

The complaint

Mrs M brings this complaint on behalf of her son Mr M and complains HSBC UK Bank plc (HSBC) failed to apply a spending cap on her son's bank account.

What happened

Mrs M says she opened a bank account in branch for her son in early April 2019 and was told at that time, there would be a £30 daily spending cap on the account. Mrs M says in October 2021 she discovered her son had spent over £1,800 over a period of a couple of months on gaming products/services well in excess of the limit she believed was in place. Mrs M says HSBC failed to apply the spending cap, failed to flag unusual activity on her son's bank account, or safeguard a vulnerable child with appropriate blocks, or send alert messages.

Mrs M says it was difficult for her to gain access to her son's bank account but didn't feel the need to check his account activity, given she believed the cap was in place. Mrs M feels HSBC need to offer a fair resolution and the £100 it offered doesn't go far enough.

HSBC says there wasn't any daily spending cap for her son's bank account, as he was over the age of 11 and this was detailed in the terms and conditions of the account that Mrs M had agreed to and had third party access. HSBC says while it has no record of a member of staff informing Mrs M that a £30 daily spending cap would be put in place, it had offered her £100 for any potential wrong information received in branch.

HSBC says no fraudulent payments were made from her son's account and Mrs M had agreed a debit card could be issued to him. HSBC says her son in October 2020, made payments from his bank account above the £30 cap she believed was in place and these had never been questioned by her. HSBC says Mrs M would have access to her son's account as a third party, so she could have checked the account activity. HSBC says it doesn't complete manual monitoring of accounts but does have controls to detect fraud but there was none here. HSBC doesn't feel it has done anything wrong.

Mrs M wasn't happy with HSBC's response and referred the matter to this service.

The investigator looked at all the available information but didn't uphold the complaint. The investigator felt from the evidence he had seen there was no spending cap in place on Mrs M's son's bank account with HSBC, that only applied to applicants under the age of 11. The investigator says he couldn't be certain any member of staff would have said a £30 cap was in place, as in any event the cap was set at £50 for those aged under 11. The investigator pointed out that her son was the eligible complainant and not her.

The investigator felt her son was the account holder and could find no evidence to suggest he didn't want the transactions to go through and had benefited from those. The investigator says the transactions weren't fraudulent and even if HSBC had contacted her son to authorise any of the payments it wouldn't have made any difference. While the investigator agreed it may have been difficult for Mrs M to monitor her son's bank account, as the account was in her son's name he could administer the account as he was allowed to under

the account terms and conditions.

The investigator says Mrs M's son had applied for online banking as he was free to do, meaning statements were available to him to view online. The investigator also went on to say HSBC's process doesn't require one-time pass codes (OTPC) for all transactions and none of the transactions were fraudulent in any event. The investigator felt HSBC had acted within its terms and conditions and he wouldn't be asking them to refund any of the transactions made by her son.

Mrs M didn't agree with the investigator's view and felt he hadn't considered her son was a vulnerable person and the account activity should have flagged to HSBC, there was compulsive spending behaviour.

The investigator says there was no evidence to suggest HSBC were made aware of any compulsive spending concerns for Mrs M's son and if it had, the investigator felt HSBC would have taken necessary steps to help, but that wouldn't mean HSBC would have to stop any spending on the account. The investigator made the point that even if HSBC had attempted to flag this with Mrs M's son, in all likelihood he would have authorised the transactions.

Mrs M asked for the matter to be referred to an ombudsman 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.

Having done so, I won't be upholding this complaint and I will explain how I have come to my decision.

I can understand it would have been upsetting for Mrs M to have discovered her son had spent all of his savings on computer game coins and that the spending cap on his bank account, she believed was in place, wasn't. When looking at this complaint I will consider if HSBC were at fault for allowing the transactions on Mrs M's son's bank account to be processed without further checks being implemented.

Mrs M and HSBC have provided this service with comprehensive details and information regarding this complaint and while that has proved helpful, I won't be commenting on every point made as I don't feel it's necessary in order to come to a full and impartial decision here. That's not to say I haven't considered everything – I have.

There are a number of issues Mrs M has raised concerning this complaint, but the key areas the complaint centres around are that :

- A daily spending cap was not applied to her son's account.
- HSBC failed to flag any unusual/compulsive spending activity.
- No controls were in place to safeguard her son.
- It was impossible for her to obtain third party access to her son's account.

I understand the points Mrs M makes here and I will consider each of these points individually.

Firstly, regarding the spending cap Mrs M refers to, she told this service that she was informed on opening the account in 2019, a daily £30 spending cap would be put in place. Like the investigator having looked at the account opening forms and terms and conditions of the account, there is no mention of a £30 daily cap. What I can see is the terms and conditions state, *“if your child is under 11 we will require your consent for withdrawals and transfers of £50 or more from a MySavings account.”* Mrs M's son was just over 11 at the time of the account opening and 13 when the transactions took place, so although Mrs M believed this restriction was in place, unfortunately that wasn't the case here.

Additionally, in the welcome pack for 11-17-year-olds that Mrs M and her son would have been given at the time of opening, it states: *“your parent or guardian may access your account to get information to help you manage your finances, although they cannot withdraw your money”*.

This suggests this bank account is designed for the account holder Mr M to operate, without the need of any further authorisation from Mrs M.

HSBC have taken the view here while there's no record of any of its staff ever mentioning a £30 daily cap, it would as a gesture offer Mrs M £100 by way of apology for any potential misunderstanding at that time, and so without any other evidence being available here, I am satisfied on balance, that was a reasonable and fair offer made by HSBC in the circumstances.

Mrs M also feels HSBC have failed to recognise what she believes is obvious unusual and/or compulsive spending activity on her son's bank account, as recognised by Gamble Aware and the Financial Conduct Authority. The first thing to say is the conduct of Mrs M's son's bank account and the transactions passing through it wouldn't be considered as gambling, nor have any of these transactions been contested by the account holder or Mrs M as unlawful in anyway. Mrs M has made the point her son was a vulnerable child, but it's reasonable to say that simply being a minor wouldn't prevent her son holding or operating a bank account and this had been authorised by her, with third party access.

While Mrs M says when she discussed this with her son, he was regretful that he'd spent his money on gaming coins, there's nothing to suggest he didn't wish these transactions to take place at the time and he received the items he purchased. From the bank account statements I have seen, I can't say that simply because her son made several transactions for computer games/products, that on its own, would necessarily suggest there was a problem that needed identifying by HSBC. HSBC have confirmed it does have a number of system controls to detect fraud rather than the volume and usage of its customer's accounts, which is what I would expect here. It's also worth saying HSBC would have no general obligation to monitor or curb a customer's spending in that way, for what after all were legitimate authorised transactions.

As far as Mrs M's point regarding controls and alerts not being in place, HSBC have told this service its processes wouldn't ordinarily have one-time passcodes sent for all its customer transactions. It's fair to say even if an alert like this had been sent, it would have been sent to Mr M, and I can't discount the possibility he would have authorised them at that time.

While I can see it may have been difficult for Mrs M to access her son's bank account after he had opted for online banking, that was permissible for him to do, under the bank account terms and conditions. That said while it may have been inconvenient for Mrs M to have to either telephone HSBC, visit the branch or indeed speak to her son, it wasn't *“impossible”* for her to gain access or view the account transactions on her son's bank account, if she wanted to. But I accept she was under the impression a daily spending cap was in place – but unfortunately it wasn't here for the reasons I have already explained.

Taking this all into account and without trying to minimise the frustration and upset this would have undoubtedly caused, I am satisfied HSBC have acted in line with the terms and conditions of Mr M's bank account.

While Mrs M and Mr M will be disappointed with my decision, I won't be asking anymore of HSBC, other than to pay the £100 it has already offered.

My final decision

My final decision is that I do not uphold this complaint.

HSBC UK Bank plc has already made an offer to pay £100 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that HSBC UK Bank plc should pay £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 15 March 2023.

Barry White
Ombudsman