

The complaint

Mr S has complained that HSBC UK Bank Plc trading as first direct (“HSBC”) failed to contact him and offer support when he began gambling in a compulsive and harmful way.

Background

Mr S has explained that between 20 February 2024 and 8 March 2024 he gambled approximately £60,000 through his HSBC bank account. He ultimately lost over £55,000 and has asked why no one from the bank contacted him during this time. He states the volume of transactions and money that went through the account during this short period was extremely unusual and should have raised questions for the bank. He believes HSBC should have stopped him from spending such large amounts of money in a harmful way. He has asked that HSBC refund all his gambling losses from this time.

HSBC has said that all of the transactions that occurred on Mr S’ account were fully authorised and to legitimate websites. Therefore, although the account activity increased during this time there was nothing to indicate the transactions themselves were suspicious and so they didn’t trigger any fraud concerns. Beyond that it has said when Mr S did contact the bank in early March to explain what had happened, it offered support linked to preventing gambling, such as adding a gambling block to the account and sign posting Mr S to external support all of which he declined. So, although it sympathised with the position Mr S now finds himself in, it didn’t think it had done anything wrong and didn’t uphold his complaint.

Unhappy with HSBC’s response Mr S brought his complaint to our service. One of our investigators looked into it already. He found that the bank had responded reasonably once it had become aware of Mr S’ compulsive spending problem and had offered appropriate support. He also noted that there was no obligation on the bank to monitor the individual transactions on a customer’s account and that there was no indication, prior to when Mr S contacted it in early March, that Mr S was experiencing any problems. So, he didn’t think the bank had failed in its duty to him and didn’t uphold the complaint.

HSBC accepted the investigator’s findings, but Mr S didn’t. He repeated the fact the activity on the account changed fundamentally in a short period of time and queried why the bank hadn’t realised this, looked at the transactions and do something to prevent him from losing so much money. As he disagreed with the investigator Mr S asked for an ombudsman to review his complaint again and so it’s been passed to me for consideration.

My findings

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 agree with the findings of our investigator and won’t be upholding Mr S’ complaint. I know this will come as a disappointment for him, so I’ve set out my reasons below.

I want to acknowledge that I've summarised the events of the complaint. But I want to assure both parties that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

Mr S has said that HSBC owed him a duty of care and should have acted to stop him from gambling harmfully between February and March of last year. He has explained that in February and March 2024 he was placing ever increasingly large bets online and won approximately £55,500. However, between 20 February and 8 March Mr S then went on to lose more than £55,000.

Mr S has explained that he had previously used the gambling block available through his banking app and that the fact this was regularly turned on and off should have been viewed as an indicator of vulnerability.

Mr S has said that prior to this time his account balance was always relatively low, sitting in hundreds as opposed to thousands of pounds. Likewise, although he gambled before February 2024, the amounts were always considerably lower in value. So, he thinks the account activity should have resulted in HSBC contacting to him to ask about the transactions and stop him from gambling further. As Mr S believes HSBC should have prevented him from gambling he believes it should refund all of his losses to him.

HSBC has confirmed that it was unaware Mr S was struggling with compulsive gambling prior to him contacting it on 8 March 2024. It has explained that Mr S initially claimed his account details had been hacked by an unknown third party and asked for them to be refunded as disputed transactions. However, during the course of his conversation with the bank Mr S eventually confirmed he did authorise all of the transactions. This meant that he wasn't entitled to a refund under the scheme. Once that was explained to Mr S complained about the bank's lack of duty of care.

Looking at Mr S' bank statements I agree the account activity absolutely increased between January 2024 and March 2024. And Mr S was clearly gambling multiple times a day, most days. So, I need to consider whether or not I think HSBC should have noticed this, and if I think it should, how should it have responded, and what impact would that response likely have had on the situation.

I agree with Mr S about the fact the account activity during this time was unusual compared to how it had been previously run. But it doesn't automatically follow that I think HSBC should have blocked transactions from leaving his account.

Lots of things can trigger checks by banks on individual accounts. Mr S has queried why no fraud checks took place on his account. If a bank's systems detect a transaction that may not be authorised or is to unverified website, it can trigger a temporary account or transaction freeze until a check is completed and the bank can confirm the transaction was genuine. Looking at Mr S' account notes I can see a number of these sorts of checks did take place on HSBCs systems and each time it was found that the website was genuine, and the transaction fully authorised. And so, I can understand why the bank didn't query the legitimacy of the transactions any further.

HSBC has confirmed that Mr S' account wouldn't have been manually reviewed without reason and Mr S has confirmed he accepts that is the case. So, I need to consider, once the bank was satisfied the transactions weren't fraudulent, was there any other reason for it to monitor the account more closely?

Having looked at Mr S' statements from January 2024 to March 2024 I can see that the amount of money that passed through the account increased enormously between late February and early March. Indeed between 4 and 8 March, Mr S gambled a total of £48,000 without any contact from the bank.

I appreciate that throughout this time Mr S' account showed no indicators of financial stress, such as entering an unarranged overdraft or having direct debits or standing orders returned unpaid. But I do understand why Mr S thinks this sort of sudden and dramatic change in account behaviour should have resulted in the bank contacting him.

However, I don't think someone turning a gambling block on and off their account can be read as an indicator of vulnerability as there are multiple reasons why someone might choose to use a block at any given time. But I do understand why Mr S thinks the bank should have questioned whether or not he needed any support.

But even though I understand the argument why it would have been prudent for HSBC to have contacted Mr S to check he was comfortable with the transactions on his account, this doesn't mean I would have expected it to freeze the account or block the gambling transactions without Mr S' prior consent to do so. And I'm not convinced that if it had contacted him, Mr S would have agreed to block the transactions.

I say this because Mr S has told us that he had previously used the gambling block available on his account and had requested it be removed in order to accept gambling winnings into his account. Considering Mr S was, at least initially, gambling successfully and winning large amounts, I feel it's unlikely that if HSBC had contacted him during this period and suggested blocking those sorts of transactions he would have agreed to it. And without his permission it would be unreasonable for HSBC to apply a block in these sorts of circumstances.

When Mr S contacted HSBC on 8 March it explained that the gambling block could be added, and sign posted him to external gambling support organisations, but Mr S declined the offer to put the block back on saying there was no point now that the funds were spent.

While I sympathise with Mr S and can only imagine how devastating this entire matter has been for him, I can't say that I think HSBC failed in its obligations to support him.

I say this because it completed checks on transactions to ensure they were genuine and offered support to him when he disclosed he needed help. And while it could be argued that some contact should have happened in early March, and in particular around the 4-8 March when the size of the bets placed increased so much, I can't safely conclude any contact from the bank would have resulted in Mr S stopping gambling. And so, I can't uphold the complaint on that basis.

My final decision

For the reasons set out above I don't uphold Mr S' complaint against HSBC UK Bank Plc trading as first direct.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 14 February 2025.

Karen Hanlon
Ombudsman