

## The complaint

Mr L complains that when PayPal (Europe) Sarl et Cie SCA implemented new rules on authenticating customers, he had trouble accessing his PayPal account and was “excluded” because he didn’t have a mobile phone to receive codes to.

## What happened

Mr L says that when PayPal made changes to the way a customer accesses their account, he experienced difficulties and often couldn’t login. The changes meant he could no longer access his account by simply using his email address and entering his password; he was required to also confirm a phone number linked to his account by receiving a code via SMS text message.

When he contacted PayPal in March 2020 he was told they’d made changes to the way customers access their accounts in response to the Payment Services Directive (PSD2) which brought in a requirement for payment service providers to implement two-factor or strong customer authentication (SCA), and that he’d need to keep his phone details up to date in his account profile. They said:

*“In most instances you’ll continue to login or pay with PayPal by entering your email address and your PayPal password, as usual. However, we may sometimes ask you to enter a one-time passcode which we’ll send by SMS to the phone number you’ve registered with us.”*

PayPal also told Mr L:

*“At the moment the only method of PSD2 available is receiving a text. In the future more methods of security may be explored but for the moment receiving a text is the only method.”*

As Mr L doesn’t have a reliable mobile phone signal where he lives, he wasn’t happy with this response.

Later in 2020 Mr L was given the option to use his registered landline to complete SCA. But he found the system didn’t work. When Mr L raised the issue with PayPal again, he says he was told that the issue with using his landline to complete SCA might resolve if he closed his existing account and opened a new one. But he says that didn’t work either. On or around 17 November 2020, however, Mr L was able to login and request to withdraw his PayPal funds (£114.76) to his bank account.

By March 2021 Mr L told us he still couldn’t access his account because the only SCA method offered by PayPal was mobile phone dependent. Although he didn’t have a significant balance of funds in the account, he told us he was prevented from selling items on an auction and shopping website. He also told us that he’d found getting in contact with PayPal very frustrating because when he raised written concerns, PayPal’s replies were often sent to his account Message Centre, which he couldn’t access as he couldn’t login.

In June 2021 Mr L let us know “*the lockout*” was a continuing problem for him.

#### *What PayPal told us*

PayPal told us they had to make changes to “*follow the regulations*”, and that they’d sent an update to customers in March 2020 about that. They said Mr L had responded explaining that he didn’t have a mobile phone, but they’d addressed Mr L’s concerns and tried to explain the changes to him. They didn’t think he should have had a problem using his landline to authenticate.

They also provided a summary of account activity which they said showed Mr L had been successfully accessing his PayPal account. That summary covered the period 3 March 2020 – 21 September 2020.

#### *Our investigator’s view*

Our investigator upheld Mr L’s complaint. He said PayPal hadn’t acted unfairly by introducing SCA but as they hadn’t come up with any viable alternatives for Mr L – someone who lives in a rural area without reliable mobile phone coverage – they hadn’t treated him fairly.

So, given the length of time the matter had been outstanding and the impact of the situation on his ability to buy and sell items as he used to, the investigator recommended that PayPal compensate Mr L with £250 and offer Mr L a solution so that he can complete SCA successfully without reliance on a mobile phone.

#### *Responses to the view*

PayPal didn’t accept what the investigator had said. They said they didn’t think they should be “*held responsible for bad phone service*”. They added that Mr L had been successfully logging into the account he’d opened in September 2020. PayPal provided a summary of account activity. This suggested that Mr L experienced failed login attempts in October 2020, November 2020 and June 2021 but that at other times between September 2020 and November 2021 he achieved “*web login*”.

PayPal said Mr L had been successfully logging in using just his password and “*it does not appear that he has been prompted to complete additional security check when logging in*”.

They said any failed logins were due to Mr L entering his password incorrectly, not because he couldn’t complete SCA.

Our investigator shared PayPal’s response with Mr L for his comments.

Mr L explained that he had sometimes been able to use what appeared to be an “*electronic loophole*” to bypass the SCA process, but that this was not always successful and he was often unable to pay for services using PayPal because he couldn’t receive the passcodes by SMS text message or use his landline for SCA. He said that PayPal had implemented SCA incrementally and that once two-factor authentication became a requirement at every login, he hadn’t been able to access his account. He strongly disputed PayPal’s claim that he’d been doing so. He said he’d been getting to a certain point in the login process and was then faced with a “*wall*” asking for an authentication code.

Mr L acknowledged that he’d been able to continue to buy things via a website to which he’d previously linked his PayPal account. But he said the major problem he was facing was that he couldn’t sell items because he couldn’t retrieve any monies paid to him via PayPal for these items. Mr L said that regardless of PayPal’s evidence that he had logged in

successfully on occasion, the fact remained that he'd been unable to complete two-factor authentication when it was asked for.

Finally, Mr L let us know he now had an authenticator app installed on his computer and said he'd be happy to use this to complete two-factor authentication. Our investigator let PayPal know this, and after making some adjustments to Mr L's account in December 2021 which allowed him to login *without* two-factor authentication for a short period, PayPal guided Mr L through the process to link the authenticator app. He was then able to complete SCA and confirmed to us that he was able to access his account.

Our investigator asked PayPal to reconsider their position regarding paying Mr L compensation for what had happened. PayPal declined to pay Mr L any compensation. They said it wouldn't be fair for them to pay compensation for Mr L's "*poor signal*".

### *Further information*

In February 2022 PayPal told our service that there is an issue with customers authenticating using a landline phone number, and they don't have a clear timeframe for when that will be resolved.

As no agreement could be reached, the complaint was passed to me to decide.

### **My provisional decision**

I issued a provisional decision on 4 May 2022. I began by setting out the considerations I thought relevant to my decision. I wrote:

*"I'm required to determine this complaint by reference to what I consider to be fair and reasonable in all the circumstances of the case. When considering what is fair and reasonable, I am 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.*

*So, I'll start by setting out what I have identified as the relevant considerations to deciding what is fair and reasonable in this case.*

*The Payment Services Regulations 2017 (PSRs) Reg. 100, which came into force on 14 September 2019, says that a payment service provider (PSP) must apply "strong customer authentication" where a "payment service user" accesses its payment account online, initiates an electronic payment transaction; or carries out any action through a remote channel which may imply a risk of payment fraud or other abuses.*

*SCA is defined in the PSRs. It means:*

*"authentication based on the use of two or more elements that are independent, in that the breach of one element does not compromise the reliability of any other element, and designed in such a way as to protect the confidentiality of the authentication data, with the elements falling into two or more of the following categories—*

- (a) something known only by the payment service user ("knowledge");*
- (b) something held only by the payment service user ("possession");*
- (c) something inherent to the payment service user ("inherence");"*

Another relevant consideration is the SCA implementation guidance issued by the Financial Conduct Authority (FCA) in its document "Payment Service and Electronic Money – Our Approach" (June 2019) and related statements.

The FCA's guidance document says:

*"... it may be necessary for a PSP to provide different methods of authentication, to comply with their obligation to apply strong customer authentication in line with [PSD2]. For example, not all payment service users will possess a mobile phone or smart phone and payments may be made in areas without mobile phone reception. PSPs **must** provide a viable means to strongly authenticate customers in these situations."* (my emphasis)

In its statement of expectations published in September 2019, the FCA also said:

*"We expect firms to develop SCA solutions that work for all groups of consumers. This means that you may need to provide several different methods of authentication for your customers. This includes methods that don't rely on mobile phones, to cater for consumers who don't have, or won't want to use, a mobile phone."*

What I've provisionally 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 reached the same outcome as the investigator did and for broadly the same reasons; I intend to uphold Mr L's complaint.*

*It's difficult to reconcile what Mr L has said about how PayPal's implementation of SCA impacted his access to, and use of, his PayPal account with what PayPal have presented in evidence which would suggest his access has been largely unfettered by their SCA process. PayPal's summaries of account activity are in a spreadsheet format and include a column titled 'Action'. In that column against many dates are the words "web login", and on other dates it says, "web login failed" or refers to other actions associated with resetting passwords. There is also a column titled "Visitor ID" and I note that for the majority of the "web login" entries there is no corresponding data in the "Visitor ID" column. PayPal haven't provided any information about how to interpret this spreadsheet, but I think it's possible the absence of "Visitor ID" data means that the user couldn't be established on those occasions. I invite PayPal to explain more about what they think this spreadsheet shows in response to this provisional decision. But I don't currently think this is clear evidence that Mr L has been able to login and gain full account access since SCA was introduced. If he had, I don't think he'd have gone to the lengths he has to make this complaint.*

*In any event, I have to balance what PayPal say their spreadsheet proves against what Mr L has told us, and I find that Mr L has been nothing but consistent in saying that he's often been unable to access his PayPal account because he's been unable to complete SCA. He ardently maintained this position even when our investigator put PayPal's evidence of successful web logins to him. He clearly explained that, although he'd been able to login on occasion, whenever SCA was required he was unable to use his account. He described getting so far in the login process and then hitting a "wall".*

*Indeed, PayPal's own actions support this being the case. PayPal told us they had to*

*make adjustments to Mr L's account in December 2021 to allow him to login without two-factor authentication for a short period (48 hours) so that he could link his authenticator app in his account's security settings. If he'd had full access to his account, I don't think they'd have needed to make any adjustments so that he could do this. PayPal also appear to accept that Mr L has been unable to complete SCA by SMS text or landline; they've told us that when he has been successful logging in it's not because he's been completing SCA, it's been because he wasn't asked to complete an additional security check.*

*Whilst I think PayPal have provided some evidence that Mr L wasn't completely excluded from accessing his account between March 2020 and late 2021, I'm not persuaded that PayPal enabled Mr L to complete SCA during this time and I think that's the main point here. Without the adjustment they made in December 2021 temporarily removing the requirement for two-factor authentication I don't think he'd have been able to gain full access to his account. The fact that this adjustment was necessary does, I think, contradict PayPal's position that Mr L was already able to access his account fully before December 2021.*

*So, I'm satisfied that, although he may not have been completely excluded from his account since March 2020, it's more likely than not his use of the account became incrementally restricted as he's said it did until December 2021 when PayPal finally responded to Mr L's predicament and assisted him with linking the authenticator app. I think this is something PayPal should have done much sooner.*

*Overall, I don't currently think PayPal acted fairly towards Mr L because they failed to offer him a viable alternative to authenticating with a mobile phone, failed to look into and resolve the issues Mr L was having with using his landline to authenticate, and didn't assist him to set up his account for the authenticator app until we got involved and asked them to reach out. Given what the guidance says about businesses offering different, viable methods of authentication so that customers who can't rely on a mobile phone can authenticate, I think PayPal should have done more for Mr L, and earlier. I don't think it was fair of PayPal to adopt the position that as Mr L could access his account to some extent they didn't need to do more about his SCA concerns or what he was telling them about not being able to receive SMS text messages.*

*Mr L has described how the difficulties he's had accessing his account have impacted him. He told us, "no login assistance was given to me on the dozens of occasions when I contacted the company", and I can see that he's had to make multiple attempts to contact PayPal to sort this out. He's also found himself unable to use his PayPal account to make purchases at times, and the unreliability of his account access has prevented him from selling items that he wanted to sell on an auction and shopping website. As PayPal could, I think, have resolved this for him much earlier I agree with the investigator that PayPal should pay Mr L £250 compensation to reflect the distress and inconvenience he's experienced."*

#### *Responses to the provisional decision*

Mr L accepted my provisional decision. He commented that PayPal had not catered for people without mobile phones and said that was a "*major part*" of his complaint.

PayPal didn't agree with what I'd said. They said the information they'd made available to customers explained that if a customer didn't have a mobile or landline telephone number, they could continue to access their account by enabling the 2-step verification setting from their profile page. This would allow use of the authenticator app. PayPal said, "*At no time*

*has PayPal not provided this information*". They added that Mr L could have linked the authenticator app to his account during any of his previous successful logins.

### **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 see no reason to depart from what I said in my provisional decision. I don't think the evidence supports PayPal's assertion that they gave Mr L viable alternatives to authentication by mobile phone long before December 2021. If they had done, then I think Mr L would have linked the authenticator app much earlier so that he could enjoy full access to his account. When Mr L brought his complaint to us in November 2020, he expressed great frustration at being "*excluded*" from his account despite multiple attempts at raising his troubles with completing SCA directly with PayPal. If he'd been able to solve the problem by simply linking an authenticator app to his account at that point, I see no reason why he wouldn't have done so. He described the situation by March 2021 like so:

*"the current, absurd position is that, under a bizarre Catch 22, you can only resolve the problem of not being able to login by logging in"*

Indeed, when PayPal responded in July 2021 to our request for information, they acknowledged that Mr L had let them know in March 2020 that he wouldn't be able to rely on a mobile phone to complete authentication, and they confirmed that their response to him at that time was "*At the moment the only method of PSD2 available is receiving a text*". So, I don't agree with PayPal that Mr L's always had a viable alternative for completing SCA.

In that response to us there was no mention that the options for completing SCA had moved on since March 2020, and now included an authenticator app. PayPal's position was that Mr L was still having some success accessing his account, and that they shouldn't be "*held responsible for bad phone service*". So I don't think they really addressed the core issue which was that Mr L needed an alternative to SMS OTPs because whenever he was challenged to complete SCA (even if that wasn't every time he tried to login) he couldn't do so.

I remain of the view that PayPal didn't engage with and address the problem Mr L was experiencing with SCA until December 2021. And I'll repeat what I said in my provisional decision; I'm not persuaded that Mr L could have linked the authenticator app to his account without PayPal's intervention. On 6 December 2021 PayPal told us:

*"We have made an adjustment to Mr. L's account which will allow him to log in without 2 factor authentication for 48 hours to set up his authenticator app. We have reached out to him to advise what steps he needs to complete."*

PayPal also told Mr L on that same date:

*"We have made an adjustment to your account to allow you to add the authenticator app ..."*

I think it was this "*adjustment*" which resolved Mr L's situation of not being able to get passed the problem of logging on without first logging on, and it's a step I think PayPal should have taken much earlier.

## **Putting things right**

As I explained in my provisional decision Mr L has had unreliable access to his PayPal account since March 2020 because when he's been challenged to complete SCA he's been unable to do so. He's been unable to do so because he wasn't helped by PayPal to access a viable alternative to SMS OTPs until December 2021. He's found himself unable to use his PayPal account at times and that's caused him inconvenience and distress. As PayPal could, I think, have resolved this for him much earlier PayPal should pay Mr L £250 compensation.

## **My final decision**

For all the reasons set out here, and in my provisional decision, my final decision is that I uphold Mr L's complaint. PayPal (Europe) Sarl et Cie SCA should put things right in the way I've set out in the '*Putting things right – what PayPal needs to do*' section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 6 July 2022.

Beth Wilcox  
**Ombudsman**