

The complaint

Mr A is unhappy that TSB Bank plc didn't do more to help stop him losing money to gambling via payments made from his current account.

What happened

The circumstances that led to this complaint are well known to both parties, so I won't repeat them in detail here. But, in summary:

- Mr A says he's gambled excessively throughout most of his adult life but he got his addiction under control in early 2023. He hadn't told TSB about his addiction or asked for help, But he thinks the bank should have spotted the gambling and reached out to him at some point in the preceding 10 years or so. And, if the bank had done so, he thinks he would have got help sooner.
- TSB accepts the way Mr A used his account ought to have prompted intervention, but it couldn't be sure that Mr A would have acted differently if it had intervened. So it offered Mr A £300 compensation to recognise any distress and/or inconvenience he may have been caused. Mr A didn't accept and asked us to look into his complaint.
- TSB said our complaint time limits meant we could only look into what had happened in the preceding six years. Our Investigator agreed. He also explained that he wasn't persuaded that earlier intervention from the bank would have made a difference, so the bank's offer was fair and reasonable. Mr A disagreed, so the complaint has come to me.

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 would first say that I don't entirely agree with the bank's assertion that we can only look at the concerns Mr A raised related to the six years that led up to the date he raised his complaint in February 2023. But, I think I would reach the same outcome, in any event, even if I also considered the transactions that go back further than that.

Having done that, and while I appreciate this will come as a disappointment to Mr A, I've reached the same outcome as the investigator for much the same reasons. I note the following, in particular.

When making my decision I've had to balance a number of competing obligations. TSB is required to process payments that Mr A authorises it to make. But there are some situations where we believe banks, taking into account relevant rules, codes and best practice standards, shouldn't have taken their customers' authorisation instruction at 'face value' and/or should have looked at the wider circumstances surrounding the transaction before making the payment.

The Financial Conduct Authority (the financial services industry regulator) has also published a number of guidance notes, occasional and consultation papers about vulnerable customers and the need to treat them fairly. The earliest being in 2015. And it's arguable that the addiction Mr A describes made him vulnerable. But there are no industry-agreed definitions for problematic or harmful gambling and no specific rules in place which say what a bank must do, either when it realises a consumer might have a gambling addiction or when the consumer tells them this specifically. Furthermore, most banks don't manually monitor accounts or have specific mechanisms to look for gambling activity beyond identifying debit card payments made to gambling merchants using standardised Merchant Category Codes (MCCs). So, a bank is only likely to become aware of a potential gambling problem if the consumer has told them about it, or if the account activity has flagged up for some other reason. That could be because the pattern of spending had triggered fraud detection algorithms. Or there are signs of financial difficulty on the account, such as regular use of an unplanned overdraft, returned direct debits, being over a credit limit or missing expected repayments.

With the above in mind, Mr A holds a basic bank account with TSB which doesn't afford a formal overdraft facility. But there have been times, over the years when the bank has honoured a payment Mr A has instructed it to make and this has resulted in the account going overdrawn, though rarely by a substantial amount. When this has happened, the bank hasn't charged Mr A for being overdrawn and he's tended to bring the account back into credit reasonably quickly. There have also been times when the bank has refused to make a payment because Mr A didn't have enough money in his account and fees have been charged on occasion in relation to this, some of which TSB has refunded when Mr A has got in touch. I've also seen examples of letters TSB sent to Mr A following these payment events which encouraged him to get in touch if he was having difficulty, or needed help, managing his money.

There have also been a few occasions when TSB's fraud detection systems have flagged, and blocked, a particular payment including in October 2018 when a gambling transaction seems to have been the cause.

So there have been occasions, over the years, when Mr A and the bank have spoken about specific payment activity on his account. But on none of those occasions did the bank ask Mr A about the way he was using his account more broadly or, as in the letters it sent, encourage him to discuss his overarching financial situation. I think it missed opportunities here and am pleased that the bank has already accepted this, albeit I note Mr A's suggestion that TSB only did so when he pointed out some very specific failing. But I also note there's nothing which suggests Mr A ever asked for help or explained about his gambling addiction and/or that he was having financial difficulties as a result.

Mr A tells us that he was incredibly embarrassed about his addiction and this is something he tried to hide from people. I'm grateful Mr A has been so open about his addiction. I can well understand why he felt this way and, in my experience, that's not at all unusual. But I can't ignore the possibility that he would have dismissed the bank's concerns or offers of help had these been presented before he was ready and able to face his addiction. And I say this, in part, with the understanding that it was not until January 2023 that Mr A reached out to a debt advice charity for help, which provided some useful advice about his gambling addiction and which led to this complaint.

It also seems, from the activity on Mr A's account, that he had at least one bank account with another provider. He stopped receiving any salary into his TSB account in mid-2019. And he regularly transferred money in and out of his accounts (including his TSB

savings account) as well as borrowing and repaying money from what looks like friends and/or family. There are also times when there are very few gambling payments leaving the account but he's still transferring money in and out, presumably to facilitate gambling through his other accounts.

In the circumstances, even if TSB had intervened and/or gone so far as to block Mr A from gambling via his TSB account I think he might still have found a way to gamble using his other accounts. I think it's possible he moved his money around in the way he did precisely to avoid detection and/or blocks relating to his other accounts.

I appreciate Mr A feels that earlier intervention would have been successful in stopping him from gambling and this is why he feels the bank should pay him considerably more than £300 compensation. But I think he's saying that somewhat with the benefit of hindsight at a time when his gambling is now under control and his mental health has been in a better place.

With all of the above in mind, I can't fairly instruct TSB to refund any of the money Mr A has spent on gambling but I'm satisfied the £300 compensation the bank has offered is fair and reasonable in the circumstances..

My final decision

My final decision is that TSB Bank plc offer of £300 compensation was fair and this should now be paid to Mr A (if it hasn't been paid already). If this award hasn't yet been paid the TSB Bank plc must pay it within 28 days of the date on which we tell it that Mr A accepts my final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 19 March 2024.

Ruth Hersey
Ombudsman