

complaint

Mr and Mrs M complain that Lloyds Bank PLC did nothing to stop Mr M from spending thousands of pounds on his gambling addiction.

background

Mr and Mrs M have a joint account with Lloyds. They are represented in this complaint by a debt advice charity.

Some years ago, Mr M was diagnosed with Parkinson's disease, for which he was prescribed mirapexin. A side effect of mirapexin is that it can cause impulse control disorders. As a result, Mr M developed a serious gambling addiction. He previously hadn't been a gambler. But in the course of about a month, from June to July 2015, he spent almost £100,000 on gambling websites, with money from the joint account. He did this without his wife's knowledge. They now complain that the amount and pattern of Mr M's spending should have alerted Lloyds to the fact that there was a problem, such as by triggering a fraud alert. Lloyds could then have taken action to prevent his spending. They would like Lloyds to refund some or all of the money.

Lloyds says that it would not have stopped or investigated the transactions because there was nothing to suggest they were fraudulent. It doesn't block genuine transactions which have been authorised by its customers.

Our adjudicator did not uphold this complaint, for a number of reasons. She said that banks don't have to pro-actively contact their customers about their spending habits or lifestyle choices, as they're entitled to privacy. There was nothing suspicious about the transactions which might have led Lloyds to suspect fraud on the account, as they were consistent with Mr M's earlier use of the account in the months leading up to the period in question. Mr and Mrs M had not told the bank about Mr M's gambling problem (even though they had told his medical team about what was happening), so Lloyds had no way of knowing about it. The online transactions had been carried out using a debit card, which meant that they were guaranteed – Lloyds had to honour them. Mr M had cut up his bank cards, but hadn't cancelled them, which meant he could still make payments because the cards' details were still recorded on his online account.

Mr and Mrs M did not accept that assessment. They argued that their account was usually overdrawn, but £100,000 had been paid into the account in May 2015, which should have alerted Lloyds to unusual activity on the account and prompted some questions. They said that Mrs M had been unaware of what was happening because Mr M had stopped paper statements being sent to their address and asked for online statements instead. They say that Mrs M told Lloyds about her husband's gambling problem on 25 June, but took no action. They asked for an ombudsman's decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. In particular, I have seen medical evidence verifying what I have been told about Mr M's condition and the effect of his medication. So I don't consider Mr M's gambling to be a lifestyle choice, but an affliction brought about by circumstances outside his control. And I was very sorry to read about his

illness, and the havoc which it has wrought on Mr and Mrs M's lives and finances. I would like to express my sympathy for them both.

That said, I do mostly agree with our adjudicator's assessment of this complaint. The bank did not have a duty to stop Mr M from spending his own money, joint account or not. It was obliged to honour the payments he made. It didn't know he had a gambling problem, because nobody told it. Its anti-fraud measures are not intended to be triggered by non-fraudulent payments, and so since none of the payments were fraudulent I can't say that Lloyds made an error by not stopping or questioning the payments. Even if Lloyds had done so, it would have been concerned solely with whether the payments were fraudulent, not with how its customers chose to spend their own money. So I would only expect Lloyds to take action after it was told about the problem.

Mr and Mrs M discussed Mr M's gambling with his doctor, but I can't see any evidence that either of them ever discussed it with the bank. Mr M says he cut up his bank cards, which I accept, but he didn't cancel them. He could still use them online, and he took no steps to prevent that or to notify Lloyds that he wanted to stop using them. (He doesn't appear to have told the betting websites either, or the website that processed his payments.)

Before issuing her assessment of this complaint, the adjudicator asked Mr and Mrs M if they had ever told Lloyds about his gambling problem. Their reply (via the debt advice charity) dealt with other questions but did not address this one. After the adjudicator gave her assessment, Mrs M said that she had in fact told the bank about her husband's gambling on the phone on 25 June (by which time he'd spent £96,700), and she had later met with a manager in a branch in early July. At that meeting their cards had been cancelled. But there is no reference to any of these events in the bank's contact logs for the joint account, although I can see that Mr M did speak to the bank about something else on two occasions in June. (The contact notes do show that Mr M's card was cancelled and a new one ordered in June 2016, but that was a year later.) So on balance, I don't think it's likely that Lloyds knew about Mr M's gambling.

It follows that I don't think Lloyds failed to do anything it needed to do.

my final decision

So my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 18 November 2016.

Richard Wood
ombudsman