

The complaint

Mr F complains that HSBC UK Bank Plc should have noticed his spending and exercised a duty of care to intervene to help him with his gambling addiction. Mr F would like to be refunded £16,500 for funds he received in September 2020 and subsequently lost.

What happened

In 2019 Mr F opened a basic bank account, which HSBC closed in 2021. Mr F believes he told HSBC about his mental health problems due to having suffered an injury. He said this had impacted the way he had handled his finances and had been a factor in his excessive gambling. He said he had had a gambling problem for years, but this became a bigger problem around May 2020 and worsened in September 2020.

Mr F is concerned about a credit of £16,500 he received in September 2020, shortly after which he spent the money, including for gambling-related transactions. He said HSBC had reviewed his account, but no action was taken. Mr F complained to HSBC in March 2024.

In its response HSBC said the gambling transactions were all authorised by Mr F. It said it has no record of the calls Mr F says he made, and he has no details. HSBC said because it knew nothing about his health circumstances, it wouldn't have monitored his account. HSBC said no third-party mandate or power of attorney was put in place to indicate that Mr F was supported. HSBC said whilst the frequency of gambling increased when Mr F indicated, the amounts weren't unusual and followed a similar pattern. HSBC said Mr F also received large credits from gambling operators which weren't disputed as part of the complaint.

HSBC said at Mr F's request it sent him a list of his transactions with a gambling operator in December 2020 for the four previous months. It said the transactions are regular and Mr F raised no concerns, and they wouldn't be considered fraudulent. HSBC said a feature of its mobile banking app allows customers to apply gambling restrictions to their account. It said Mr F had confirmed he had seen this feature and was aware of the accompanying disclaimer stating HSBC cannot prevent all gambling transactions. HSBC said Mr F never placed the restriction on the account or contacted HSBC to request it place the restriction on his behalf.

HSBC said there were odd occasions where Mr F's account went slightly into an unarranged overdraft (about £10), but overall there were no signs of persistent debt or financial difficulty which would have prompted it to contact him. It said Mr F's basic bank account was restricted and would not allow him to be excessively overdrawn. HSBC didn't think any of Mr F's banking activity left him in a financially difficult position with HSBC.

Mr F referred to a case from another bank which HSBC said was resolved with a gesture of goodwill for half the funds lost through gambling. HSBC said it ensures each case is reviewed individually and doesn't consider other cases when making its decision. HSBC confirmed it wouldn't refund the £16,500 Mr F is seeking as there hadn't been a bank error.

Mr F disagreed and referred his complaint to our service. Our investigator didn't recommend it be upheld as he didn't think HSBC did anything wrong. He said HSBC could have offered support, but only if it knew Mr F's situation. He said there's no evidence HSBC reviewed Mr F's account, it simply provided a list of gambling transactions Mr F had requested.

The investigator said there were gambling transactions on Mr F's account for the entire time it was open, and there was no sudden change in behaviour or transaction size or frequency to alert HSBC to a potential problem in September 2020. He said gambling was a consistent feature of Mr F's account with nothing to have alerted HSBC to a potential problem.

Mr F disagreed and requested an ombudsman review his complaint. He said responsibility cannot just be on the customer to disclose circumstances to the bank. He said HSBC should have processes and policies to identify a vulnerable customer and these are the same principles the Gambling Commission puts to operators about how to spot vulnerable customers.

Mr F said in May, June and September 2020 the frequency of his gambling increased and was out of character, often *'triggering the 30 day cap of transactions which I did ring up'*. He said his account was blocked in some of these months because HSBC thought there were fraudulent transactions. He said HSBC should have noticed the gambling transactions at this time and reached out to him. Mr F said his injury would have impaired his ability to both communicate with HSBC and to acknowledge to himself there was a problem.

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.

I was sorry to learn about Mr F's gambling addiction and the injury he suffered that led to this and the many other health conditions he has described to us. He says HSBC failed to intervene when there were signs of potential gambling addiction and as a consequence should be responsible for his gambling losses. HSBC says it wasn't alerted and didn't see these signs, and acted correctly to Mr F's payment instructions.

Mr F felt that throughout the lifetime of his account HSBC should have done more to prevent the gambling losses he suffered. HSBC said that it cannot act unless it is made aware of a problem. Mr F said he made HSBC aware of his vulnerability, but HSBC said there's no evidence to suggest such a conversation took place and it hasn't acted in error.

HSBC is required to intervene in transactions where there is a suspicion of fraud but won't be liable for customers' spending patterns, and cannot stop customers making authorised debit card payments. HSBC has to support customers that are in financial difficulty. Beyond that, a bank is only likely to become aware of a potential problem if it has been alerted by the account holder or third party or flagged up for some other reason.

There is nothing to show that Mr F raised an issue to HSBC about his spending on gambling. Banks don't monitor customer accounts for gambling activity as a matter of course as it's a legitimate activity. And so I've thought about whether there were signs of financial difficulty that should have prompted HSBC to realise there might be a problem.

The signs of financial difficulty are generally, regular use of an unplanned overdraft, returned direct debits, exceeding a credit limit or missing expected payments. Having reviewed Mr F's account statements I haven't found anything to suggest he was in difficulty as his account was rarely overdrawn and then only for very small sums. I don't think the balance of funds in Mr F's account gave an indication of financial distress and the account appears to have been reasonably well managed.

I can see from the account statements that gambling transactions were a consistent part of Mr F's activity during the life of the account. Mr F said his gambling increased in September 2020 and I can see a small increase to about £50 for each transaction, and occasionally more, but these sums decreased again by the end of the month. Considering the gambling in

September 2020 and taking an overview of Mr F's account transactions, I think it was reasonable for HSBC to consider Mr F's gambling as part of his normal banking pattern.

I haven't seen the other signs of financial difficulty I have listed. Consequently, although there were a large number of gambling transactions, I think it was reasonable for HSBC not to intervene as Mr F suggests. I take Mr F's point about having a limited ability to communicate or recognise his problems at the time, and I assume this is why he waited over two years after the closure of his account to bring his complaint to HSBC. Unfortunately there is no evidence that he told HSBC about his injury or mental health problems or his gambling problem until he complained. I can't see that Mr F asked for support and he didn't use HSBC's gambling restriction tools that were available for his account or request HSBC for blocks to be applied to payments to gambling operators.

Mr F referred to another complaint our service has considered about a consumer's gambling addiction. Notwithstanding the differences between that case and Mr F's complaint, we consider each complaint on its individual merits, and so we are not bound by any previous decision.

Mr F also mentioned that HSBC should have processes to identify a vulnerable customer, and this is the same principles that the Gambling Commission puts to operators about how to spot vulnerable customers. I'm not sure if Mr F received an intervention from his gambling operator about his gambling. The Gambling Commission is currently trialling affordability checks for gambling operators but doesn't require them to check specifically for vulnerability.

I can understand Mr F's concerns about his gambling and the impact on his finances but I haven't found that HSBC acted outside of the requirements on banks at the time or treated him unfairly and so it would be unfair for me to require HSBC to take any action.

My final decision

For the reasons I have given it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 2 September 2024.

Andrew Fraser
Ombudsman