

## **complaint**

Mr B complains TSB Bank Plc won't refund a large amount of money that was taken from his account and used for gambling. He says he didn't spend the money – or allow anybody else to do it for him. Mr B wants TSB to refund the money.

## **background**

Mr B says he lost his mobile phone. This seems to have happened outside his house. He believes the person who found his phone transferred money between his TSB savings and current accounts. They then used the money in his current account to gamble (unsuccessfully) through Mr B's account with a gambling website.

When Mr B discovered what had happened, he contacted the gambling website. But it wouldn't help him. It said Mr B's gambling account had been accessed using the correct security information, which should be known only to Mr B. There was no suggestion it'd been compromised. And the website's records showed the internet protocol (IP) address used this time was the same as one used by Mr B before.

Mr B then contacted TSB. But it wouldn't refund the money either. The bank accepted Mr B had stored his online banking username on his phone. But that didn't explain how the fraudster had known the other security information to be able to access Mr B's bank accounts.

Mr B thought that someone may have used his phone and accessed his home Wi-Fi in order to place the bets. TSB didn't think this was likely. Mr B wasn't happy with its response so he contacted us.

One of our adjudicators looked into things for Mr B. But she didn't think TSB should refund the money to Mr B. In summary, she didn't think any of the possible ways Mr B thought a fraudster might have got hold of the required amount of his personal/security information were likely.

The adjudicator didn't think a fraudster with access to Mr B's online banking would use it to gamble using his account with the gambling website. Any winnings would simply be returned to Mr B's gambling account. So she thought it was much more likely the fraudster would have simply withdrawn – or spent – the money in Mr B's current account. And they hadn't done this.

Mr B didn't agree with the adjudicator. So his complaint's been passed to an ombudsman to review and give a final decision on. Mr B's referred to various media articles about the burden of proof a bank needs before being able to make an account holder responsible for payments they said they hadn't made.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I can see Mr B feels very strongly about this. There's a large amount of money involved. And Mr B's described the impact of the loss on him and his family, which would be very difficult to cope with. He has my sympathy in trying to deal with all those issues.

But I'm afraid I have to tell Mr B that I think the adjudicator (and TSB) has reached the right outcome here. TSB doesn't have to refund the money.

There's nothing I can really add to what the adjudicator's already told Mr B. I think she's set out the position quite clearly. I also think it's unlikely a fraudster would have transferred the money between Mr B's accounts with TSB and then used it to gamble from his account with a gambling website. There's no way for a fraudster to benefit from these transactions – as the money would always return to Mr B. If a fraudster had access to Mr B's TSB accounts it's far more likely they'd try to find a way to withdraw, and benefit from, the money.

I think it's much more likely Mr B carried out the transfers between his TSB accounts and then the gambling transactions. I realise that's a difficult message to give – but it's what I think is most likely to have happened.

It's important I cover the media articles Mr B's sent in since the adjudicator issued her view. While I have to be mindful of the various rules that govern what banks can and can't do in such cases, I have to decide what I think's a fair and reasonable outcome. And here, based on what I've seen, I don't think it'd be fair to tell TSB to refund the money to Mr B.

Given the amount of money involved and what Mr B's already explained to us about the situation he now faces I understand he may face difficulties managing his finances. I've enclosed information with my decision about some non-profit organisations that might be able to help Mr B. If he wants details of other organisations that might be able to help him, the adjudicator will be happy to let him have details.

### **my final decision**

For the reasons I've given, my final decision is that TSB Bank plc doesn't have to refund the money Mr B says was used for gambling without his agreement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 February 2016.

Andrew Davies  
**ombudsman**