

The complaint

Ms S complains that TSB Bank plc failed to carry out her instructions to block payments to gambling operators causing her to lose a great deal of money.

What happened

Ms S said she suffered a nervous breakdown in 2020 which resulted in a gambling addiction. She said she got help and was blocked on all gambling sites and tried to get better and this worked until August 2023 when she suffered another nervous breakdown. Ms S said she started gambling again using her newly opened TSB account.

On 9 August 2023 Ms S requested a gambling block on her account, but said she was still able to make payments and lost a lot of money which hindered her recovery. Ms S said when the block didn't work she tried to close her account and contact TSB on its app, but this didn't work and she made contact via social media and was advised to make a complaint.

Ms S said when she asked TSB to close her account it wouldn't do it there and then, and between 9 August and 25 September she had gambling losses of £10,566, 'which is everything I've ever owned'. She said TSB did a great job of getting information out of her while she was suffering depression, but wouldn't help apart from close her account.

Ms S messaged TSB on 23 August and it pointed her to a specialist gambling helpline and a 'how to close your account' guide. Ms S complained on 11 September, and TSB responded on 15 September advising what actions she could take to stop gambling. Ms S emailed the CEO of TSB the same day asking for further help. TSB spoke to Ms S on 27 September, closed her account on 29 September and sent a confirmation letter on 2 October 2023.

TSB responded to Ms S's complaint to say the gambling block she applied to her debit card would apply to most transactions, but it can't guarantee it will stop all debit card payments to gambling websites. TSB said the payments were made via 'Faster Payment' and the debit card block doesn't apply to these. TSB confirmed that Ms S's account had been closed.

Ms S wasn't satisfied and referred her complaint to us. Our investigator recommended it be upheld in part. He said TSB could have done more to help once aware of Ms S's gambling problem and its response was formulaic and it should pay her £200 compensation. But as to her losses TSB was clear the block only applies to 'most payments and transactions' and only those via the debit card not other ways such as faster payments. He said the block stops the use of a card in store or online for merchants registered as gambling services.

The investigator said all merchants have a 'Merchant Category Code' which shows the type of business, so if the code shows as gambling, then the transaction will be blocked. But there are limitations to the block and gambling sites that use intermediaries or overseas sites may be coded differently and so there's no guarantee all gambling payments will be blocked. He said there's more advice on TSB's website to alert consumers of ways to prevent and reduce gambling entitled, 'How do I set up my own controls for gambling'. He said this is a reasonable approach to informing consumers what they can do to help themselves.

The investigator said Ms S's bank statements show that from activation of the account on 24 June 2023 she made gambling transactions, and until mid-August all were by faster payment so the block on her card was irrelevant. From then she used her debit card for gambling with

overseas operators, via third party payment providers or domain hosting companies, which TSB wouldn't have identified as gambling. He said the most intense gambling was between the complaint on 11 September until 25 September 2023, just before the account closed.

TSB said it was 'shocked and disappointed' with the investigator's view of the complaint and he was incorrect to say Ms S had struggled to make contact as it had no record of her using the online chat service, calling, or visiting a branch to discuss her gambling. TSB would have happily closed Ms S's account or advised how to do this online had she made contact. It said as she was using online banking, she could have done this herself and it wasn't certain why she didn't, given she had managed to complain via its online form. TSB said it advised Ms S how to do this and use its online chat facility on 23 August and so she could have closed her account on that date, but instead she made a complaint on 11 September.

TSB said it wasn't appropriate for the investigator to say its complaint response wasn't quick enough as it acted promptly, within the timescales on its website and the rules. It disagreed that its response was 'formulaic rather than empathic' as it acknowledged a difficult time for Ms S and provided advice and sources of support. TSB said Ms S hadn't asked to close her account in her complaint and so it didn't address this in its response. TSB concluded there was no justification for compensation for a 'delay' and said as it had already responded to the complaint, Ms S's email to its CEO was an attempt to emotionally blackmail or bully it to change decision. TSB requested an ombudsman review the complaint.

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.

Ms S said she lost over £10,000 during the time she had blocked gambling payments on her account, which she would like to be reimbursed. She said TSB told her it's her fault for not reading the terms and conditions. She said another bank was able to block her gambling payments, but TSB's safeguarding failed.

I was sorry to learn about the health and gambling addiction problems Ms S has faced and I hope she has been able to overcome these. I have looked at the available evidence to decide if TSB should have done more to protect Ms S from the harmful effects of her gambling and to see if it treated her fairly in the handling of her communications.

I understand that Ms S's other account had successfully blocked card payments to gambling operators, but I can't consider that as the present complaint concerns only TSB. I don't know why Ms S opened a TSB account and almost immediately put a gambling block on her payment card, and almost immediately started gambling. I'm sorry to note that the gambling block she applied didn't prevent her gambling and she tried to close her account. She subsequently complained that TSB had not helped her.

TSB is correct that transactions by 'Faster Payments' such as Ms S instructed aren't blocked as the funds are sent directly from one bank account to another. This means the transaction doesn't pass through a merchant acquisition system which checks the beneficiary against a block. Ms S's subsequent transactions were made to overseas payment agents. A card payment block works by stopping payments to identified merchant types from a debit card, not by direct transfer. A gambling block is reliant on the merchant category code being listed as 'gambling', and it appears that these transactions were not listed as gambling. As will be apparent to Ms S, these are limits to the reach of gambling blocks.

In common with all financial institutions, TSB isn't able to, and doesn't guarantee that all payments will be blocked and says on its banking app and website that it will block 'most payments and transactions' made using a debit card. And so whilst I can appreciate Ms S's frustration about this, I'm unable to say TSB did something wrong by not stopping the

payments as this simply isn't possible. It follows that TSB shouldn't be penalised for the limitations of the gambling block which were out of its control as this would not be fair.

I have looked closely at TSB's handling of Ms S's account to see if within its short lifespan there has been anything that ought reasonably to have triggered TSB to intervene or contact Ms S about her gambling transactions.

Ms S's TSB account was funded by another account and appears to have been operated almost exclusively for gambling purposes. Most banks don't manually monitor accounts or have a mechanism to look for gambling activity. Gambling is a legitimate activity and it's not the role of the banks to take a view about legitimate transactions, it is the role of the banks to act on customers' payment instructions. However, banks are expected to intervene when there is evidence of compulsive spending by a vulnerable customer and TSB was aware of Ms S's vulnerability from her live chat on 23 August. As I have said most of Ms S's gambling was by Faster Payment, but these transactions were identifiable as to gambling operators.

TSB did give Ms S the link to close her account online and had she done so and not circumvented the blocks she would have avoided further gambling losses. And so, I don't think it would be fair to require TSB to reimburse Ms S for any of the gambling losses that she has incurred.

I have considered Ms S's complaint that TSB should have responded more quickly and been accessible to her needs so she could stop gambling and close her account. Our investigator said TSB were aware of her vulnerable status and so additional care and appropriate adjustment should have been exercised.

There was a two-week delay in TSB's response to Ms S's email to its CEO and it reiterated its previous position. I can understand why this delay left Ms S feeling she hadn't been listened to and wasn't being taken seriously. The investigator thought TSB may not have been able to stop Ms S's gambling, but it could have helped her to close the account. He said the impact of the delay was particularly heavy as her gambling intensified over this period, and so TSB should pay her £200 compensation.

The first mention I have seen of Ms S's desire to close her account was in her live chat message of 23 August 2023. TSB responded the same day with a link for her to follow to close her account and pointed her to its Customer Services Department if she had difficulties with this. I don't know why Ms S didn't follow this online guidance, but she may have found this to be difficult.

TSB responded to Ms S's complaint four days later (15 September) and advised her on actions she could take to stop her gambling, but didn't refer to her wish to close her account. TSB's statement that it wasn't aware of her wishes is incorrect as it knew from 23 August. TSB said it was not until its phone conversation with Ms S on 27 September 2023 that it was able to verify her as the genuine account holder and close the account. Banks do need to formally identify a customer before taking the serious step of closing an account on their instructions, but I think it could have been proactive about this.

TSB said the investigator was absolving Ms S of any responsibility for her own actions, including when it provided her with clear instructions and assistance. I hope Ms S has accessed the free help available to tackle her gambling addiction, including self-exclusion as not to do so would negate her own responsibility to minimise harm from gambling.

In both a previous and recent email TSB said Ms S, 'has again tried exerting pressure on us to pay her funds through what we consider to be another attempt at emotional blackmail. She mentions losing her home and her marriage, neither of which was the fault of TSB. The effect on Mrs S of her gambling is entirely of her own making...'.

I find this statement and previous comments from TSB to be very troubling as they show a deep lack of understanding around compulsive behaviour and addictions. I think it raises the potential on TSB's part to significantly reduce its willingness to effectively support some of its most vulnerable customers. Without that attitude, TSB might have recognised Ms S's addictive behaviour and offered support before she reached out, or followed up on her request to close her bank account by contacting her when it could see that she hadn't followed its instructions to do this online. I would remind TSB that firms are expected by the Financial Conduct Authority to exercise particular care with vulnerable customers. That starts with their identification and treatment and continues 'at every stage and in each interaction'.

In conclusion, I can understand Ms S's concerns about her gambling and the impact on her finances and family. I think her messages to TSB show she wanted more help and showed that she was a vulnerable consumer, but also she wanted TSB to offer her compensation. I don't think this amounts to emotional blackmail as described by TSB.

Putting things right

All-in-all I think TSB gave practical advice to Ms S and I don't agree with the investigator that it was 'formulaic rather than empathetic'. But I think TSB could have helped her more in following this up, to assist her in closing her account, and so I think the £200 compensation recommended by the investigator is a fair and reasonable reflection of her frustration and the anxiety she suffered from this situation.

My final decision

For the reasons I have given it is my final decision that the complaint is upheld. I require TSB Bank plc to pay Ms S £200 compensation for her distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 22 July 2024.

Andrew Fraser
Ombudsman