

The complaint

Mr E complains that MBNA Limited won't refund to him the payments that he made for some gambling transactions.

What happened

Mr E has an MBNA credit card and he had applied a gambling freeze to his account. He complained to MBNA in October 2024 that it had allowed gambling transactions to take place on his credit card and that it should have done more to stop them. It said that the payments that Mr E made were with several different merchants, the information that it gets from the card scheme provider tells it if any payments made are linked to gambling companies and it relies on transactions being categorised correctly, but the transactions weren't categorised as gambling so they went through. It said that it hadn't made any errors so it couldn't agree with Mr E's complaint.

Mr E wasn't satisfied with its response so he complained to this service. His complaint was looked at by one of this service's investigators who, having considered everything, didn't recommend that it should be upheld as she didn't think that MBNA had treated Mr E unfairly. She said that MBNA processed the transactions that Mr E approved and had no reason to think that they were gambling transactions that it ought to block, or take other preventative action. She said that as Mr E had confirmed that the transactions were gambling transactions, MBNA was unable to dispute the transactions through the chargeback scheme and didn't treat him unfairly by not accepting a claim under section 75 of the Consumer Credit Act 1974.

Mr E didn't accept the investigator's recommendation so I've been asked to issue a decision on this complaint. Mr E says that another bank has refunded his transactions in similar circumstances and the merchant used deceptive practices to bypass gambling blocks by intentionally misclassifying the merchant category code to disguise the true nature of the transaction in violation of the scheme rules. He says that his issue isn't with MBNA but with the company that the gambling site has used to take payment but he wanted MBNA to support him and put through the chargebacks as it's his experience that the chargebacks won't be disputed. He says that he's raised other chargeback claims and that MBNA processed one chargeback for a payment of £175.09 in September 2024 which was credited back to his account in December 2024.

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.

Mr E used his MBNA credit card to make payments between April and October 2024 for transactions that he says were gambling transactions. He says that he contacted MBNA about those transactions in August, September and October 2024. MBNA has provided a recording of the call that Mr E made to it in August 2024 and it concerns a block that had been put on his account due to suspicious activity and gambling transactions weren't mentioned on the call. MBNA says that it has no record of Mr E contacting it in September

2024 but he did contact it in October 2024 and it responded to him in November 2024.

MBNA's contact notes for Mr E's account show that he said that: some of his transactions since April 2024 were gambling; the freeze wasn't working; and he suspects the issue is the merchant category code as the transactions were showing as digital media goods or for financial institutions.

If a consumer disputes card payments, the card issuer may be able to make a chargeback claim to the merchant under the relevant card scheme to try to settle the dispute. There's no right for a consumer to require that a chargeback claim be made and the applicable scheme rules set out the disputes that can be considered and the time limits for making a claim. If the right to make a chargeback claim exists under the applicable scheme rules, and if there's a reasonable prospect of success, I consider it to be good practice for a chargeback claim to be made. In this decision, I'm not deciding the merits of the disputed payments but whether or not MBNA dealt with the chargeback claims correctly.

MBNA didn't make chargeback claims and it said in November 2024 that the information that it gets from the card scheme provider tells it if any payments made are linked to gambling companies and it relies on transactions being categorised correctly. It said that the transactions about which Mr E had complained weren't categorised as gambling so they went through and it hadn't made any errors.

The merchant category codes that were used by the merchants for the transactions about which Mr E has complained didn't show that the transactions were for gambling and this service wouldn't expect MBNA to manually monitor accounts or have a mechanism to look for gambling activity beyond standardised merchant category codes. The card scheme provider has told this service that the evidential requirements for cardholders to prove to banks for a claim about incorrect merchant category codes being used are very high and Mr E would have to provide evidence to show that the merchant couldn't legitimately have used that code. I don't consider that he's done that or that he's likely to be able to do so.

In Mr E's circumstances, a chargeback claim would likely have had to have been made within 120 days of the transactions taking place. Mr E contacted MBNA on 25 October 2024 to dispute transactions that he'd made since April 2024. MBNA would only have been able to make a chargeback claim for transactions that had taken place in the preceding 120 days so it wouldn't have been able to make chargeback claim for any transactions that took place in April, May or most of June 2024.

Mr E says that another bank has refunded his transactions in similar circumstances and I can see that MBNA refunded £175.09 to Mr E for a transaction from September 2024 that he'd disputed. MBNA has been asked for more information about that chargeback but it says that each request for a chargeback is considered on an individual basis and due to the time passed it can't confirm why that chargeback was processed. I don't consider that the refunds made by another bank and by MBNA show that MBNA's response to being contacted by Mr E in October 2024 was incorrect or that it should refund to him the other transactions that he's disputed.

The investigator also considered whether MBNA should have considered a claim under section 75 but she said that it didn't treat him unfairly by not accepting such a claim because there was no allegation of a breach of contract or misrepresentation. In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier. Mr E paid for gambling transactions and he received the services that he'd paid for. I'm not persuaded that there's been a breach of contract or

misrepresentation in these circumstances so I don't consider that any claim under section 75 would have been successful.

Mr E has recently requested that this service investigates whether the card issuer has taken adequate steps to enforce the gambling block, whether the use of incorrect merchant category codes by merchants constitutes a breach of regulatory or ethical standards and what measures can be implemented to ensure that merchant category codes are accurately assigned and monitored, especially in cases involving gambling blocks.

This service offers an informal dispute resolution service and tries to resolve complaints by customers about financial businesses by looking at what is considered to be fair and reasonable in the circumstances. This service has no regulatory or disciplinary role over those businesses, so I'm unable to require any of them to change the way that it conducts its business.

I've seen no evidence to show that MBNA hasn't correctly applied the gambling block to Mr E's account as the transactions that it allowed weren't categorised as gambling transactions. It's not this service's role to investigate whether the use of incorrect merchant category codes by merchants constitutes a breach of regulatory or ethical standards and what measures can be implemented to ensure that merchant category codes are accurately assigned and monitored. I suggest that Mr E contacts the Financial Conduct Authority about those issues.

Mr E says that his issue isn't with MBNA but with the company that the gambling site has used to take payment and that he wanted MBNA to support him and put through the chargebacks. It's clear that he, understandably, has strong feelings about these issues so I appreciate that my decision will be disappointing for him. I'm not persuaded that there's enough evidence to show that MBNA has acted incorrectly in its response to Mr E about the transactions that he disputed.

I find that it wouldn't be fair or reasonable in these circumstances for me to require MBNA to refund to Mr E any of the transactions that he's disputed, to pay him any compensation or to take any other action in response to his complaint. If Mr E is concerned about his use of his credit card going forward, I suggest that he contacts MBNA and asks it about the support that's available to him.

My final decision

My decision is that I don't uphold Mr E's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 8 October 2025.

Jarrold Hastings
Ombudsman