

The complaint

Mr S is unhappy that Santander UK Plc didn't do more to help stop him losing money to gambling via payments made from his current account.

What happened

The circumstances that led to this complaint are well known to both parties, so I won't repeat them in detail here. But, in summary:

- Mr S complained to this service that the bank has known for many years that he had a gambling addiction. But it didn't do anything to help with this and it loaned him £15,000 in April 2022, which he then gambled away.
- Santander said Mr S hadn't told it about his addiction until 2022 and the decision to grant Mr S's request for a home improvement loan was agreed after undertaking appropriate affordability checks.
- Mr S's concerns about the mis-sold loan were dealt with under a separate complaint. The adjudicator who looked into Mr S's concerns about the support he'd received for his gambling addiction didn't recommend that the complaint should be upheld. She didn't think the bank had treated Mr S unfairly. Mr S disagreed, so the complaint has come to me.

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, and while I appreciate this will come as a disappointment to Mr S, I've reached the same outcome as the adjudicator, for much the same reasons. I note, in particular that:

- As above, Mr S's complaint about the bank's decision to give him a loan in April 2022 has been considered separately. But, when making my decision on this complaint, I've taken into account what he said and provided on the loan complaint about his gambling addiction and related interactions with the bank.
- Santander has shared Mr S's account activity from January 2022 to July 2023 and I can see he spent a lot of money on gambling in that time. I'm also willing to accept his gambling and addiction might go back further than that. But he's provided no evidence to support his assertion that he complained to, or sought help from, Santander about this prior to 2022. And the bank has shared its notes and related correspondence about all the complaints he's made going back to 2017. None of the complaints made prior to 2022 refer in any way to Mr S's gambling or his addiction.
- The Financial Conduct Authority (the financial services industry regulator) has published a number of guidance notes, occasional and consultation papers about vulnerable

customers and the need to treat them fairly. And it's arguable that the addiction Mr S describes made him vulnerable. But there are no industry-agreed definitions for problematic or harmful gambling and no specific rules in place which say what a bank must do, either when it realises a consumer might have a gambling addiction or when the consumer tells them this specifically. Furthermore, most banks don't manually monitor accounts or have specific mechanisms to look for gambling activity beyond identifying debit card payments made to gambling merchants using standardised Merchant Category Codes (MCCs). So, a bank is only likely to become aware of a potential gambling problem if the consumer has told them about it, or if the account activity has flagged up for some other reason. That could be because the pattern of spending had triggered fraud detection algorithms. Or there are signs of financial difficulty on the account, such as regular use of an unplanned overdraft, returned direct debits, being over a credit limit or missing expected repayments. But I've seen nothing to suggest that any of Mr S's payments to gambling merchants triggered Santander's fraud detection systems. And the account activity I've seen shows that Mr S maintained a very healthy credit balance in his account.

- Mr S suggests his outgoings (including gambling) exceed his income and he wants Santander to refund all of the money he lost to gambling. But I note there have been many occasions where money has been credited back from the same gambling merchants to which he previously made payments. And Mr S has also sent large sums of money out of his account with Santander to other accounts. This included, in mid-April 2022 – soon after he took the £15,000 loan from Santander – a £72,000 payment to a Building Society. And, cross-referencing this with the information he's provided from his credit file suggest this money was used to repay his mortgage early. I also note from Mr S's credit file that although he's held a number of loans and credit cards over the years these have all been well-serviced and, often, repaid early. And, although I've only seen Mr S's specific account activity going back to January 2022, his credit file record for the current account goes back to April 2019 and suggests Mr S hasn't had to use his £3,400 overdraft limit in that time.
- Santander is expected to process payments and withdrawals that Mr S authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of his account. And Mr S is, ultimately entitled, to spend his money as he sees fit. As noted above, from the evidence I've seen, it looks like all the money that Mr S spent from his Santander account on gambling was his own. And, overall, given the way Mr S was operating the account, I don't think the bank ought to have proactively identified that he might need additional support.
- Mr S says the bank should have told him sooner that he could put a block on debit card transactions made to identifiable gambling merchants. But, given what I've already said about the bank's awareness of Mr S's situation, I can't agree with him about this. He's also unhappy with the way the block has worked since he has been aware of it as it's only fairly recently that Santander has introduced a 48-hour time delay after the block is turned off to give the consumer time to reflect on their decision. But, as I've already said, there is no rule or regulation that says when or how these blocks should be made available. This is something that a lot of banks have been introducing over the past few years and I consider that to be a positive step, but one which still has limitations. For example, if a gambling merchant chooses not to use the correct MCC then the payment will not be identified and blocked. And, of course, there are also other ways that consumers can gamble using less direct payment routes such as sending money to e-money institutions, or payment gateways, before sending it on to a gambling website. And I cannot rule out the possibility that Mr S might have employed this sort of tactic even if the bank had stepped in at some point. I say this, not as a criticism, but simply to

acknowledge that this type of addiction will often drive individuals to behave in ways that end up being harmful to themselves.

- I appreciate Mr S likely feels remorseful about the amount of money he's spent on gambling. But he's continued to spend money in that way even now he knows how to block debit card payments and despite the advice and offers of support Santander gave in its 11 May 2022 final response letter, which was sent after Mr S told the bank he had a gambling addiction in early 2022. At that point Mr S suggested he might get a family member to help him manage his money, but the account activity since then suggest that little has changed.

With all of the above in mind, I can't fairly instruct Santander to refund any of the money Mr S has spent on gambling or make any other award of compensation.

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 S to accept or reject my decision before 12 January 2024.

Ruth Hersey
Ombudsman