

The complaint

Mr P, through his representative Mr P1, complains that Spreadex Limited:

- Didn't follow the correct procedure when onboarding Mr P.
- Failed to meet their service obligations and regulatory requirements.
- Failed to act with due skill and care.

What happened

Mr P opened a spread betting account with Spreadex on 9 August 2019 to allow him to make sporting spread bets. He thereafter proceeded to place spread bets (as well as some fixed odds bets) until he self-excluded himself from placing bets on 31 December 2019, at which point Spreadex made his account inactive. According to Spreadex his total losses amounted to £25,997.

In its final response to the complaint Spreadex said that it had allowed Mr P to open an account and make sports spread bets based on the information he had provided at the time he opened the account. It provided screen shots of the information Mr P had provided which included that he was a manager with an investment firm earning £90,000 a year with £20,000 in savings.

It said it was entitled to rely on the information he provided and that when his losses reached £10,000 on 30 September 2019 it verified his employment status through LinkedIn.

Spreadex explained that both the FCA and the Gambling Commission permitted the use of credit card deposits from clients and that Mr P's credit score was good and so he was approved for the £250 credit limit he requested.

It said that Mr P didn't trigger any of the alerts they have in place to identify those at risk of gambling related harm.

One of our investigators considered the complaint but didn't think it should be upheld. His key findings were as follows:

- It isn't within our remit to comment on whether Spreadex provided a safe and responsible gambling platform as this is something that is regulated by the Gambling Commission
- At the time firms could take payments by way of credit card so Spreadex did nothing wrong in accepting such payments.
- He cannot reasonably say that Spreadex should have inferred Mr P had a gambling problem because he used credit cards.
- Clients are required to provide accurate information and firms are entitled to accept such information without having to verify it.
- Spreadex has said it checked Mr P's name against the National Self-Exclusion Scheme, but his name didn't come up.
- It isn't reasonable in the circumstances to have expected Spreadex to have identified Mr P as vulnerable.
- There are certain rules firms must apply to provide negative balance protection to clients, but these rules don't apply to sports spread bets.

- The loss of £25,887 wasn't the result of the total negative balance accumulated on his account, but the consequence of multiple bets placed using his credit facility.
- Spreadex has said that Mr P's largest loss was £1,035 and his negative account balance never exceeded £1,460.
- There isn't enough evidence for him to say that Spreadex should have been aware of Mr P's changing circumstances sooner.
- The rules that Spreadex must comply with require it to establish whether the account was appropriate for Mr P and if it wasn't to ensure the client was aware of the risks before opening an account.
- He is satisfied based on the information available, that the account was appropriate for Mr P.

Mr P1 didn't agree with the investigator. In summary he made the following points:

- It is accepted that Mr P is partly responsible for his losses but Spreadex is also responsible. Only partial compensation is sought, say 25% or around £6,000 of his total losses.
- Spreadex failed to provide practical guidance in the management of a spread betting account.
- It is irreconcilable to have a credit limit of £250 but allow debts to accrue of over £30,000 over a period of a few months.
- Spreadex provided no advice about other account options.
- Spreadex should have limited Mr P's stakes and it hasn't explained why it didn't do so.
- Mr P was clearly a vulnerable customer given the regular payments by credit card and his ongoing nature of the stakes meant these were above his credit limit.
- Spreadex stated in its literature that it would carefully monitor stakes and trading trends of customers but didn't do so.

The investigator responded and said he wasn't persuaded he should change his opinion, so the matter has been referred to me for review.

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 sympathise with the position that Mr P has found himself in, given he has lost a significant amount of money over a short period of time through the spread bets he placed. I also acknowledge Mr P1's strong feelings that Spreadex is partly responsible for the losses suffered by Mr P and understand why he might feel that way given the information that he has provided in the course of this complaint about Mr P's circumstances.

However, I can only uphold the complaint and award redress if I am satisfied that Spreadex did something wrong. And, based on the available evidence, I am not persuaded that Mr P's losses were caused by something that it did wrong. In short, I agree with the investigator's opinion.

Before allowing Mr P to open an account and make sporting spread bets Spreadex had to assess whether such an account was appropriate for Mr P, as set out in the Conduct of Business Sourcebook (COBS) in the Handbook of the Financial Conduct Authority ("FCA") at COBS 10. In simple terms Spreadex needed to be satisfied that Mr P had sufficient knowledge and experience to understand the risks of the execution only service it offered for sporting spread bets.

As well informing Spreadex that he was a manager in a financial firm earning £90,000 with £20,000 in savings, Mr P also had to confirm that he understood that spread betting involved a higher level of risk and that he could lose more than his original stake and that he understood that he could lose more than his initial deposit or credit limit. He was also asked about his previous experience of spread betting.

Before his account was activated he was asked on the telephone if he had any previous spread betting experience to which he responded:

“erm – not with yourselves, no.”

In other words he indicated he did have previous spreadbetting experience, just not with Spreadex.

Mr P1 has said that Mr P has never held a spread betting account previously and wasn't employed at the time he opened his account, contrary to the information he provided to Spreadex.

I acknowledge what Mr P1 has said but Spreadex were entitled to rely on the information Mr P provided unless it had good reason to think the information was out of date, inaccurate or incomplete – and I don't think it had reason to think that.

I note Spreadex said it did check Mr P's employment status through 'LinkedIn' at the end of September 2019 when his losses reached £10,000 and that the information on that site supported what he stated on opening his account about his employment.

In any event, even if I accept that Mr P was not employed at the time the account was opened there is no reason to think this is something Spreadex was aware of or should have been aware of. And the same applies to what Mr P1 has said about Mr P's lack of previous experience of spread betting. Spreadex had no reason to think he had not previously had experience of spread betting given what he had told it.

It could be argued that the information that Spreadex obtained from Mr P about his previous spread betting experience was a bit limited. But even if it had sought more detailed information about his previous experience there is no reason to think that he wouldn't have continued to provide misleading information in order to open his account.

Mr P1 has raised some specific issues regarding what Spreadex did or didn't do once the account was opened. He has said that it failed to provide practical guidance in the management of a spread betting account. I think it did make available information as to how a spread betting account operated but in any event, it had no reason to think Mr P didn't know how to manage his account given he had indicated he had previous experience of spread betting.

Mr P1 has said that Spreadex didn't provide advice about other account options but I don't think it was required to provide such advice. He also argues that Spreadex should have limited Mr P's stakes, but there was no obligation on it to do so in my view. Given his stated earnings and savings I don't think there was any reason for Spreadex to think it needed to take any action over his trading.

Mr P1 suggest that Mr P was clearly vulnerable because of the use of his credit card when making spread bets. However, as the investigator noted, firms could accept payments made by credit card at the time. In other words the use of a credit card for payments wasn't of itself a basis for considering him vulnerable.

Mr P1 has said that Spreadex didn't monitor stakes and trading trends as it said it would in its literature. I note that the terms and conditions specifically state that Spreadex are under no obligation to monitor or advise Mr P about the status of his account. Having said that it appears Spreadex was taking some note of Mr P's trading, as it says it checked his employment status at the end of September 2019 when his losses were at £10,000.

In any event, even if Spreadex had monitored Mr P's account more closely I am not satisfied it would have needed to take any action as a result. So, I am not persuaded that closer monitoring would have prevented him ending up in the position he ended up in.

Mr P1 has referred to the credit limit of £250 that Spreadex gave Mr P and says that this is irreconcilable with him running up the debts he did in only a few months. However, the credit limit didn't relate to a limit on the amount he could use by way of his credit card. And it wasn't a limit on potential losses, as I think the terms and conditions made clear.

My final decision

I don't uphold this complaint, for the reasons that I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 11 August 2022.

Philip Gibbons
Ombudsman