

The complaint

Mr C complains that Spreadex Limited allowed him to run up significant unaffordable sports spread betting losses. He feels it should've have carried out more stringent checks and restricted access to his account sooner.

What happened

Mr C opened an account with Spreadex in July 2019 through which he was able to place fixed-odds sports bets and also carry out sports spread betting.

In March 2022, he requested to be self-excluded from fixed-odds betting. Spreadex actioned his request and at the same confirmed it was also excluding him from spread betting as a precaution.

Mr C then raised his complaint that Spreadex had failed to carry out sufficient affordability checks and should've been aware from the activity on his account that he wasn't in control of his gambling.

Spreadex considered the complaint but didn't feel it should be upheld. It said, in brief -

- At the point of account opening Mr C had provided information about his financial circumstances, confirming his salary at £70,000 and his savings at £100,000. Spreadex had carried out electronic ID and credit checks that had not shown any issues.
- It had issued a number of risk warnings in line with its normal procedures and had also provided ongoing risk messages to which Mr C had provided active agreement.
- It noted that Mr C had used its 'time out' feature on two occasions. The feature applied to fixed-odds betting but information about timing out from spread betting had also been provided.
- Although Mr C had said that Spreadex knew he had a problem, it only became apparent when he contacted Spreadex following his decision to self-exclude from fixed-odds betting.
- Once Spreadex was aware of Mr C's situation, it had taken the precaution of also excluding him from spread betting and provided information on obtaining support for gambling issues.
- It also confirmed it would write off the balance of his account – just under £2,000.

The complaint was referred to this service. I issued a provisional decision in which I explained my reasoning for concluding that the complaint shouldn't be upheld. I said, in part:

"Mr C's complaint focusses primarily on his account activity in the six weeks leading up to him making the decision to self-exclude in early March 2022. It was during this period that his activity increased considerably in frequency, and he was depositing funds at a greater rate – the actions that he feels should've alerted Spreadex to a problem. But before looking in detail at what happened then, I think it's worth considering events prior to this as I think it provides important background. And further, there's been some confusion in what the investigator said previously.

When Mr C opened his account in 2021 it gave him access to both fix-odds sports betting and sports spread betting. His account activity started with fixed-odds betting for the first month or so, but he then started to do some spread betting alongside the fixed-odds betting.

Mr C then stopped fixed-odds betting in late November 2021 when he reached a pre-set deposit limit that Spreadex had in place specifically for that type of betting. This was a result of it falling under a different regulator – the Gambling Commission – and therefore different rules and guidance. Sports spread betting is regulated by the Financial Conduct Authority (FCA).

Mr C continued to use the account solely for spread betting, with his activity picking up considerably from January 2022 onwards. This activity involved an increase in deposits into the account, which were flagged by Spreadex and prompted an 'enhanced due diligence' check, with an email sent to Mr C on 21 February 2022 requesting financial information to support his account funding levels. This information wasn't provided and around two weeks later Mr C self-excluded and the account was closed.

I think it's important to stress that the email to Mr C in February 2022 wasn't prompted by the frequency of betting or Spreadex having concerns about Mr C's betting patterns. Rather, it was the deposit levels in the context of Spreadex's anti-money laundering (AML) responsibilities that prompted the check.

While the activity on Mr C's account had increased, it wasn't outside the parameters of the financial information he'd supplied to Spreadex, information on which it was entitled to rely, and without any requirement for verification (although, as noted, a credit check had been performed at the outset). The information supplied by Mr C indicated a salary of £70,000 (which increased slightly to £80,000 when the information was sought at a second check in October 2022) and savings of £100,000.

Mr C also activated on line two 'time outs' of a couple of days each at the end of January/beginning of February 2022. These time-outs were actually for fixed-odd betting only (The message confirming the time-outs explained that if the user also wanted them to apply to spread betting, they could call Spreadex).

As Mr C had, as noted, reached the fixed-odds deposit limit in November 2021, he would've been unable to place fixed-odds bets in any event in January/February 2022, so there was actually no need for him to activate the time-outs. But looking at his spread betting activity it seems he didn't place any spread bets during the time-out windows. So, I think it likely he simply assumed the on-line time-outs also applied to spread betting. Either way, the use of the time-out function suggest that he understood how his account could be managed and controlled where he felt it was necessary.

What I'm trying to illustrate in describing this background and events is the type of activity that was occurring with Mr Cs account and how, while there were actions that stemmed from increased usage, there was nothing in my view that would've clearly alerted Spreadex to a problem prior to Mr C's self-exclusion.

I accept that he was gambling a significant amount and there was a substantial increase from January 2022 onwards. But I don't think that increase in isolation would, or should, have been enough to prompt Spreadex to take earlier action to restrict the account. It provides an execution-only service, so responsibility for the frequency and size of bets remains solely with the account holder.

Spreadex has over-arching regulatory responsibilities (set by the FCA in respect of sports spread betting) to act fairly and in the interests of its customers. But restricting an account

based solely on an increase in the frequency of betting would in itself potentially be acting unfairly. Of course, Spreadex could have sought more information or verification from Mr C at any point, but I don't think it necessarily should have done. There was no regulatory requirement for it to do so. As soon as there was reason to suspect a problem – the point at which Mr C self-excluded – Spreadex acted, as I would have expected it to do.

I've thought about whether Mr C hitting the fixed-odds deposit limit in November 2021 ought to have acted as an alert to Spreadex. But I'm conscious that, while this clearly was part of the wider circumstances of the complaint and something that Spreadex would of course have been aware of, the deposit limit existed to address a separate issue under a separate set of Gambling Commission rules. To my mind, it's another example of something that Spreadex could perhaps have used as a 'red flag', but there was no requirement that it had to.

As I've said, I recognise my provisional findings will be very disappointing for Mr C. I understand how strongly he feels that Spreadex should've acted sooner. But given what it understood about his financial circumstances and the fact that he appeared to be actively managing his account, I don't think it was wrong to continue allowing him to use the facility. As such, I don't think it needs to take any action or pay any compensation to Mr C."

Mr C didn't accept my provisional decision. He made several points, which I've summarised below:

- I'd incorrectly said the account was opened in August 2021. It was actually July 2019 (*This has been corrected in the background section of this final decision*).
- The financial information he'd provided at the account opening was inaccurate and over-stated. Spreadex should've done further checks after July 2019, which would have likely shown that the figures he'd provided were incorrect.
- The savings figure he'd later provided in October 2021 was £50,000, not £100,000 as I'd stated. The £100,000 figure had been given at the outset, so was no longer relevant.
- As such, the amount relevant to any ongoing assessment of affordability and AML checks should be the £50,000 (although this was never verified). Against this figure, his losses across all activities on the account should've alerted Spreadex to a problem.
- Spreadex's case appeared to be premised on the fact that time-outs were taken for fixed-odds betting only and because none was taken for spread-betting this absolved it of responsibility. But he was of the view that the time-outs had worked for spread-betting and, further, he'd made attempts to log-on and deposit during the time-outs and these should've acted as 'red flags'.
- When fixed-odds betting was suspended, all account activity should've been suspended pending proof of financing. The amount being spent on the account should've alerted Spreadex to a problem given the income and savings figures that had been provided.
- More information on attempted logins, declined transactions and changes to deposit limits should be obtained. This would show that the time-outs also worked for spread betting. There should also be clarity on what the 'binaries' referred to in relation to time-outs are, because this also implies that spread betting was timed-out.
- In summary, there was a lack of due diligence by Spreadex, and the level of losses compared with the declared, but unverified, assets can't be 'tick-boxed' away.

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.

Having done so, I remain of the view that the complaint should not be upheld. I've considered Mr C's additional comments carefully and as I noted previously, do very much recognise and understand his strength of feeling. This has clearly been a very difficult experience for him.

But I must be impartial and independently reach what I consider to be a fair and reasonable conclusion based on the evidence and wider circumstances. And this includes taking into consideration the regulations that applied to Spreadex's provision of its spread betting service.

If I've not commented further on any particular point, it's not because I've failed to take it on board and think about it. Rather, it's because I don't feel I need to comment on it in reaching what I consider to be a fair and reasonable outcome.

It's clear Mr C feels that Spreadex should've done more to check the information it was provided with and to act sooner on potential 'red flags'. But as I said before, there was no requirement for it to do so. It was entitled to rely upon the information provided to it. As soon as it became clearly aware of a possible problem – with Mr C's decision to self-exclude (as opposed to time-out) – it acted. Prior to this it did have checks in place, but these were more focussed on its AML responsibilities.

I note Mr C's comments concerning the time-outs and whether (or not) they applied to the spread betting element of the account. Spreadex has clarified that the *on-line* time-outs applied to sports fixed-odds betting *and* sports binaries, which are a type of spread betting. I appreciate this differentiation has caused some confusion and that Mr C feels Spreadex has provided misleading information in this respect. But I don't think there has been an intention to mislead by Spreadex and, importantly, I don't think the previous lack of clarity about which services the on-line time-outs applied to impacted my overall conclusion that Spreadex had acted reasonably in the circumstances.

As I said in my provisional decision, the use of the time-outs demonstrated that Spreadex had account management tools in place, which Mr C knew how to use and did use. Spreadex's records show that Mr C didn't continue to try and bet during the time-outs (save for a single attempted binary bet during the first one). So, it does seem that he pro-actively used the tool, it worked as it was supposed to and there was no activity during the time-outs, such as repeated attempts to over-ride them in some way, that might have given an indication that something was wrong.

Clearly Mr C was betting in high volumes and his losses increased considerably in the first few months of 2022. But, as I said before, I don't think that the increases in isolation would, or should, have been enough to prompt Spreadex to take earlier action to restrict the account. I note his comment about the amount of savings he declared in October 2021 being lower than the £100,000 when he opened the account. But, again, that's not something that changes my view. He still declared figures for income and savings reasonably consistent with his account activity.

I recognise that Mr C strongly believes such factors should act as red flags and I do have some sympathy with that view. As my provisional decision noted, there were things Spreadex *could* have done, but not that it *had* to do. I can see why Mr C would view this as an unsatisfactory situation, but I must consider the matter in light of the rules and regulations that applied at the time.

My final decision

For the reasons given, my final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 8 December 2023.

James Harris
Ombudsman