

## **The complaint**

Mr M complains that Weatherbys Bank Limited has charged VAT on his fees when he was no longer VAT registered.

Mr M is represented in his complaint by a professional adviser but for ease, I will continue to refer to Mr M as though he is bringing the complaint himself.

## **What happened**

Mr M works in horseracing and opened an account with Weatherbys in 2011. In 2013, Mr M told Weatherbys that he had become registered for VAT. So, Weatherbys started to charge VAT when it invoiced Mr M's fees.

In 2015, Mr M took a professional break and cancelled his VAT registration with HMRC. After returning to work in 2019, Mr M started to use his Weatherbys account again.

In 2023, Mr M noticed that Weatherbys had been charging VAT on his fees despite him no longer being registered for VAT. This means that Mr M is liable to repay the VAT charged.

Mr M is unhappy that Weatherbys didn't conduct any checks when he started to use his account again and made assumptions about his circumstances which were incorrect. Mr M thinks that Weatherbys approach is not in line with anti-money laundering procedures or Know Your Customer (KYC) requirements.

Mr M wants Weatherbys to agree a repayment plan whereby the overpayments of VAT are deducted from future fees.

Weatherbys said that Mr M failed to notify it that he had cancelled his VAT registration. Weatherbys said that when Mr M returned to work, as his account had remained open, it used the same details it already held on file.

Weatherbys said that it issued monthly statements showing VAT added to Mr M's fees as published in the relevant rules laid down by the governing body. Weatherbys offered to process the refunds but said there would be an administration fee.

Our investigator didn't uphold Mr M's complaint. She didn't think it was Weatherbys responsibility to cancel Mr M's VAT registration. Our investigator said that Weatherbys had no way of knowing that Mr M was no longer registered for VAT. She said banks don't have to conduct KYC checks with existing customers.

Mr M disagrees with the investigation outcome. He says his complaint is not that Weatherbys failed to deregister him for VAT as our investigator said in her investigation outcome. Instead, he says that when he returned to work, Weatherbys should have conducted further checks which would have highlighted the fact he was no longer registered for VAT. And that as part of Weatherbys invoicing service, it should make sure the figures it gives to customers are correct. Mr M says it is easy to check whether a VAT number is valid. He doesn't consider it reasonable to say that Weatherbys has no agreement in place with its

customers which detail the services provided together with its obligations.

### **What I've decided – and why**

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

I appreciate that I have summarised this complaint in less detail than the parties and that I have done so using my own words. The rules that govern the Financial Ombudsman Service allow me to take this approach. But this does not mean I have not considered everything the parties have given to us.

I am grateful to Mr M for clarifying the basis of his complaint. He is unhappy that when he started to use his account again in 2019, Weatherbys did not conduct further checks which would have identified his change in VAT status.

Weatherbys explains that Mr M's fee account was set up automatically when his governing body issued him a licence so it doesn't come with banking terms and conditions. Although Mr M thinks Weatherbys should have conducted further checks when he started using his bank account again, I haven't found anything to suggest that it was obliged to do so. And I don't think the fact Weatherbys didn't conduct these checks, means that it treated Mr M unfairly.

The Financial Ombudsman does not supervise, regulate, or discipline the businesses we cover – that role falls to the regulator, the Financial Conduct Authority (FCA). So, if Mr M remains unhappy with the fact Weatherbys didn't conduct checks when he started to use his account again, he can raise those concerns with the FCA.

Mr M's professional association produces a tax booklet which says that individuals must advise Weatherbys of the date of any deregistration for VAT. The same booklet also says that VAT is a complex tax and suggests that individuals speak to their accountant or HMRC for advice. So, I think the onus was on Mr M to tell Weatherbys about his deregistration for VAT rather than the other way around. Particularly as Mr M employs a professional adviser.

Mr M continued to receive statements and VAT summaries which showed applicable VAT. The professional fees charged on Mr M's behalf are set by the governing body, so it should have been clear that Mr M was receiving higher fees due to the inclusion of VAT. I can't say that Weatherbys failed to tell Mr M that it was charging VAT on his fees.

I'm satisfied that once Mr M made Weatherbys aware of his situation, it responded fairly. It acknowledged that it should have updated its records in mid-February 2023 so arranged to refund VAT for the remainder of the month and corrected the position going forward.

Weatherbys has also offered to process refunds at no charge for January and February 2023 and at a reduced rate for 2019 to the end of 2022. As I have not found Weatherbys at fault for continuing to include VAT during this time, I can't fairly require it to process the refunds at no charge. It would be for Mr M to let Weatherbys know if he wants to take up its offer.

Overall, I am not persuaded that Weatherbys has been unreasonable toward Mr M, so I don't require it to take further action in response to his complaint.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 5 June 2024.

Gemma Bowen  
**Ombudsman**