

The complaint

Mr O has complained that PayPal (Europe) Sarl et Cie SCA ("PayPal") carried out and recorded credit checks without his consent.

What happened

Mr O found some applications for credit with PayPal had appeared on his credit file. Mr O says that due to him being a victim of fraud previously, he'd set up a password on his credit file, so that any applications for credit would need to be manually reviewed and a password to be provided for the application to proceed. Mr O also says that he had additional security measures from a fraud prevention agency on his credit file too. So he was surprised and upset to find that the applications had been made without his consent and recorded by PayPal.

PayPal issued its final response to the complaint and didn't uphold it. PayPal said that during the application process for its 'Pay in 3' service, the applicant is required to give their consent for a credit check to be completed first, before the application can be progressed. PayPal says this would involve selecting "Continue" once and then "Agree and Continue" twice more during the application process. PayPal said that there was no evidence of unauthorised access to Mr O's account, so it said it would not agree to remove the two credit file entries.

Mr O referred his complaint to the Financial Ombudsman Service as he was unhappy with PayPal's response to his complaint. Mr O said that he had not made the applications for credit and he said that PayPal had given the wrong date for one of the credit searches.

One of our investigators assessed the complaint and they didn't think that PayPal had acted unreasonably or unfairly. So they were unable to conclude that PayPal should remove the entries from Mr O's credit file.

Mr O disagreed with the investigator's assessment. He said that PayPal did not complete the necessary checks before applying the entry on his credit file.

Mr O also added new points to his complaint. These include that PayPal had not responded to a Data Subject Access Request (DSAR) within the specified time limit, and that a third entry appeared on his credit file in June 2023.

As Mr O disagreed with the Investigator's assessment, the matter was referred for an ombudsman's decision.

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.

Having reviewed everything, I'm unable to uphold the complaint, broadly for the same reasons that the investigator gave. I will explain why.

Credit applications

I've firstly considered whether there is enough evidence to be able to conclude that the applications in question were likely to have been fraudulent applications.

Mr O has simply said that he never made the applications for credit. Mr O believes that his PayPal account was hacked – although no evidence has been provided from either party to show that was the case. Conversely, PayPal says that for the application that took place in December 2022, the visitor ID that was used to access the account had been used 64 times between 24 October 2022 and 10 February 2023. PayPal also says the internet service provider used for the credit application was a service provider consistent with Mr O's usage of the account. PayPal has provided evidence to show that two factor security authentication was used to verify it was Mr O logging in to the account.

In terms of the 15 January 2023 application, PayPal says that the visitor ID used to access the account correlated with the ID used on 5 occasions between 12 January 2023 and 30 January 2023. Again, PayPal has provided evidence to show that two factor security authentication was used to verify that it was Mr O logging in to the account.

Having considered everything that has been provided, I'm unable to conclude, albeit on the balance of probabilities, that the applications were fraudulent.

I say this because, although Mr O has said that he'd previously been the victim of fraud – which led to him applying a credit lock on his credit file – the evidence does indicate that Mr O had logged in when the credit applications were made. Indeed, the purpose of two factor authentication is to add a further layer of protection and prevent third parties from accessing an account, even if they know a consumer's username and password. And from what I can see, the account was accessed using credentials that are linked to Mr O (such as the visitor ID and the service provider) and access was granted on both occasions, only after two factor authentication had taken place. I haven't seen anything which could explain how a third party could have gotten access to these details without Mr O's knowledge or consent in the circumstances here, even taking into account what Mr O has told us about previously being the victim of fraud.

Furthermore, when each application was carried out, PayPal sent Mr O a message to explain that his application for credit had been unsuccessful. Mr O has not said that he didn't receive these messages, so it seems that they were likely received by him. The message explained that if Mr O hadn't applied for credit, he could call a particular number.

As such, if Mr O had not made either of the applications, I would've expected him to contact PayPal – especially if he'd recently been a victim of fraud – much sooner than he did. However, I can't see that Mr O did this around the time of either application – it seems the first time Mr O complained to PayPal about the credit applications was in late March/early April 2023. I can't see that Mr O has given any explanation as to why he didn't react to the messages that had been sent to him.

So based on the evidence that has been provided in this case, on balance, I'm unable to say that the two credit applications were fraudulent. So the starting point to this complaint is that I think PayPal acted fairly and reasonably by completing credit searches on Mr O when the two applications were processed.

Credit Lock

Mr O says that the declined credit applications should not have appeared on his credit file, as he says he'd placed a lock on his credit file due to him previously being a victim of fraud. Mr O says that PayPal should've done further checks and would've needed to have obtained a password before it could proceed with any credit check against him.

In the circumstances, I don't think I can reasonably say that PayPal has acted unfairly or unreasonably.

In terms of whether PayPal should've done further checks, it has shown how its process was followed here. It considered the information it was provided and declined the applications, as it's entitled to. I haven't seen any evidence to suggest that these checks were disproportionate or should have gone further in the circumstances. Ultimately the

applications for credit had been unsuccessful – which would indicate that PayPal's checks were thorough enough for it to decide it was not appropriate to provide Mr O with the requested credit. I say this bearing in mind what I've already said above about the evidence that PayPal had to indicate the applications were genuine.

Turning to the credit applications appearing on Mr O's credit file, I recognise that Mr O didn't think new entries could appear without his consent. But ultimately it seems that Mr O's concerns are about the credit lock not working as he expected it to. PayPal was following its standard procedure and was not prevented from applying the entry to his credit file in processing the two credit applications. Given that I'm satisfied that the applications were more likely than not genuine – ultimately PayPal has recorded accurate information about the applications, which it's entitled to do.

From what I understand, there are exemptions to a credit lock where a credit file can still be accessed by lenders – one of which includes existing creditors. Although I don't know for sure, this could perhaps explain why PayPal was still able to add the declined credit applications to Mr O's credit file, despite the lock he'd put in place. But either way, as I've not seen enough evidence to say that the credit applications were fraudulent, I can't reasonably say that PayPal has acted unfairly because the credit reference agency allowed it to add the declined credit applications to Mr O's credit file. I've not seen anything to suggest that PayPal deliberately ignored the credit lock or acted in any way to get around it.

Other issues

Since raising his complaint with our service I note that Mr O added further points that did not form part of the original complaint. Although these are technically speaking, separate complaints, I can see that PayPal has provided information about those points on this complaint, so I have addressed them here to avoid Mr O having to raise further complaints.

Mr O says that it took around 10 days past the deadline for him to receive the response to the DSAR. From the evidence that Mr O has provided it's not clear when exactly Mr O requested the DSAR. For example, I can't see he made a request in the emails he exchanged with PayPal through the third-party complaint handling service that he used (and has provided copies of to this service). PayPal says that it only received the DSAR on 18 April 2023 – which would suggest that it did respond within the prescribed time limit.

Nevertheless, even if PayPal did respond 10 days outside of the time frame, although the delay may've been frustrating for Mr O, I don't think such a delay would warrant any compensation. It seems to have been only a minor delay, and it didn't prevent him raising his complaint with this service. It seems any inconvenience caused to Mr O because of any delay in receiving the DSAR documentation has been minimal. I should also add that as our service is not a regulator, I can't punish or fine PayPal, even if it had breached the time limits in place to respond to a DSAR.

Mr O has also mentioned that a third PayPal entry has since appeared on his credit file. However, Mr O previously told our service that he did this, just to see if the information would still be reported to his credit file despite the lock being in place – which it evidently does. If he has concerns with how the credit lock facility is working, then he may wish to take this up with the agency that provides this service.

So for the above reasons, I'm unable to say that PayPal should remove the entries for the declined credit applications from Mr O's credit file.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 21 December 2023.

Thomas White
Ombudsman