

The complaint

Mr W complains that PayPal (Europe) Sarl et Cie SCA ('PayPal') won't pay interest to him.

What happened

Mr W says that in February 2018 he fell victim to a scam. He was approached by a company that said it could help him to get out of his timeshare contract and mount a legal claim to get his money back. Mr W was required to pay this company through PayPal and paid £2,995 via PayPal using a credit card. In around 2020 Mr W found out the company he had paid acted fraudulently and in July 2020 Mr W wrote to PayPal saying he wanted to open a dispute about the £2,995 payment.

PayPal responded to Mr W and referred to its User Agreement, and in particular its Buyer Protection, which only applies for 180 days from the date of payment. As Mr W made the payment on 14 February 2018, he was well outside of this period.

Mr W wasn't happy with PayPal's response and brought a complaint to this service. He said that European law says the 180-day time period starts when he found out he'd paid a fraudulent company, not from the date of payment.

While the investigator was considering Mr W's complaint PayPal made an offer to settle it. PayPal offered to refund £2,995, which Mr W accepted. Later though, Mr W asked this service to reopen his complaint as interest wasn't awarded and his credit card provider had added a lot of interest since the payment was made. Mr W also referred to circumstantial evidence to the effect that PayPal might be facilitating scams by making it easy to open accounts.

The investigator said that as PayPal had offered to refund the transaction it would be fair to award interest at the rate of 8% simple per year from 14 February 2018 to the date PayPal refunded £2,995 – to reflect the fact Mr W had been deprived of these funds.

Mr W noted that his credit card provider had charged interest at a higher rate but felt the offer was fair to both parties. PayPal didn't agree with the investigator's findings and asked for a final decision, so the complaint has been passed to me. PayPal said that it made a proactive offer to settle with no admission of liability. It said its offer to refund Mr W was on a goodwill basis and reiterated that Buyer Protection only covers disputes for 180 days after the payment is made. In this case, Mr W didn't dispute the payment for over two years and the interest mounted to nearly £1,000. As PayPal had already made a substantial payment it didn't consider it was responsible for, it didn't agree to pay anything more.

I considered Mr W's complaint and issued a provisional decision on 24 August 2023. I didn't ask PayPal to pay interest to Mr W. In the "*What I've provisionally decided – and why*" section I said,

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

I'm really sorry to hear of the circumstances in which Mr W lost funds.

Firstly, I should explain to Mr W that I'm required to consider the individual circumstances of his complaint and whether PayPal has acted reasonably. I can't consider wider issues like Mr W's belief that scammers may use PayPal accounts because they are easier to open.

To decide if PayPal should fairly and reasonably pay interest to Mr W, I need to consider whether it treated him fairly in rejecting his dispute in 2018. I'm sorry to disappoint Mr W, but I think it did and will explain why.

To use its service all PayPal customers are required to agree to its User Agreement. Amongst other things, this sets out how PayPal resolves disputes. PayPal's Buyer Protection may apply if a customer doesn't receive an item, or the item arrives, and it is not as described.

There is a question mark here around whether the service offered to Mr W comes within the Buyer Protection scheme, as he wasn't buying an item. Instead, Mr W was paying for a service.

In any event, PayPal's Buyer Protection says that a transaction can only be eligible for Buyer Protection if a customer opens a dispute within 180 days of the date the payment is sent. The scheme rules are clear that the relevant date is the date of payment and not the date a customer becomes aware that something hasn't gone as they expected. Mr W first contacted PayPal over two years after the relevant transaction was made so isn't eligible for Buyer Protection.

Mr W says European law is clear that the clock only starts when he became aware that the company he paid was fraudulent, but I don't agree.

So, although I don't think PayPal needed to refund Mr W it decided to do so on a goodwill basis. In these circumstances, I don't consider it would be fair to require PayPal to add interest to the amount it agreed to refund. I realise Mr W will be extremely disappointed with this outcome, but I need to be fair to both parties."

Mr W let me know that he wasn't happy with my provisional decision. In summary, he said:

- I was wrong when I said Mr W complained to PayPal in 2018.
- EU law says he has 180 days from the date he became aware of the scam to raise a dispute. This law should override any of PayPal's terms.
- PayPal didn't make a payment as a gesture of goodwill but under EU law.

PayPal accepted my provisional decision and had no further comments to make.

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've considered Mr W's response but nothing he has said has led me to change my mind. I'll address his points in turn.

I've re-read my provisional decision and noted that I didn't say Mr W complained to PayPal in 2018. I said that was when he fell victim to a scam and that he wrote to PayPal in July 2020.

I'm uncertain what EU law Mr W is referring to as he hasn't been specific. I'm not aware of any EU law that states that he has 180 days from when he found out he'd been scammed to raise a dispute. PayPal's terms are clear, and I see no reason why they shouldn't apply.

PayPal has been clear that it made the offer to Mr W as a gesture of goodwill and without any admission of liability. It never accepted that it had any obligation to refund Mr W, whether under EU law or otherwise.

In the circumstances, I don't consider it fair to require PayPal to pay interest on the amount it agreed to refund Mr W.

My final decision

For the reasons stated, I do not propose to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 12 October 2023.

Jay Hadfield
Ombudsman