

The complaint

Mr H complains that TSB Bank plc (TSB) won't refund gambling transactions he says he didn't make.

What happened

Mr H says his ex-partner (who I'll refer to as D) made gambling transactions using his TSB debit card without his knowledge. The transactions happened between November 2020 and March 2021 and involve four separate gambling companies.

What Mr H has told us:

- D has admitted to gambling and using his TSB debit card. All of the gambling accounts were set up by D without his knowledge.
- Mr H found out D had been gambling after the first set of transactions in November 2020 and cancelled his debit card. Mr H says he forgave her for this. But after finding out she'd done it for a second time, he started taking his card to work with him although he let D take the card to use at the shops.
- He didn't use his online banking and thinks D must've accessed it. Mr H says he didn't share his password with her, but says it was easy to guess and must be how she logged in to his online banking. He said that he had quite a bit of cash at home, so didn't need to check his account balance and didn't see the gambling transactions.
- D was given Mr H's old mobile phone to use, and they both used the same laptop which didn't have a passcode.
- In January 2021 D moved out of his home.

Mr H disputes making any of the transactions and has asked for £200,000 to fairly address the amount of distress he has experienced as a result of TSB not refunding the transactions for him. The transactions out of Mr H's TSB account to the gambling companies total in excess of £16,000, however, there have also been withdrawals of winnings from the gambling accounts which have been credited to Mr H's TSB account for just over £9,000.

Mr H initially raised a fraud claim with TSB in December 2020, after the first set of gambling transactions. However, TSB refused to refund Mr H saying he needed to report D's fraud to the police. Mr H refused to contact the police, saying in his culture you don't report "family" to the police.

In March 2021, Mr H raised his second fraud claim with TSB following further gambling transactions. TSB declined to refund the transactions, saying that while Mr H was disputing the payments out of his account, he wasn't disputing the credits he'd received into his account from the gambling companies – which they thought was unusual. They also couldn't understand why a fraudster would register accounts with gambling companies in Mr H's

name and register Mr H's TSB card to those accounts, as any winnings would have to be paid back to Mr H's TSB account so they wouldn't get any benefit from the funds.

As Mr H wasn't happy with TSB's response, he brought a complaint to our service.

An investigator looked into Mr H's complaint but didn't uphold it for the following reasons:

- All four gambling companies provided evidence that the accounts were set up using Mr H's details and linked to his TSB card.
- All accounts followed a verification process, which would've included contact either via his email address or registered phone number. Also, the parent company (for two of the gambling companies) provided a selfie photo submitted as part of the account opening process which showed Mr H holding up his driver's licence.
- Winnings made from the gambling transactions were paid back into Mr H's TSB account, so a third party wouldn't have benefitted from carrying out the transactions.
- There were regular online banking logins before, during and after the disputed transactions being made, and it was likely Mr H would've seen the transactions or at least the effect on his balance of any pending transactions.
- It's unlikely that D accessed Mr H's online banking as she would've needed his login ID, password and relevant characters from his memorable word. TSB's evidence doesn't show any failed attempts, which suggests the person logging in knew the security details – however Mr H says he didn't share this information with anyone.

Mr H disagreed with the investigator's opinion, so the case was passed to me to 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.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence.

Having reviewed everything, I've reached the same outcome as the investigator for the following reasons:

- Based on the evidence, I think it's more likely than not, that Mr H opened the accounts with the gambling companies involved with the disputed transactions. This evidence includes the selfie submitted where the person was holding a photo driver's licence in Mr H's name and the person in the selfie closely matched the photo on the licence. Also, that Mr H's details were used to open the accounts including his email address, phone number and home address. I would've expected a fraudster to provide an email address and/or phone number they had control over to hide their tracks as long as possible. Especially as Mr H would've received some contact from the companies involved to confirm the successful opening of the accounts, as well as other contact relating to deposits or withdrawals made on the account.
- As Mr H's debit card was used to make the transactions (deposits to the gambling accounts), all winnings were paid out to the same debit card, meaning they were paid into Mr H's account. So, I can't see how a fraudster would benefit from gambling these funds.

- Also, I'm not persuaded that Mr H didn't log into his online banking and that it was done by D. I say this because there is no plausible explanation for how D could've successfully logged in without any failed attempts without being given all of the security credentials. And, as I think it's more likely than not that Mr H did the online banking logins, I think he would've seen the gambling transactions. The logins started months prior to the gambling transactions he is disputing, as well as happening during the timeframe when the transactions were made. So, I think it's likely that he would've seen the transactions and the impact on his account balance of the transactions.

Based on all of the information and evidence I've been given, I think it's more likely than not that Mr H made the gambling transactions he's disputing. On that basis, I can't fairly ask TSB to refund him.

I think it's worth adding that even if I wasn't persuaded that Mr H had made the transactions himself, I still wouldn't have recommended that TSB refund him. I say this because Mr H has told us that he gave his card to D to use, and after finding out that she had carried out the first gambling transactions without his knowledge – forgave her. In effect he authorised the first set of transactions after the fact.

Also, while Mr H cancelled his card after making this first discovery, he gave his replacement card to D to use again to go to the shops. By providing his card and PIN to D after she had already breached his trust, Mr H has failed to take reasonable steps to keep his security credentials safe. As she had completed transactions without Mr H's authorisation, I would've expected him to take steps to ensure that she didn't have access to his replacement card. By not doing so, Mr H hasn't acted reasonably and has been grossly negligent in giving her his card and PIN to her again. On that basis, I couldn't fairly have asked TSB to refund the transactions even if I wasn't persuaded that Mr H made them himself.

I understand that Mr H is going to be very upset and I'm sorry that I'm unable to uphold his complaint. Mr H has told us that this has caused him a lot of distress and that he's lost all the money he'd saved to buy a house. But having considered everything very carefully, I can't fairly ask TSB to refund him.

My final decision

My final decision is that I don't uphold this complaint against TSB Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 22 August 2022.

Lisa Lowe
Ombudsman