

The complaint

Miss R complains that PayPal (Europe) Sarl et Cie SCA ("PayPal") have decided her transaction isn't eligible for a refund under their Seller Protection Policy ("SPP").

What happened

Miss R received £300 into her PayPal account from a buyer. The owner of the card used to fund the transaction then filed an external chargeback claim through their card issuer, claiming the payment was unauthorised. The chargeback was upheld and PayPal debited the £300 from Miss R's account but, as Miss R had already transferred the funds out of her PayPal account, it left her account in a negative balance. PayPal then explained Miss R's transaction wasn't eligible for a refund under their SPP. Miss R complained but PayPal didn't uphold her complaint.

Our investigator looked into things for Miss R. He thought PayPal had acted unfairly in deciding Miss R's transaction isn't eligible for a refund under their SPP. He recommended they refund the £300 to Miss R. Miss R agreed but PayPal disagreed so the matter has come to me for a 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 done so, I've decided to uphold the complaint. And, I think the investigator's recommendation here is a fair way to resolve matters.

I think it's important to firstly clarify, the refund which has been made to the buyer is as a result of a successful chargeback claim they've made. While PayPal did dispute the chargeback, the decision is ultimately made by the card issuer, and not PayPal. However, disputes will often arise in online platforms designed for buying and selling goods. It's therefore important for PayPal, being a payment platform, to have policies in place to help resolve those disputes. PayPal does have such policies, but what I've considered here is whether PayPal have applied their policy fairly.

PayPal say, if a reversal occurs because of a chargeback having been filed against a seller, they will attempt to reimburse the seller through their SPP which is designed to mitigate against the threat of reversals due to claims for unauthorised transactions. They say this transaction wasn't eligible for a refund under their SPP as it didn't meet their eligibility criteria.

I've looked at PayPal's SPP and note this says, for unauthorised transactions, a seller must provide valid proof of shipment or proof of delivery that shows the item was shipped or provided to the buyer. PayPal say Miss R received payment for services and no shipping address was provided to her so no tracking information can be accepted. PayPal say payments for services are strictly for intangible goods and don't include any required shipping address for the buyer. PayPal say, although the buyer entered a shipping address in the transaction notes, this doesn't qualify as a PayPal confirmed shipping address. The

SPP also says the item must be a “...*physical, tangible good that can be shipped*...” PayPal say this transaction involved a payment for a service and not a tangible item.

Taking this all into account, I don't think PayPal have acted fairly in deciding Miss R's transaction wasn't eligible for their SPP. I say this because the information provided by PayPal shows the buyer provided a delivery address and Miss R then sent the item through a recognised postal service and provided a tracking number. I've checked the tracking number using the postal service's track and trace service and this shows the item was delivered and signed for. So, in line with the SPP, I think this demonstrates Miss R has provided valid proof of shipment and delivery. I note the SPP goes further to say the proof of shipment must indicate the item was shipped to the buyer no later than two days after PayPal notifies the customer of an unauthorised transaction claim. In this case, PayPal notified Miss R of the unauthorised transaction claim on 26 October, but the tracking information shows the item was shipped on 12 November. I acknowledge this is outside the two days, but Miss R says she initially tried to deliver the items to the buyer but found the address wasn't correct. Miss R says she then continued to communicate with the buyer over a period of time and managed to get a delivery address.

Miss R has provided screenshots of her conversations with the buyer which show she queries why they've raised a chargeback and the buyer says they're unaware of any dispute. The buyer also says, if the funds have been taken back, then they'll pay again. The buyer asks for further information about the dispute and Miss R forwards the details sent to her by PayPal. It's clear Miss R was in communication with the buyer to find out what was happening and to get details for the item to be delivered. So, I don't think it would be fair for PayPal to use this as a reason to treat Miss R's transaction as being ineligible for their SPP.

The transaction information provided by PayPal shows the transaction type has been described as 'Payment received (service)'. PayPal say, as the payment was made for a service and not a tangible item, it doesn't qualify for SPP. However, from the information I've seen, I'm not persuaded the payment was for a service. I say this for two reasons. Firstly, the transaction notes describe the item, and this suggests it's a pair of trainers. Secondly, given that I'm satisfied the postal service delivered an item, I believe this would've been a tangible item and not a service. And, in their response to our investigator's view, I can see PayPal believe the payment was for a tangible item.

I can see PayPal disagree with our investigator's view and point out Miss R hasn't complied with the obligations set out in the User Agreement, and specifically, the SPP. But, in the circumstances of this case, I don't think it's fair and reasonable to apply the narrow lens of the User Agreement alone. And, it's important to look at what's fair and reasonable in the circumstances.

PayPal say they can't use the transaction notes as the basis to determine if the sale was for tangible goods. They say this is determined by the type of payment received into Miss R's account, and in this case, it was for a service and no shipping address associated with the transaction. PayPal refer to their SPP which says a seller must ship the item to the shipping address on the transaction details page in a seller's PayPal account for the transaction.

PayPal say the shipping address was communicated between Miss R and the buyer outside of PayPal's platform – so they believe the postal service's tracking information shouldn't be taken into consideration as they don't have a shipping address on their record to verify the address. I acknowledge what has happened here doesn't strictly follow the terms set out in the SPP, but as mentioned above, I'm satisfied the item has been delivered so it would be unfair for this to be used as a reason for Miss R's transaction being ineligible for SPP.

PayPal say Miss R had the option to refund the payment to the buyer and then ask for the payment type to be changed to a payment for goods – this would then have generated an email to Miss R asking her to ship the item to the specified address. I acknowledge Miss R had this option but PayPal say if this payment would've been sent as a payment for goods, then PayPal would've had the ability to cover this transaction under the SPP if she provided proof of delivery to the confirmed shipping address. But, from the information I've seen, I believe it's more likely than not, that criteria has been met in any event. As mentioned above, I'm satisfied the payment was for a tangible item and the postal service tracking information shows this was delivered. So, I think it's fair and reasonable in the circumstances for PayPal to refund the £300 to Miss R.

Putting things right

I've taken the view that PayPal have acted unfairly in deciding Miss R's transaction wasn't eligible for a refund under their SPP. So, PayPal should refund the £300 payment to Miss R for this transaction.

My final decision

My final decision is that I uphold the complaint. PayPal (Europe) Sarl et Cie SCA must refund £300 to Miss R.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 12 August 2022.

Paviter Dhaddy
Ombudsman