

The complaint

Mr S has complained that Lloyds Bank PLC acted irresponsibly when it allowed him to open a bank account with it and use it to gamble in a compulsive and problematic way.

Background

Mr S opened a personal current account with Lloyds in September 2022. Sadly, Mr S experienced a family bereavement which resulted in him depositing over £12,000 inheritance into his account in December 2022. He has said that over a very short period of time he lost all of this money gambling. He says Lloyds knew he was a gambling addict and should've stopped him from spending the funds in his account in that way. He wants Lloyds to refund all of the money he lost gambling and to pay him additional compensation for its failure to provide him with adequate protection.

Lloyds has said that it was unaware Mr S was vulnerable or that he was spending the funds in his account in a harmful way. It says at no point in time did Mr S' account show any signs of financial vulnerability, there was no overdraft facility on the account and no bills were being returned unpaid. It says the bank doesn't routinely monitor individual activity on accounts and, as gambling is legal in the UK, there was nothing to flag that Mr S was spending money in a way that may cause him problems.

However, Lloyds did accept that after Mr S had logged his complaint and disclosed his gambling addiction, it didn't offer adequate support to help him going forward. So, it agreed to refund all the gambling transactions that took place after the date he complained, which came to £2,763.47. It also included an additional payment of £250 in recognition of the distress and inconvenience caused.

Mr S accepted the offer made by Lloyds in its response but remained of the opinion that the bank should never have allowed him to open the account in September 2022 and should've done more to protect him as a compulsive gambler. So, he brought his complaint to our service.

One of our investigators looked into already. He found that the offer to refund the gambling transactions from the point Mr S logged his complaint, as well as the additional payment for distress, was sufficient. So, he didn't ask Lloyds to do anything else in relation to Mr S' complaint.

Mr S disagreed with the investigators findings and asked for an ombudsman to review his complaint and so it's been passed to me for consideration.

My finding

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 agree with the findings set out by our investigator and won't be asking Lloyds to do anything more in relation to Mr S' complaint. I know this will come as an

enormous disappointment to Mr S, so I'd like to set out my reasoning below.

I also want to acknowledge that I've summarised the events of Mr S' complaint. But I want to assure both parties that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

Mr S has said that Lloyds should've been aware that he had a history of compulsive and problematic gambling before he opened his account in September 2022. This is because Mr S had previously held a business account with Lloyds which he has explained defaulted approximately five years earlier because of gambling related debt. He believes that his name should've flagged additional checks and that Lloyds should've refused to allow him to open an account with it on that basis.

I can understand why Mr S thinks Lloyds should've immediately connected him to the previously defaulted account. However, the bank has explained why this didn't happen, and I think its explanation is reasonable.

In essence the account Mr S had previously held was a business account, and so not in his personal name but in the business name. In addition, the address the account was registered to was different from the address Mr S was living at in September 2022. Finally, the account Mr S opened in September 2022 had no credit facility attached to it. So, the bank wouldn't have run the same level of checks that it would do when assessing a credit application. All of which means I don't think it was inappropriate for the bank to allow Mr S to open a personal account with it or that it should've immediately linked him back to the business account that had defaulted over five years previously.

Mr S has also raised concerns around the Consumer Duty obligations brought in by the Financial Conduct Authority (FCA) in July 2023. This guidance was introduced by the FCA after Mr S' raised his complaint and can't be applied retrospectively so I won't be considering it further.

In addition, he has also said that Lloyds failed in its duty to support him under the Equality Act 2010. Mr S hasn't clarified which protected characteristic he thinks applies to him, but I would like to clarify this service can't make findings on whether or not a piece of legislation, such as the Equality Act, has been breached. That's because only a court of law can make a finding on whether a law has been broken. This service doesn't have the authority to do that.

However, I have considered whether or not Lloyds treated Mr S fairly, when it should've realised he needed additional support, and what support it offered after that point.

So next question I need to consider is whether or not Lloyds missed any indicators that Mr S was vulnerable or spending his money in a way that was causing him harm.

Mr S has mentioned phoning Lloyds in February 2023 and requesting that his ATM daily limit be increased to £500. Mr S has said that by this point in time his gambling was excessive, and it should've been clear to the person he spoke to on the phone that he needed help.

In order to understand whether or not the person Mr S spoke to at Lloyds failed to offer support when it was obvious that Mr S needed it, I asked Lloyds to send me a screenshot of the information visible to its staff members when a customer calls and asks for their ATM limit to be increased. Having reviewed this information I can see that the call advisor Mr S spoke to wouldn't have seen any of his recent transactions or how he was spending his money. This wasn't information that was needed to be accessed to increase the limit on the

account. And Mr S gave a feasible explanation as to why it was needed, telling the staff member he needed to pay a plumber for work that had been completed.

Mr S and the staff member discussed various options most of which involved them trying to find a local branch that Mr S could use. And they also went through the functions on the Lloyds banking app to see if this was something Mr S could do himself. So, I'm satisfied that they didn't review Mr S' account transactions as part of that conversation. And Mr S gave no indication that he needed any help beyond paying his plumber.

So, I don't think the person Mr S spoke to in February 2023 failed to offer support when they should've. I say this because I don't think they saw the transactions on Mr S' account or that they realised he was gambling in such a destructive way because they didn't need to access specific spending activity on his account to action his request. And Mr S didn't give any indication at all that he was experiencing issues over the phone or behave in a way that should've resulted in further questioning from the advisor.

Mr S has also queried how he could spend such high volumes of money over a relatively short period of time without the bank questioning him. He says that banks are obliged to monitor accounts when people "*show risky patterns of gambling play*". However, there is no legal obligation on banks to monitor account activity unless there is a substantial change in how the account has been used or other concerns around potential fraud, scams or illegal activity.

It is important to clarify that banks don't manually review accounts unless there's reason to. At most the sorts of checks that are run through accounts are done by algorithms that are designed to identify a specific issue or risk. So, an algorithm designed to identify fraud for example, won't necessarily identify what a consumer is spending money on, i.e. gambling, but merely whether or not there are any indications that the transactions weren't genuinely authorised by the consumer. Which means the algorithm will report back that everything is fine because transactions are fully authorised, even if a person reviewing the same transactions might think they were excessive or representative of a different type of risk.

Mr S opened the account in September 2022 and was using it to gamble regularly by October 2022. I appreciate that Mr S was gambling daily and that the amounts he was losing were causing him problems. However, at no point did the account show any indicators of stress, such as slipping into an unarranged overdraft or having insufficient funds to cover outgoing expenses. And there was no substantial change in behaviour on the account because it was used in this way from its inception. Mr S wasn't doing anything illegal and wasn't spending outside of the funds available in his account. So, I've not been able to identify any trigger or instance that could've alerted Lloyds to the fact Mr S was spending in a harmful way.

Lloyds have agreed that it should've done more when Mr S contacted it to register his complaint and explain what had happened. It says at this time there were various different types of support it should've offered to Mr S, including gambling blocks and an ATM limit reduction. It has confirmed that following Mr S' complaint it agreed to refund all the gambling transactions that were paid from the account from the date the complaint was logged in early June 2023 until the bank responded to it.

In addition, Lloyds confirmed at that time it also reduced Mr S' daily ATM limit down to £100 and added the gambling block to his account. Unfortunately, it seems as though Mr S subsequently requested for the daily limit to be increased back up to £500 and removed the gambling block from his account. Lloyds has confirmed that as late as September 2023, several months after Mr S brought his complaint to this service, there was still evidence of daily gambling on the account. So, it's unclear to me what difference any earlier support from

Lloyds would've made as it seems even after it did offer support and tools needed to help reduce Mr S' gambling spend he removed these and continued to gamble as he had been.

Finally, Mr S has said that a different bank he held a second account with refunded all of his gambling transactions after he complained to it about the lack of support he'd received. I'm unable to comment on this as I've not seen anything in relation to that bank, Mr S' account with it, or its reasons for refunding gambling transactions.

But I have reviewed the information held by Lloyds and considered all of Mr S' evidence in relation to the account he held there. Having done so I'm satisfied that Lloyds didn't make an error in opening an account for Mr S and that it didn't fail to pick up on clear indications of vulnerability, up to the point Mr S logged his complaint with it. And while I agree it should've offered support to Mr S when he logged his complaint, I can see that this support was eventually offered and a refund for the gambling transactions that might have been stopped refunded.

So, I'm satisfied that Lloyds has behaved reasonably in relation to Mr S' complaint and how it has since tried support him. And so, I'm not asking it to do anymore.

My final decision

For the reasons set out above I don't uphold Mr S' complaint against Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 February 2024.

Karen Hanlon
Ombudsman