

## **complaint**

Mr Y, represented in this case by Ms C, complains that National Westminster Bank Plc ("the bank") allowed him to continue opening accounts, and taking them into overdraft, when it knew that he had a gambling problem for which he was receiving treatment, and had previously assured him that it would not allow him to open any new accounts.

## **background**

Mr Y and his mother visited his branch to meet with a manager to discuss Mr Y's gambling problem and what the bank might be able to do to help him. Mr Y says that at that time the bank manager assured him that his ability to open a number of accounts and use the overdrafts would not happen again, and that a marker would be placed on his file to ensure this. On the basis of this assurance Mr Y with the help of his mother, at the same meeting, paid off his various overdrafts and closed his accounts.

Five months after this Mr Y was able to open five new accounts with the bank, all with overdrafts. He did this over a three-month period. He then utilised the overdrafts.

Charges and interest were applied to these new accounts, and despite having subsequently cleared the overdrafts, Mr Y believes that he should not be responsible for the charges and interest as he shouldn't have been able to open the accounts in the first place.

Mr Y complained to the bank. It seems that the bank issued a final response, in which it rejected the complaint, but this did not reach Mr Y. I have no reason to think that it wasn't issued. Mr Y then brought his complaint to this service, and our adjudicator was of the view that the bank had not done all that it said it would do, or that it could have done, to assist Mr Y when he approached it as a vulnerable customer seeking help. On this basis, she upheld the complaint.

The bank disagreed, and sought referral to an ombudsman.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I am satisfied that our adjudicator reached the correct view in upholding the complaint.

The fact is that Mr Y acknowledged that he had a gambling problem, and sought help from the bank in trying to contain his ability to spend. I accept that in the meeting he had with the bank Mr Y genuinely believed, after hearing what he was told by the bank manager, that it would ensure he could not open any new account or further lines of credit. Such was his confidence that he was able to clear his debts at the time and then close the accounts. While it transpires that the marking system the bank might have used was not fool-proof, I don't think that point was made at the meeting in question, and I am satisfied that Mr Y is entitled to rely on what the bank said to him at the time.

In saying this, I do note that the bank manager is clear in the statement he has given us that he did not say that a marker could be placed on Mr Y's file. However, he does not say what alternatives he offered to Mr Y, and this causes me a problem as it was not the type of conversation that would easily conclude without something else being discussed or offered. If nothing else was offered to Mr Y then the bank would have entirely failed to help him.

It is therefore my view that Mr Y was told something by the bank that assured him he would be protected in future, as without such assurance he says that he would not have cleared his debts and closed the existing accounts, and I believe him on this point. It's realistic therefore to think that the bank manager did give some assurance to Mr Y that it would not happen again. If, as he seems to indicate, he simply said he couldn't put a marker on the account and nothing more, Mr Y and his mother would have an entirely different recollection of the meeting, and indeed his mother has confirmed that she would not have helped him repay his debts. On the basis of the evidence I have, I am therefore persuaded that something was said by the bank manager to reassure Mr Y. This being the case, it turned out that this was a false assurance.

Further, it seems that the bank didn't give Mr Y as much information as it could have done to allow him to help himself. He was not advised of the fact that he could himself put a marker on his credit file that meant that any future application he made would be referred before approval.

In circumstances where a vulnerable customer has made an approach asking for help, I am not convinced that the bank did enough here. Mr Y was able to open five new accounts over a three-month period, during which he ought not to have been able to open any, and he wasn't given sufficient information about the types of markers that could be put on his file, and what their effectiveness would be.

The bank suggests that the charges and interest it applied were fair because Mr Y did not show any signs of having financial difficulties. I am not persuaded by this, and I don't see his affordability as relevant to the complaint. The charges and interest were consequent to him having the use of the accounts in the first place, and if my view is that he ought not to have had the accounts, then it follows that he ought not to have had the associated charges and interest.

In response to the financial difficulties point, I don't think it's fair to seek to penalise Mr Y for having been able to repay his debts by saying that these were obviously affordable. While he may not have been in financial difficulties at the time he did so, such is the nature of gambling that his circumstances could change very significantly very quickly. We also know that he had some financial help from his mother. The fact remains that he believed that he was being protected by the bank and would not be able to open any new accounts with it, but it turns out that this was not true. In this respect, I think the bank failed him. For these reasons, I uphold the complaint.

### **my final decision**

My final decision is that I uphold this complaint, and I require National Westminster Bank Plc to re-work Mr Y's accounts so that all interest and charges related to the five accounts opened between April and July 2013 are refunded. In addition, I think it's fair that a further payment of £100 be made to Mr Y to reflect the upset and inconvenience caused in having to bring this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr Y to accept or reject my decision before 25 November 2014.

Ashley L B More  
**ombudsman**