

The complaint

Miss A complains that PayPal (Europe) Sarl et Cie SCA didn't refund her for an item, after she raised a claim under its Buyer Protection policy.

What happened

Miss A used her PayPal account to purchase a bracelet from a seller online. Miss A paid £1,000 for the item she says was advertised as being 18 carat gold, from a certain brand and was authentic.

However, a couple of weeks after she received it, the bracelet started to rust. She contacted the seller, but they didn't respond. So, she opened a dispute with PayPal under its buyer protection policy, using the category "*significantly not as described*".

PayPal closed the case in the seller's favour and Miss A asked our service to consider her complaint.

Our investigator looked into Miss A's concerns and thought her complaint should be upheld. He didn't think PayPal had done enough to investigate Miss A's claim. He shared a report Miss A had sent us from an independent jeweller which suggested the bracelet was not authentic. He thought it would have been fair for PayPal to have requested an independent report as part of its investigation and should have concluded that the item she was sold was significantly not as described. Our investigator recommended PayPal reimburse her for the value of the item and add 8% simple interest from the date he believed she should have received the refund until the date the payment is made.

PayPal disagreed with our investigator's view. It said that Miss A had the bracelet in her possession for some time and had admitted she had worn it. The damage to the clasp may have occurred while she was wearing it. It said it felt it was unlikely she wouldn't have noticed it was damaged or unauthentic during the time she was wearing it. It also said it had no way of validating the report from the jeweller.

Miss A said she would like the ombudsman to consider extra compensation for the time PayPal had held her money and the stress and inconvenience she'd experienced. So, the complaint has been passed to me to decide.

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 done so, I've decided to uphold Miss A's complaint. I'll explain why.

PayPal's user agreement says that buyers may be eligible for a refund under its Buyer Protection policy in certain circumstances, including where the item is "*Significantly Not as Described*". The list of items which may be considered "*Significantly Not as Described*" includes: "*The item was advertised as authentic but is not authentic (i.e. counterfeit)*"

It's not my role to make a finding about whether or not the bracelet Miss A purchased was "*Significantly Not as Described*". My role is to decide if PayPal treated Miss A fairly.

PayPal has referred to wording in its user agreement which says it "*will make a final decision (including automatically closing any dispute or claim), in its sole discretion...*". But that doesn't mean PayPal can do whatever it likes. It has to use its discretion fairly.

Miss A has provided a copy of the listing which shows the item was advertised as being 18 carat gold, of a specific brand and authentic. She's also provided screenshots of her the messages between her and PayPal, including photographs she sent to PayPal when she raised the dispute.

When she raised the dispute Miss A told PayPal that "*parts are rusting slightly which is supposed to be gold and hook for the clasp is not the same as the real bracelet. The hook available is also opened so bracelet falls off often. It's not authentic while has slight damages.*"

Miss A has also provided copies of the responses which she received from PayPal in relation to her claim. In one message it says it was refusing her claim because "*if an item is materially similar to the seller's description, we don't consider it to be significantly not as described*". In other messages PayPal told Miss A that it was unable to determine whether the item was significantly different from how it was originally described because it had been altered while in Miss A's possession.

It's unclear how PayPal reached the conclusion that Miss A's bracelet had been altered. In its submissions to us PayPal said the case was closed in the seller's favour as the item had been worn / used and that damage could have been caused during the time Miss A was wearing it.

From what I've seen, I don't think PayPal properly considered Miss A's dispute. I say this because I think Miss A made it clear from the outset that her concern was that the item wasn't authentic. She referred to the bracelet rusting, which would suggest the item wasn't 18 carat gold as described. PayPal doesn't appear to have acknowledged or explored this concern. PayPal hasn't provided anything to show that it raised the dispute with the seller or that the seller disputed Miss A's claim.

PayPal might not have been able to determine that the item wasn't authentic from the photographs Miss A provided. But if this was the case, I think it would have been reasonable for it to have asked Miss A for some further evidence to show the item wasn't genuine.

At our investigator's suggestion, Miss A took the bracelet to a jeweller and has provided a letter from them which says the "*bracelet does not test as 18ct gold with only a small amount of gold being detected, which would indicate the bracelet being gold plated*".

PayPal says that it has no way of validating this letter. But the jeweller's contact details are on the letter, so PayPal could have contacted the them directly if it had concerns about the letter's validity.

On balance, I think that if PayPal had properly investigated Miss A's dispute, it would likely have reached the conclusion that the bracelet wasn't authentic. This means it should likely have concluded that the item was "*Significantly Not as Described*" and granted a refund to Miss A.

Miss A raised the dispute on 30 September 2021. PayPal rejected it around a week later. I think if it had requested an independent report at that time, it could likely have made a decision in Miss A's favour and refunded her by around mid-October. So, I think it would be reasonable for it to pay her an additional 8% a year simple interest from then until the date it makes payment to settle this complaint to compensate her for the time she's been without these funds.

I've considered Miss A's request for additional compensation. I appreciate that it was frustrating for her when PayPal didn't accept her dispute. But I haven't seen anything that makes me think that the impact of PayPal's actions on Miss A went beyond the levels of frustration and annoyance that might reasonably be expected from a situation like this. And I think 8% statutory interest is a fair compensation for the length of time she was deprived of the funds.

Putting things right

PayPal should refund Miss A the £1,000 she paid for the bracelet and add 8% simple interest* a year from 15 October 2021 to the date of settlement.

HM Revenue & Customs requires PayPal to deduct tax from this interest. PayPal should give Miss A a certificate showing how much tax it's deducted if she asks for one.

My final decision

For the reasons I've explained, I uphold Miss A's complaint and direct PayPal (Europe) Sarl et Cie SCA to put things right by doing as I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 2 June 2022.

Anne Muscroft
Ombudsman