

complaint

Mr M complains that Spreadex Limited ("Spreadex") shouldn't have allowed him to open a 'new' spread betting account because of his gambling problem. And in allowing him to open a new account, Spreadex has caused him to suffer 'unaffordable' losses.

background

Mr M says he has a gambling problem and that he 'self-excluded' himself from being able to trade with Spreadex in 2013. Spreadex says that it never received a self-exclusion form from Mr M in 2013, when he held a previous account with it, so never marked him as being a client it should prevent (as far as was reasonably practicable) from trading.

This complaint was considered by one of our adjudicators who concluded that in all the circumstances Spreadex had done nothing wrong in allowing Mr M to open a new account and trade.

Mr M didn't agree so the matter has been passed to me for review and 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.

I know Mr M has very strong feelings about this complaint. I want to stress that I've read and considered everything he has provided, but I won't reply at similar length. I don't intend any discourtesy by that; it simply reflects the informal nature of our service. In summary I've reached the same conclusions as the adjudicator and for broadly the same reasons. There is also very little I can add to what has already been said.

I accept that in 2013 Mr M asked Spreadex to close his previous account with it and that he wanted to self-exclude himself from any further trading. But this isn't in itself sufficient for me to be able to conclude that Mr M's complaint should succeed.

Mr M didn't complete the necessary formalities required by Spreadex for his self-exclusion request to take effect. Therefore I'm not persuaded that Spreadex did anything wrong in opening a new account for Mr M in 2015 and allowing him to trade.

But in my view even had the required self-exclusion formalities been completed, Spreadex still did nothing wrong in opening a new account for Mr M. I say this because I'm not persuaded that it would have been reasonable for Spreadex to have linked Mr M's new account request with his previous dealings with it and any request made by him to be excluded from trading.

Mr M didn't seek to reactivate his old trading account when he approached Spreadex in 2015. Instead he elected to open a new account. And in doing so he declared himself, albeit not incorrectly, as living at a different address and with a different email account to that registered against his previous account.

Furthermore, when Mr M was telephoned by Spreadex to 'activate' his new account, he confirmed that he had heard about Spreadex from an advertisement, rather than confirming he had previously held an account with it. Also at no time during this call did Mr M declare that he had a gambling problem or that he had previously sought to self-exclude himself from trading.

Ultimately, and in my view quite reasonably, self-exclusion can only work up to a certain point and there will be occasions when customers who would like to be prevented from trading aren't. And this fact is reflected in Spreadex's account terms and conditions.

Therefore although I sympathise with the position Mr M now finds himself in, I'm not persuaded that Spreadex has done anything wrong in this particular case, or that it would be appropriate to require it to make good Mr M's claimed losses. In my view Spreadex did enough to try and prevent Mr M from trading.

my final decision

For the reasons given above, I don't uphold this complaint.

I appreciate Mr M might be disappointed by my conclusions. My final decision, however, represents the last stage of this service's dispute resolution procedure. Mr M doesn't have to accept my decision and if he doesn't do so, he will be free to pursue legal action against Spreadex Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 7 January 2016.

Peter Cook
ombudsman