agreed that HSBC should have done more to have limited the gambling transactions after the complaint had been brought. It was also agreed that HSBC would contact Mr F in July 2019 to see what more they could do to help him control this going forward. I am satisfied that nothing further to this was guaranteed.

However, I can't be sure as to whether this call went ahead. Mr F says it did and that he was told a gambling restriction would be put in place. HSBC has said that they don't have a record of this call and that the restriction feature couldn't have been offered, as it wasn't available until November 2019.

When the evidence is inconclusive, as it is here, I reach my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened, in light of the evidence that is available. As the feature wasn't yet available, I think it is more likely than not, that HSBC didn't commit to putting it in place.

I have gone on to consider what might have been put in place at the time the call did or should have taken place. All HSBC say they could have offered Mr F during a call in July 2019, was to reduce cash machine withdrawal limits, withdraw his debit card or allow a third party to manage his account. I am not satisfied that these options would have been acceptable for Mr F. Withdrawal of his card in particular, would have made day-to-day use of the account difficult and is unlikely to have been accepted. So, on balance, I don't think these measures would have been agreed and wouldn't have stopped the further gambling transactions that were made.

Mr F has said that HSBC should have contacted him in November 2019, when the gambling restriction feature became available. Whilst ideally this would have happened and may have made a difference, I don't agree that it is reasonable to expect HSBC to have done this. They hadn't agreed to do it and I don't believe it is feasible that they contact every customer individually that they think might have benefitted from this.

In summary, I think it's more likely than not that HSBC didn't commit to putting the gambling restriction in place in July 2019, as it wasn't available yet. I am not satisfied that there is anything that HSBC could have done at that time that would have prevented the later gambling transactions. I also don't think it is fair to expect HSBC to have contacted Mr F personally in November 2019 to make him aware of the gambling restriction feature that had been launched.

I accept my decision will come to disappoint Mr F. But, for the reasons set out above, I don't require HSBC to do anything to resolve this complaint. My decision ends what we – in attempting to resolve Mr F's dispute with HSBC – can do for him.

My final decision

For the reasons set out above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 16 July 2021.

Yoni Smith
Ombudsman