

## **complaint**

Mr B complains that London Capital Group Ltd (LCG) failed to follow his instructions not to phone him, breached the Data Protection Act 1998 by speaking to his wife about his accounts and encouraged him to trade despite being aware of his gambling addiction. Mr B is represented by his wife (Mrs B) in this complaint.

## **background**

Mr B had two trading accounts with LCG. He'd been very clear with LCG that it wasn't to contact him by phone, but it was to use email. He'd explained that his wife wasn't aware of his trading, and he wanted it to remain that way. But in February 2016, LCG called Mr B, and Mrs B answered the phone. LCG then went on to discuss Mr B's accounts with Mrs B.

During the conversation Mrs B told LCG that Mr B was a gambler and asked that his accounts be closed. LCG suspended them. Mr B then contacted LCG to complain about its data breach and insist that his accounts be reactivated.

LCG reactivated Mr B's accounts and later offered him a 10% deposit bonus – in other words it agreed to add 10% to any money he transferred to the accounts within a certain timeframe. Mr B borrowed money to pay into his accounts to receive the bonus offered and continued to trade. Mrs B then discovered that the accounts hadn't been closed and Mr B had run up large losses as a result of his trading.

Mr B has complained about LCG divulging the details of his two accounts to Mrs B. He said that his accounts shouldn't have been reactivated and he shouldn't have been offered the deposit bonus as LCG knew he was a gambler. He said LCG should accept responsibility for the losses he'd incurred as a result of reactivating his accounts and allowing him to continue to trade.

In September 2016 LCG said it would refund Mr B's losses subject to '*management sign-off*'. Then in November 2016 it confirmed its stance that Mr B was '*wholly liable*' for the losses.

Mr B didn't accept what it said. LCG investigated the matter and issued a final response in February 2017. It apologised for having tried to contact Mr B by phone and for speaking to Mrs B about his accounts. It said it doesn't offer gambling products and so isn't responsible for ensuring responsible gambling among its customers. It said it reactivated the accounts on his instruction. As Mrs B was not an authorised party on the accounts, it couldn't accept her instruction to end its relationship with Mr B. And as Mr B had a current relationship with it at the time, LCG didn't feel it was wrong for it to have offered him a 10% deposit bonus. It offered £250 for the distress caused to Mr B when it spoke to Mrs B.

Mr B still didn't agree, so he referred his complaint to us. One of our investigators looked into it. He said it was not in dispute that LCG shouldn't have spoken with Mrs B about Mr B's accounts. But he said he felt it was unlikely that the mistake led to the losses Mr B is asking be reimbursed. He said LCG had only reinstated the accounts at Mr B's insistence and as he was the customer in the relationship. So the investigator felt £250 represented an appropriate sum for LCG to have to pay in this respect.

The investigator noted the offer to refund Mr B's losses subject to management sign-off was later reversed. He felt in the circumstances and taking into account the impact this offer and retraction would've had on Mr B, LCG should pay a further £100 by way of compensation.

LCG agreed with the investigator's view. But Mr B didn't and asked for an ombudsman decision.

### **my findings**

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

It's not in dispute that LCG shouldn't have spoken with Mrs B about Mr B's accounts. So what I have to decide is what is fair for LCG to pay to Mr B as compensation for doing so. And, although I don't underestimate Mr B's strength of feeling on this point, I find that £250 represents a fair and reasonable sum in the circumstances.

When I look into a complaint, I have to consider what went wrong (if anything) and whether the consumer involved lost out as a result. In this case, it is clear that what went wrong was that LCG spoke to Mrs B. At the time, she was not authorised to give any instructions or receive any information on Mr B's accounts.

Had this not happened, I think it's more likely than not that Mr B would have continued to trade so I don't think his position now is any different as a result of LCG's error than it would have been.

LCG initially suspended Mr B's accounts based on what Mrs B had said. When Mr B discovered the accounts had been suspended, he complained strongly and insisted the accounts be reactivated. LCG agreed to do so. As Mrs B wasn't party to the accounts and LCG had no authority to speak with her, it shouldn't have accepted her instructions to suspend them.

LCG accepted Mr B's later instructions over those from Mrs B. But I don't think it would be fair or reasonable for me to say LCG shouldn't have done so.

Given that Mr B had live accounts, I can understand why LCG made the promotional offer of a 10% deposit bonus to him. It appears this offer wasn't only made to Mr B but was part of a wider marketing campaign. While I accept that ultimately, this might've encouraged Mr B to trade further, I don't think LCG was wrong to make it.

I've thought about the offer made to refund Mr B's losses subject to management sign off. As I think it was reasonable for LCG to reactivate Mr B's accounts, I don't think it is something I'd have recommended in the circumstances. So it's not something I can recommend now. I don't doubt that at the time the offer was made, Mr B was hugely relieved, and he'd have been distressed to find out some time later that the offer was not signed off.

The investigator recommended LCG pay a further £100 for the upset this decision caused Mr and Mrs B and I agree that's reasonable in the circumstances.

### **my final decision**

For the reasons set out above, I uphold this complaint and require London Capital Group Ltd to pay Mr B a total of £350.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 August 2017.

Richard Hale  
**ombudsman**