

The complaint

Miss D complains that Santander UK Plc treated her unfairly by allowing her to make gambling transactions from her account.

Miss D is represented throughout by her mother, Ms P.

What happened

Miss D had a current account with Santander.

Ms P told us:

- In March 2022 over a period of three days, Miss D made 42 transactions totaling £545 to a gambling site. She also made similar transactions through an account with another bank.
- She only became aware of the gambling transactions when the other bank contacted her daughter.
- Miss D is a minor and due to a medical condition is vulnerable and wouldn't have been aware of the impact of her actions.
- Santander should have identified that the transactions were being made to gambling sites when it would have been aware that Miss D was under-age.
- The other bank had refunded Miss D and admitted it shouldn't have allowed the transactions to be made, so Santander should do the same.

Santander told us:

- Miss D had made the transactions herself using her debit card and there had been no reason for it to block the payments.
- It wouldn't be able to block all transactions made to gambling merchants, but in this case the merchant code was for entertainment not gambling - and Miss D had also ticked on the merchant site to say that she was over 18.
- It hadn't refunded the transactions as there hadn't been a bank error.

Our investigator didn't recommend the complaint be upheld. She said:

- She hadn't seen any evidence that Santander were aware of Miss D's vulnerability, so it didn't have the opportunity to put protective measures in place.
- As the bank wasn't aware of Miss D's circumstances, it only applied its standard checks on the transactions to check they were authorised by the account holder.
- As the transactions were authorised, there was no reason for the bank to raise any concerns about the account.

Ms P didn't agree. She didn't understand why the other bank had identified the transactions, but Santander didn't and that there was no protection in place given Miss D's age. Ms P also didn't think it was reasonable that Santander hadn't flagged the transactions as unusual

given the amount in such a short period of time. So she asked for an ombudsman to review the complaint.

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 it. I'll explain why.

The circumstances leading to the complaint aren't disputed by either party, so I won't repeat these here. It's also not disputed by either party that Miss D made and authorised the gambling transactions, the key point is whether or not Santander should have done more when the payments were made. I don't think it should have and I'll explain why.

Santander said that it didn't stop the gambling transactions, as the payments had been made and authorised by Miss D. It also said that it wasn't able to stop transactions to all gambling sites and that Miss D had ticked to say she was over eighteen to make the transactions, and it's likely the third-party gambling site wouldn't have allowed her to proceed had she not done this.

Ms P says that the bank should have spotted the transactions as they were unusual for Miss D. However, whilst I recognise that previously there hadn't been any debits of this kind through the account, I've looked at the amount and frequency of the payments and unfortunately, I don't think it's reasonable for Santander to have flagged them as a concern. I say this because, the payments Miss D made ranged between £5 to £25. And whilst I recognise this may have been significant amounts to Miss D, in terms of payments which would be flagged by the bank, these were relatively small and therefore didn't alert the bank there was an issue.

I've also seen that at the highest point, there were seventeen transactions in a day which again, although may seem significant to Miss D, didn't appear concerning to the bank. Looking at Miss D's statement I can see that although the transactions accounted for debits totalling around half the balance, there was still crucially a credit balance of about half remaining in the account. And as there were no restrictions or warnings on the account, I think it was reasonable that the payments weren't questioned.

Ms P says that regardless that Miss D had said on the gambling site that she was eighteen, the bank should have been aware that she was a minor and stopped the payments. She says Santander should acknowledge their mistake in the same way as Miss D's other bank. I understand why Ms P feels this way and the impact this situation has had on Miss D. However, a bank can only see if a transaction is made to a gambling site if the transaction presents a 'Merchant Category Code' this is a specific code that is used to identify merchants/sites by the goods or services they provide.

There are many hundreds of category codes which are assigned to particular merchant types or names. In this case, the transaction was declared as an entertainment site not a gambling site – and therefore would have had the category code assigned to this type of site. This means that Santander wouldn't have been aware that Miss D was making payments for gambling transactions. I acknowledge this is likely to cause frustration for Ms P but unfortunately, it's not something the bank or this service can ask the site to change.

I've also looked at the copy of the other bank's response to see how it viewed these transactions differently to Santander. But I can see that the other bank also didn't say that it could or should have prevented Miss D making the transactions - only that it refunded them as a gesture of goodwill. So based on what I've seen, I can't reasonably say Santander did

something wrong by refusing to refund the transactions Miss D made just because another bank made a different decision.

I understand that Ms P will be disappointed with my decision as she wanted all the gambling transactions refunded to Miss D. And there's no question here that Miss D is vulnerable or that she regrets mispending her money. However, based on the evidence from all parties I don't think Santander did anything wrong in allowing these transactions to be made from Miss D's account. If Ms P has ongoing concerns about Miss D's ability to use the account without support, she can speak to Santander to ask what options are available.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D and Ms P to accept or reject my decision before 28 February 2023.

Jenny Lomax
Ombudsman