

## The complaint

Mr C is unhappy with fees and interest applied by Lloyds Bank PLC in relation to a transaction on his credit card.

## What happened

Mr C has a Lloyds credit card. In December 2019 he made a payment of £5,000 to a vendor. The transaction was for a spread bet.

Lloyds applied a fee of £150 (3% of the transaction) – the charge listed in its terms and conditions for cash transactions. It did so because Lloyds treats gambling, including spread betting, the same as cash withdrawals. The transaction also began accruing interest immediately – again in line with how Lloyds treats cash withdrawals.

Mr C complained to Lloyds because he did not think this was fair. Mr C also said that he'd had to call Lloyds to authorise this payment and the fee was not mentioned at that time – which he again didn't feel was fair – and he said that, if it had been, he wouldn't have gone ahead with the transaction.

Lloyds didn't think it had done anything wrong. It said that the fee and interest were applied in line with the terms and conditions of the account. It also said that the department Mr C spoke to when authorising the payment specialised in fraud procedures and it wasn't part of their role to give advice about fees.

Unhappy with this response Mr C asked our service to look into the complaint. As well as still being unhappy he wasn't told about the fee when he called Lloyds, Mr C said he still thought the fee was unfair and should be refunded. He said he didn't think customers could be expected to know every aspect of Lloyds account terms and conditions – which he accepted do confirm spread betting would be treated as a cash withdrawal. And he also felt Lloyds decision to treat spread betting as a cash transaction was unusual.

Our investigator looked into the complaint but didn't feel Lloyds had done anything wrong. He thought that Lloyds was entitled to apply the fee and interest as it had acted in line with the terms of the account and that the terms were clear about this. He noted that Lloyds had referred Mr C to the terms and conditions, and recommended he review them, earlier in 2019 when he'd been unhappy with a different charge that had been applied.

Mr C did not agree with the investigator's opinion. He said he didn't deny that the terms and conditions allowed for this fee to be applied. But he felt that because the decision by Lloyds to classify spread betting as a cash transaction was unusual, he had no reason to review the terms to check this. He also noted the length of the terms and conditions and said customers couldn't reasonably be expected to remember every term. Mr C also feels this term should've been made clearer to him. He also felt that the investigator's findings were at odds with our findings in several other complaints about the clarity of terms.

The investigator looked at things again but wasn't minded to change their opinion – noting that he didn't agree that this term was unusual as a number of credit card providers approach gambling transactions in the same way.

Mr C did not agree with the investigator's opinion so asked for the case to be reviewed by an ombudsman. As a result, the complaint has been passed to me to decide.

### **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 know Mr C feels strongly about this and has made a number of points to explain why he thinks the fee and interest should be refunded. I've focussed my decision on what I consider to be the key points in this dispute and so have not necessarily commented on every point Mr C has made. But I want to reassure him that I've thought about everything he's raised in coming to my decision.

There is no dispute that the transaction of £5,000 in December 2019 was in respect of a spread bet – Mr C acknowledges this. And all parties agree that the fee and interest in dispute stem from this transaction and were applied to the account because this transaction was treated as a cash withdrawal.

Lloyds has provided a copy of the terms and conditions of Mr C's credit card agreement. I can see there is a section on fees and charges which confirm that cash transactions incur a fee. There is another section setting out how interest is calculated which explains that all cash transactions start incurring interest immediately, unless a promotional offer applies. And there is a section on making transactions which gives information about the different types of transaction that can be made using the credit card. This lists gambling transactions, including spread betting, under cash withdrawals. I think this information is clear.

And Mr C has accepted that the terms and conditions explain that gambling transactions, of which spread betting is one, will be treated as cash withdrawals.

So, I'm satisfied that Lloyds has applied the charge and interest in line with the terms and conditions of Mr C's account. And I don't think it has acted unfairly.

Mr C doesn't think Lloyds can fairly rely on those terms. He has said that Lloyds position of treating spread betting as cash withdrawals is unusual. Lloyds is entitled to decide its own processes. How it wishes to categorise transactions is a matter of its own commercial judgement, which we would not usually interfere with. All I would add is that based on my knowledge of similar complaints I don't believe Lloyds is alone in treating gambling transactions made on credit cards in this way. So, I don't think its approach is unusual. What we would expect, where it has taken such a decision, is for the account terms and conditions to explain this to its customers. And as I've explained, I think the terms do so, and are clear.

Mr C has also said, because he felt Lloyds approach was unusual, he had no reason to think this transaction would be treated as a cash withdrawal beforehand, so had no reason to check the terms – which he doesn't think any customer could reasonably memorise.

I agree Mr C is not required to memorise the terms. But Lloyds has made them available to him, and its other customers, for reference. So, I don't think there was an expectation on him to memorise them.

As for Mr C not thinking that a spread bet would be considered a cash withdrawal, I do understand the point he is making. But just because he didn't anticipate this, doesn't mean Lloyds has done anything wrong or isn't allowed to apply the terms of the account.

I don't think it would be reasonable, for example, to expect Lloyds to contact Mr C, by whatever channel, before he made a spread bet, reminding him of this term, on the off chance he may do so in the future. The terms and conditions cover this scenario, and in my opinion are clear. And again, these were made available to Mr C. So, unless Lloyds was specifically asked about how the transaction would be categorised, I don't think it needed to do more.

Both parties agree that Mr C spoke to Lloyds to authorise the transaction and that he wasn't reminded of the fees at that time. But while I can see why Mr C might think this should've happened, again I don't think Lloyds was required to do so unprompted. I think it was reasonable for Lloyds to have thought that Mr C understood the terms, as it wasn't asked to clarify them.

So, taking everything into account, I think the fee and interest have been applied in line with the terms and conditions of the credit card, and I don't think Lloyds has acted unreasonably.

I can see Mr C has made reference to a number of previous decisions made by our service as to why he thinks Lloyds isn't entitled to rely on the terms and conditions of the agreement he has with it here. But looking at the examples he has provided these cases, in my opinion, cover different scenarios to the one I've been asked to look into. And in any event the ombudsman service looks at complaints on their individual merits. And for the reasons I've already explained, I don't think Lloyds has made an error here.

### **My final decision**

For the reasons set out above, I do not uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 13 October 2020.

Ben Stoker  
**Ombudsman**