

The complaint

Mr K complains that Paypal (Europe) Sarl et Cie SCA won't reimburse funds he lost when he sent them to an investment that turned out to have been a scam.

What happened

Mr K holds an electronic money wallet with Paypal.

Before considering the specifics of this complaint, it may be helpful to set out some basic details of how such a wallet operates.

The Paypal wallet (amongst other things) allows the user to make and receive payments online. When transfers are requested, the user is asked if the payment is for '*friends and family*' or for '*goods and services*'. Transfers made for 'goods and services' may be eligible for Paypal's buyer protection scheme, but transfers made 'for friends and family' are excluded under the scheme's terms.

On 11 June 2022, Mr K made two transfers out of his Paypal wallet to two different recipients. Each transfer was for the sum of £2,500. On both occasions, Mr K chose the option for '*friends and family*'.

Mr K did so in the belief he was paying two individuals in connection with a cryptocurrency-based investment scheme. A scammer (who I'll refer to as S) had led Mr K to believe this scheme would provide him with very good returns, but it later transpired that this was not the case and Mr K lost these and other funds he'd transferred.

He'd made previous payments to the scheme through other payment methods, but when these failed, S suggested he should use Paypal instead. Via chat messaging, S provided the Paypal addresses of two individuals, claiming they were colleagues.

S told Mr K the amounts to send to each. S also commented: "Fnf", indicating presumably that Mr K should choose the '*friends and family*' option rather than '*goods and services*'.

Some weeks later, when the scam later came to light, Mr K raised the matter with Paypal.

Paypal initially believed Mr K was claiming the payments were unauthorised. It didn't find evidence of this. Mr K clarified that he accepted he'd made the payments, but that he did so as part of a scam. Paypal said it wasn't liable. Because Mr K had authorised the payments, it had carried out the transactions as he'd requested.

The payments weren't covered by Paypal's buyer protection scheme because Mr K had chosen the for 'friends and family' option. Paypal hadn't attempted to recover funds from the beneficiary wallets, but the funds had been moved on from both wallets within hours, so no recovery would have been possible, even had it been attempted when Mr K had first reported the loss.

Mr K complained to PayPal, but PayPal reiterated that it could not help him.

Our Investigator looked into what had happened. The Investigator said the payments Mr K had sent were larger than the typical payments Mr K made from his wallet. But the Investigator didn't think they were sufficiently unusual that PayPal should have blocked them at the time, or otherwise have taken steps to intervene before processing them. Overall, the Investigator didn't think PayPal was liable for the loss Mr K had incurred.

Mr K didn't accept the Investigator's findings, so I have been asked to make a final decision on the matter.

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.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

In broad terms, the starting position in law is that a financial institution is expected to process payments and withdrawals that a customer authorises it to make without undue delay, in accordance with the terms of the account terms and conditions, or the relevant user agreement. And I have taken that into account when deciding what is fair and reasonable in this case.

Both parties now agree that Mr K authorised these transfers, in the belief he was making genuine payments to other individuals as part of an investment. PayPal had an obligation to follow his instructions.

If there was sufficient reason for PayPal to have identified that these payments might have been connected to fraud or a scam, I might consider that as a matter of good industry practice PayPal should have taken further steps prior to processing Mr K's instructions. Mr K argues this should have applied here.

I've carefully considered Mr K's representations on this point. But having done so, I don't think these payments were ones that should have caused PayPal obvious concern that Mr K might be at risk of financial harm through fraud or scam.

While the amount of each payment was larger than Mr K typically sent from his wallet, I don't find this was sufficiently different that PayPal ought to have had specific concerns that this was a sign he was being scammed. And while the two payments were made in relatively quick succession, only the timing served to connect them from PayPal's perspective – there was no other obvious link. Furthermore, there was nothing to indicate any connection with investment or with cryptocurrency. Rather the selection of the option for 'friends and family' would have suggested the contrary.

I can't apply the benefit of hindsight here – I must base my findings on this point on the information that would have been available to PayPal at the time. And on the face of it, that information would have pointed to these being legitimate transfers to a friend (or to family members). Such transfers are a common (and legitimate) purpose for many users of PayPal wallets. I cannot reasonably overlook the nature of a wallet such as this, where it might be expected that the typical usage will inherently differ from what might be expected from (for example) a typical current account held with a bank.

All taken into account, I find these payments were simply not sufficiently unusual or remarkable in the context of Mr K's wallet usage or of that a typical PayPal payment such

that I could reasonably find PayPal at fault in not intervening before processing the instructions.

Turning to PayPal's buyer protection policy, as noted earlier, this doesn't apply to personal payments (the result of choosing the for '*friends and family*' option). This payment reason is designed for payments between friends and family and not to pay for goods and services. The evidence I have seen relating to the transactions persuades me that Mr K chose that option in respect of both transfers – albeit seemingly under the guidance of S. Given this, I don't find Paypal at fault in saying that the buyer protection scheme is unavailable to Mr K for these payments.

I have also considered whether Paypal could have acted to recover funds from either or both of the beneficiary wallets when the scam came to light. But the funds had been moved on from those wallets in a matter of hours, so no recovery attempts could have been successful. Therefore, whether or not I was to find Paypal ought to have attempted such a recovery, that finding would make no difference in terms of Mr K's position in respect of the losses he incurred.

Overall, therefore, while I sympathise with Mr K and appreciate the impact this scam has had on him, I don't find Paypal is responsible. I don't require Paypal to reimburse him for the money he has lost here.

My final decision

For the reasons given above, I do not uphold Mr K's complaint about Paypal (Europe) Sarl et Cie SCA.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 31 January 2024.

Stephen Dickie
Ombudsman