

The complaint

Ms T complains that Lloyds Bank Plc (“Lloyds”) acted irresponsibly when they provided her with a debit card which enabled her to use it to carry out online gambling transactions.

What happened

Ms T says that around six years ago her sister contacted Lloyds on her behalf, to inform them of her severe mental health condition, which at certain low points resulted in her gambling excessively. Lloyds have confirmed that they were made aware of Ms T’s mental health vulnerability in August or September of 2014. In March 2015 Ms T spent around £1,555 through online gambling transactions. Ms T complained to Lloyds at the time and Lloyds refunded her the full amount. Lloyds confirmed this in their final response to her complaint in April 2015. Ms T says in 2015 Lloyds had assured her sister that they’d placed a permanent block on Ms T’s account, which would prevent her from making any online gambling transactions.

Lloyds said that in 2015 they placed a 12-month flag on Ms T’s account which prevented some lending products being offered to her. Lloyds also say that they offered Ms T the option of having an indicator applied to her account which would further restrict certain transactions. Lloyds say that Ms T declined this offer, advising that at that point she was ‘okay’ and didn’t need it. Lloyds however cancelled Ms T’s debit card and replaced it with a cash point card, which prevented her from making online transactions.

In December 2019, Ms T contacted Lloyds to advise that as she was going on holiday the following month, she needed the use of a debit card. Lloyds arranged this for her. In May 2020, over the course of a few days Ms T used her debit card to make a series of online gambling transactions to the value of around £3,000.

Ms T complained to Lloyds about the money that she was able to spend on gambling. Ms T says she was assured that a permanent block had been placed on her account in 2015 that would prevent any online gambling transactions. In June 2020 Lloyds sent their final response to Ms T’s complaint. They sent two further responses in July and August 2020 addressing the same concerns. Lloyds didn’t uphold Ms T’s complaint, they advised that they didn’t place a permanent block, but a flag, on Ms T’s account in March 2015, which expired after twelve months. They said the flag could only be extended by instruction from Ms T. They pointed out that since then there had been no gambling transactions on the account until in 2020.

Unhappy with their response Ms T brought her complaint to us. One of our investigators looked into her concerns but didn’t uphold her complaint. They felt in the circumstances Lloyds had acted fairly in how they treated Ms T, particularly as Ms T gave no indication to Lloyds of her mental health vulnerability after 2015.

Ms T disagreed with our investigator and reasserted that she was under the impression that Lloyds had told her sister that a block would be permanently placed on her account.

As our investigator's view remained unchanged, Ms T asked that her complaint be referred to an ombudsman for a final decision.

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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The Financial Conduct Authority (FCA) published guidance for businesses on supporting vulnerable consumers. Among other things the guidance says that businesses should provide their customers with a level of care that is appropriate given the characteristics of the customer themselves. So, I've thought about this when considering whether Lloyds have acted fairly in the circumstances.

Ms T says that Lloyds shouldn't have allowed her to have a debit card. Ms T says that by allowing her to have a debit card, Lloyds were responsible for her spending around £3000 on gambling transactions. In her complaint form, in subsequent emails to us and during a phone call with Lloyds, Ms T has said that she believed Lloyds had placed a permanent marker on her account from 2015 which prevented gambling transactions from being made on her account.

From the evidence provided it's clear to me that Lloyds hadn't placed a permanent marker or block on Ms T's account. Lloyds have confirmed this to us, and it also forms the basis of why the gambling transactions were able to go through. So, although I've considered all the information provided, my decision focuses mainly on whether it was reasonable for Ms T to expect that Lloyds had placed a permanent marker or block that prevented her from carrying out online gambling transactions.

I've also considered however whether Lloyds should have been aware of Ms T's mental health vulnerability when she ordered the debit card in May 2020.

Lloyds confirmed to us that in March 2015 they placed a flag on Ms T's account that restricted the offering of some lending products. Lloyds explained that this flag was in place for twelve months and could only be extended by Ms T advising them to do so. Ms T says that her sister was told by Lloyds, most likely during a phone call that they had placed a permanent marker on her account to prevent online gambling transactions. Lloyds have been unable to provide phone calls from 2015 to verify what had been said. However, Lloyds explained that in addition to the twelve month flag they replaced her account debit card with a cashpoint card, to prevent online transactions, and asked Ms T if she wanted to have an indicator applied to her account that would restrict certain transactions. Lloyds said Ms T declined the indicator, advising she was okay at the moment as she had her cashpoint card.

In an email to us in May 2021 Ms T acknowledges that she may have said she didn't need support in 2015, but that was because she believed there to be a marker on the account.

Having considered all the evidence, I don't think Lloyds acted unfairly by not applying a permanent marker or block on Ms T's account. Lloyds have explained that they have different procedures in place now, than they did in 2015, to support customers with gambling. The gambling freeze is what Ms T currently has applied to her account. Lloyds however has said the gambling freeze wasn't available in 2015. I'm satisfied that Ms T was given the opportunity to have a restrictive indicator on her account in 2015 but declined it at

the time. I think it's likely that had she accepted the restriction, there would have been a greater opportunity for Lloyds and Ms T to communicate with each other regarding her account management, mainly because many of her transactions would have been blocked, or referred to the system's customer notes as a result of it.

I acknowledge that Ms T says her sister had been assured of the permanent block, however I haven't seen any evidence besides what Ms T has said to support this. Lloyds system notes and testimony have confirmed that they were informed of Ms T's mental health vulnerability in 2015 and also confirms the actions they took and offered.

So, from the information provided I'm satisfied that Lloyds hadn't acted unfairly by not applying a permanent marker or block on Ms T's account in 2015; and I don't think it's reasonably fair to expect Lloyds to have done so in the circumstances.

Based on the evidence provided, I'm not persuaded that it was reasonable to expect Lloyds to have been aware of Ms T's vulnerable mental health when she ordered her debit card in 2019. Ms T says she provided medical information to Lloyds in 2015 and I've seen Lloyds system notes in 2015 referring to her vulnerable situation. So, I'm satisfied that Lloyds were made aware at that time. However, in their response to Ms T in June 2020 Lloyds pointed out that March 2015 was the last time they spoke to Ms T about a block on her card; and there was no indication of gambling on her account until May 2020.

Lloyds have said the flag lasts for twelve months and that Ms T would need to notify them if she wanted it extended. I've no evidence to say whether this was explained to Ms T at the time. Lloyds said they were unable to retrieve any phone recordings from that time. However, from the evidence that has been provided I'm persuaded that Ms T gave no further indication to Lloyds, after 2015 and prior to the gambling transactions in May 2020, of her mental health vulnerability.

Having listened to a call recording from December 2019, when Ms T ordered her debit card, I'm satisfied that Ms T gave no indication or update of her mental health situation when she requested the card. I've reviewed the statements on Ms T's account which showed no signs of gambling. I don't think it's reasonable to expect Lloyds to have checked all of Ms T's customer notes entries to ascertain whether Ms T required additional support. Particularly as there were no obvious signs of gambling or vulnerability since 2015.

Ms T said in an email to us that at the time of ordering her card she was mentally well. Ms T also said in her complaint form that she ordered the card on the advice from two branch staff, with the awareness that she'd not be able to gamble due to the block she thought was on her account. In consideration that this was the first time she'd ordered a debit card on her account since the problems she experienced in 2015, I think it would have been reasonable for Ms T to discuss this when her card was being ordered, particularly as Ms T referenced that she was aware there should have been an existing block on her account.

So, I'm not persuaded that Lloyds should have known there was a potential problem at the time of ordering her debit card, without any indication from Ms T, that she was vulnerable or susceptible to gambling because of her mental health. I think Lloyds have done everything that would have been expected of them which included discussing Ms T's vulnerability with her in 2015 and offering her the appropriate support. In the circumstances of this complaint, I'm satisfied that Lloyds have acted fairly, so I won't be instructing them to do anything in relation to this complaint.

In her emails to us, Ms T has told us about the difficulties she's experienced as a result of her mental health. She also told us how the COVID-19 government enforced lockdown had affected her. Having reviewed the information provided I recognise Ms T's strength of feeling about her complaint and the vulnerable position she sometimes finds herself in.

Organisations like Gamcare and Gambling commission offer additional support to consumer's who find themselves in difficult situations related to gambling. Ms T may find some of their information helpful.

My final decision

Having thought about everything above, along with what is fair and reasonable in the circumstances, I don't uphold Ms T's complaint about Lloyds Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 13 March 2022.

Benjamin John
Ombudsman