

The complaint

Mr M has complained Santander failed to identify him as a vulnerable consumer and offer him support.

Background

Mr M has a severe compulsive gambling addiction. He estimates his overall losses as being approximately £400,000. He says that from 2014 until 2024 he held an account with Santander that he used to gamble. He believes that the bank should have realised the harm he was experiencing from the account activity and intervened. Mr M believes by contacting him the bank could have prevented him from incurring the losses he did. So, he wants it to pay him compensation for the failure to offer support when he needed it.

Santander says it was unaware that Mr M was gambling in a way that was causing him harm. It says that for the majority of the time the account was in credit and there was nothing to indicate Mr M was spending beyond his means or financially vulnerable. It says gambling is a legal activity and it wouldn't be appropriate for the bank to refuse to honour a fully authorised and funded transaction. It didn't think it had done anything wrong, so it didn't uphold Mr M's complaint.

Unhappy with Santander's response Mr M brought his complaint to our service. One of our investigators looked into it already. She found that there were clear signs of financial vulnerability on Mr M's account by October 2020 and that the bank should have proactively contacted him then to ask if he needed any support. So, she said that it should pay Mr M £450 compensation in recognition of that failure.

Neither Mr M nor Santander accepted the investigator's findings.

Mr M said the amount of compensation suggested was laughable. He questioned why she wasn't asking the business to do more and "...*make an example of it...*" He repeated how his gambling had escalated over time and said that contact from the bank might have made a difference. He requested that an ombudsman review the case again and increase the amount of compensation awarded.

Santander responded to the view saying that it was inappropriate for this organisation to find bank liable for its customers gambling losses and ask it to refund them. It noted that complaints about gambling transactions are better dealt with by the Gambling Commission, and that there was no regulatory requirement on the bank to refuse to allow customers to gamble from their accounts. In fact, it said refusing to execute payment on fully authorised transactions would result in complaints and legal threats from customers. So it didn't think it could have refused to honour the transactions Mr M made through his account.

As neither party accepted the investigator's findings the complaint has been passed to me to consider.

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 investigator's findings and will be asking Santander to pay Mr M £450 compensation for much the same reasons as those set out in her view. I've set out my reasons why below.

I would like to thank Mr M for his submissions as I appreciate compulsive spending and problem gambling can be extremely difficult to speak about and he has done so honestly and frankly.

I would also like to clarify 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 M has queried why the bank failed to contact him when the gambling on his account became extreme and he was showing signs of vulnerability. He has said that the bank should be held partially liable for his losses, it had a duty of care to him, and did nothing to prevent the harm he was experiencing.

I think it would be useful to clarify that bank accounts aren't actively monitored by people anymore. Even when we call to speak to bank representatives on the phone the representatives we speak to may only have access to limited information linked to the specific question we ask and not sight of the entire account, or individually listed transactions.

Which means it's possible that no one in Santander was reviewing the information on Mr M's account in the way he might assume they were. Manual reviews, where a staff member actively reads account statements and sees the types of transactions that are taking place, only happen when there is a specific risk identified that prompts the business to think such a review is necessary. Or where a consumer asks for a review directly or has an agreement in place with the business that such a review will take place.

Instead, for most of the time, businesses rely on algorithms to identify risk to the account and the account holder. And those algorithms are primarily designed to look for things like evidence of financial harm, such as direct debits going unpaid, or people going into unarranged overdrafts or exceeding agreed overdraft limits. Or fraud and scams, where unauthorised third parties access funds without permission.

Santander has explained that it did have a system in place for identifying customers who were at risk of financial harm. However, Mr M didn't trigger all of the different identifiers in that system and so it failed to label his account as one at risk. This was primarily because Mr M was transferring funds from a different account, he held elsewhere, into his Santander account to gamble with. Each time his Santander account became close to a zero balance he would transfer more funds. So, the account never showed any indicators of stress, such as direct debits failing, or going into an unarranged overdraft. Which means, unless someone manually reviewed the account to see what the individual transactions on there were, it appeared as though the account was well maintained and in good order.

I have some sympathy with the bank here. Often times in cases involving compulsive spending and harmful gambling people will go to great lengths to try to hide their addictions. This includes having an account that may just be for gambling purposes, separate to their main account, and moving funds around from one account to another to try to maintain their spend without it becoming apparent what they are doing. So, while Mr M was managing his account that way, which he effectively did from its inception, I don't think Santander missed any clear signs that he was experiencing harm and I'm satisfied it was unaware his gambling spend was causing him problems.

However, by October and November 2020, that position had changed, and Mr M's account started showing clear signs of being under stress, including going into an unarranged overdraft and struggling to get the account back into a positive balance. At this point I think the account activity should have prompted a manual review as there were clear indicators of financial vulnerability. Which means the bank ought to have proactively offered Mr M some support.

Mr M has explained that while he started to gamble more and more regularly it wasn't until 2020, during the pandemic, that it really started to spiral out of control from him. He had progressed from making small individual five- or 10-pound bets daily, to making bets that were several hundreds of pounds in value. So, his gambling spend had increased to thousands of pounds per week, often per day. And he was maintaining this spend by allowing his account to go into an unarranged overdraft, which effectively means he was gambling with credit provided by the bank.

Santander has confirmed that in December 2021 and January 2022, a year after this type of behaviour began on Mr M's account, it sent him some letters explaining he was using an unarranged overdraft and asking him to contact it to discuss his account. However, Mr M didn't respond to these and the bank didn't attempt any further contact.

I don't agree this sort of contact is sufficient in these circumstances. And the regulator requires banks to provide vulnerable consumers tailored support based on their individual needs. So, I think the bank ought to have tried to contact Mr M in another way when he was nonresponsive to the letters it had sent. As it was clear he was struggling financially and in need of help.

However, I can't make a finding that any contact from Santander at this time would have made a material difference to Mr M's behaviour. He has said himself that it *might* have impacted his spending, but he's also explained that he was in the midst of an addiction and was unable to admit he had a problem until recently. So, I can't safely conclude that any phone call or other communication from the bank to discuss his gambling, would have stopped Mr M from gambling further. And Santander is correct when it says it can't just arbitrarily refuse to honour fully authorised transactions from his account.

Which means I can't hold Santander liable for Mr M's losses as I can't safely conclude that the bank could have stopped him from gambling and spending money as he did. And it's worth noting our investigator didn't do that either. Given Mr M's total combined losses come to approximately £4,000 I'm unclear why the bank thought the investigator was holding it liable for those losses when she suggested compensation of £450. But for the sake of clarity that compensation is in recognition of the bank's failure to offer tailored and personalised support at a time when it ought to have known such support was needed and not any form of refund for gambling transactions he made.

I also appreciate Mr M will be extremely disappointed that I'm not asking the bank to pay more compensation given the enormously difficult situation he now finds himself in. It is important to clarify that the purpose of this organisation isn't to punish businesses when

things go wrong, we're not punitive in nature. So, while I am upholding Mr M's complaint, I'm not increasing the amount of compensation suggested by the investigator as the role of this service isn't to "...*make an example*..." of the bank but instead acknowledge when things have gone wrong and try to determine what ought to have happened.

In Mr M's case I think the bank ought to have contacted him and made him aware of the support that was available. But as I've said above, I can't safely conclude that a call in 2020 would have stopped Mr M from continue to gamble in a harmful way. So, it wouldn't be reasonable for me to ask the bank to refund his gambling transactions.

Putting things right

To put things right Santander UK Plc should pay Mr M £450 compensation for its failure to offer tailored support when he was showing clear signs of financial vulnerability.

My final decision

For the reasons set out above I'm upholding Mr M's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 May 2025.

Karen Hanlon
Ombudsman