

The complaint

Mr B complains that Paysafe Financial Services, trading as Neteller Limited returned a payment to sender.

What happened

Mr B sold cryptocurrency using a peer-to-peer platform. He received £465 into his Paysafe account and on receipt of this, he sent the individual the cryptocurrency as agreed using the crypto exchange platform. Following this, Paysafe returned the £465 to the sender and asked Mr B some questions about his account usage. Upon receipt of the answers, Paysafe made the decision to close Mr B's account but allowed him time to withdraw his funds.

Mr B raised a complaint with Paysafe who issued a final response on 9 February 2023. This said that receipt of funds into Mr B's account did not mean the transactions could not be reversed. They relied on their terms and conditions to cancel the payment and did not agree they had made an error in doing so. These terms were:

6.11 Transactions are final and are not reversible save in the following circumstances and at our sole discretion:

- *6.11.1 where we confirm there has been a Merchant error;*
- *6.11.2 where there is illegal activity involving your Account; or*
- *6.11.3 where you are in breach of these Terms of Use.*

14.6 If you conduct or attempt to conduct any transaction in violation of the prohibitions contained in this section 14 or without the necessary approval under section 14.5, we reserve the right to: reverse the transaction; and/or close or suspend your Account; and/or report the transaction to the relevant law enforcement agency; and/or claim damages from you; and charge you an administration fee as displayed in the "Fees" section of the Website if we apply any of the above.

Mr B referred the complaint to our service and our Investigator looked into it. They reviewed the evidence and were satisfied that Mr B sold cryptocurrency and that he did so in good faith, with no reason to doubt the recipient was not a genuine buyer using legitimate funds. They did not agree that the terms Paysafe had relied on gave it authority to return the funds, so they recommended a refund of the £465. They acknowledged that Paysafe is allowed to determine who it wishes to offer accounts to but did not feel Mr B had breached the terms and conditions of the account.

Paysafe disagreed with the findings and asked for a review. As an informal agreement could not be reached, the complaint has been passed to me for a final 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 agree with the Investigator for largely the same reasons and I'm recommending a refund of the £465 to Mr B.

I've firstly considered whether I think Mr B's version of events is truthful, and based on what I've seen, I think it is. Mr B says he was selling cryptocurrency via a peer-to-peer selling platform. He's provided evidence that after he received the credit into his Paysafe account, he sent the cryptocurrency to an individual with the same name as the payee. So, I'm satisfied that he was involved in the sale of cryptocurrency, which ties in with his version of events. And it is therefore unlikely that Mr B was aware that he was the recipient of fraudulent funds.

Paysafe received notice that the £465 payment was the result of fraud, and it looked into this, which I think was reasonable. In doing so, it asked Mr B what he typically used the account for which he said was receiving money for design services and sometimes for friends and family payments. Following this it returned the £465 to the sender and made the decision to close Mr B's account. However, I don't think Paysafe discussed the payment itself and what it was for before deciding to return the funds. And I think if they had done so, they likely would have reached the conclusion that he had legitimately sold cryptocurrency. So, I don't think they have treated him fairly.

Paysafe has relied upon the terms set out above when it returned the payment to sender. However, I don't agree that these apply in this case. The payment was likely the result of suspected fraud involving the sending account and there's nothing to suggest Mr B was aware of this. So, I can't agree that Paysafe have correctly applied the terms and conditions of the account in the circumstances.

Paysafe did receive an indemnity from the sending bank, but indemnities don't create specific obligations on financial businesses – they are agreements between the parties. It's still up to Paysafe whether they return the funds or not. In this case I don't see that it was fair for them to return the funds to the sender, as Mr B had a credible claim to the ownership of the funds. And as he had already parted with his cryptocurrency he has doubly lost out.

For these reasons, I think it is reasonable that Paysafe refund the £465 to Mr B in full.

Paysafe are able to choose who they provide services to, and they have made the decision to close Mr B's account. This has not formed part of Mr B's complaint, so I won't go into detail about it here. I am unable to ask Paysafe to re-open the account and Mr B has not requested that we consider this further.

My final decision

I uphold this complaint. Paysafe Financial Services should refund the £465 to Mr B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 13 May 2024.

Rebecca Norris

Ombudsman