

The complaint

Mr B complains to Spreadex Limited that he shouldn't have been allowed to continue trading in his spread betting account as he was vulnerable, and this led to the losses he incurred.

What happened

Mr B opened a spread betting account with Spreadex Limited and was trading between March 2013 and May 2021. In January 2019, he self-excluded from placing bets on his sports fixed odds for a period of three months and during this period he also ceased trading on his spread betting account. After the three month period, he began trading again until May 2021. During his time trading with Spreadex he incurred losses of around £58,500.

In June 2021, Mr B complained to Spreadex saying they should have acted sooner to prevent him from trading further particularly as they were aware he was vulnerable. He says they only contacted him with new credit incentives to encourage his betting or when he had accumulated new debts, to chase payment of these. He feels they have a duty of care towards him, and they failed to exercise this duty by allowing him to continue trading. He also feels Spreadex should have confirmed information about his funds at the very latest by the time he self-excluded in 2019 and not after this.

To resolve his complaint, he would like his account to be closed and all his losses refunded. In July 2021, Spreadex issued a final response letter saying they contacted Mr B the same day in January 2019 to acknowledge the self-exclusion from his sports fixed odds account. They advised him that he may want to self-exclude from the remaining products too, but he chose not to do this.

They say a £200 threshold was placed on the account in May 2021 after £15,672 was deposited within a six month period, the high deposit led to an automated review alert. They say a second review of the account was then required when the threshold amount was triggered again in June 2021. They asked Mr B to provide proof of funds, and in response, he submitted this complaint. They say his employment status, and financial information was obtained when the account was opened, in accordance with the requirements of the regulator the Financial Conduct Authority. They say evidence to verify the information he provided them wasn't a requirement. They say a funds review was confirmed in 2014 and a further review was not required until the threshold amount was triggered in 2021. They rejected all elements of his complaint, so he brought his complaint to this service.

Our investigator considered whether Spreadex wilfully or by neglect allowed Mr B to lose money while trading. He says there was no evidence of this or that Spreadex knew he had a vulnerability. He explained that Mr B's decision to opt out of his fixed odd betting account was not a pre-requisite of gambling related harm. He didn't think Spreadex had done anything wrong and didn't uphold the complaint.

Mr B didn't agree with the investigators findings and so this was referred to me for a 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.

Although I haven't commented on every single point, I'd like to assure Mr B that I have considered everything. I sympathise with the position that he has found himself in, given he has lost a significant amount of money over the years. However, based on the evidence I have seen, I won't be upholding this complaint and for similar reasons as the investigator.

Regulatory requirements

I'd like first to explain, fixed odd betting is governed by the UK Gambling Commission and is not within the remit of this service. However, the rules which apply to spread betting is outlined in the Conduct of Business Sourcebook (COBS) in the handbook of the Financial Conduct Authority (FCA).

Mr B holds an execution only account and was responsible for his own trading decisions; there is no requirement in the COBS rules to check whether this type of trading was suitable for him. However, Spreadex were required to obtain information to check the account was appropriate for him and they did so by obtaining information on their employment, financial position, experience, and knowledge.

He complained that the information he provided when his account was opened was incorrect and should have been verified to ensure its accuracy. He also says Spreadex should have asked for proof of funds at latest when he self-excluded from his account in 2019, but they say the information was only required in May and June 2021 because of the high deposit amounts and so they wanted update his financial circumstances.

The COBS rules do not require information provided by consumers to be verified unless they had good reason to think the information was incorrect, or where there was some suspicious activity. I've not seen anything to suggest there was. So, I don't think it is unreasonable for Spreadex to have expected Mr B to provide accurate information when asked questions about his finances and were entitled to rely on the information he provided them.

Vulnerability

Mr B says he informed Spreadex numerous times that he was vulnerable and had a gambling addiction, and that they should have known based on the information he had given them. He provided us a copy of an email to Spreadex on 2 April 2020 which says, "*I will have to ask you to be patience in light of the current situation and in line with government guidance*". Unfortunately, there is no email conversation before or after this attached, and whilst I don't dispute Mr B's version of events, it is impossible to say with any certainty what was discussed or that this pointed to him being identified as vulnerable.

He also provided an email from the Gambling Commission on 20 April 2020 which confirms he contacted them to investigate the debts he incurred on his spreadbetting account. This confirms the conversation between the Gambling Commission and him, but it doesn't confirm that Spreadex had any knowledge of his gambling addiction or vulnerability.

Self-exclusion

I've also looked at Mr B's self-exclusion and his request for his accounts to be frozen. He self-excluded from his sports fixed odds betting account in January 2019, but this didn't extend to his spreadbetting account. I've seen evidence that Spreadex confirmed this self-

exclusion on the sports fixed odd betting account the same day and specifically say “...*your account remains active for other products we offer including spread betting, virtual sports, casino and spread betting which you may wish to self-exclude from.*”

He chose not to self-exclude from his spread betting account, but Spreadex say there was no reason for them to take any further action. There were no concerns raised particularly as his account remained inactive for the next three months which they felt demonstrated a level of self-control. With this in mind, I am persuaded by what Spreadex say, and I don't think the self-exclusion points to there being a gambling issue or vulnerability.

For me to uphold this complaint, I must be persuaded that Spreadex were made aware of Mr B's vulnerability and/or gambling addiction and failed to act upon it. Mr B says he notified them on numerous occasions but failed to provide us more specific information as to when he informed Spreadex of his vulnerability prior to the self-exclusion. The investigator did obtain copies of further communications between Spreadex and Mr B, but the information I have seen doesn't confirm his claims nor evidence any prior knowledge on Spreadex's part. In the absence of such evidence, I can't say Spreadex did anything wrong.

Mr B mentions trading practices of Spreadex where they enticed him back to trading knowing he was vulnerable and there were financial issues including debt that they had been chasing him for. I have to base my decision on the evidence I have seen and what is fair and reasonable under the circumstances. Whilst I don't intend to be dismissive of Mr B, I haven't seen any evidence to support the claims he makes here.

I know Mr B will be disappointed with my decision, especially considering the impact this has had on him, but I don't think there is enough evidence to say Spreadex has done anything wrong. It then follows that I don't think it would be fair or reasonable to hold Spreadex responsible for the losses he has incurred.

My final decision

For the reasons given above, I don't uphold this complaint against Spreadex Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 22 March 2023.

Naima Abdul-Rasool
Ombudsman