

The complaint

Miss G complains that PaySafe Limited, trading as Skrill, have not refunded the funds she lost as part of a scam.

What happened

Miss G had made a number of genuine deposits onto a cryptocurrency platform I'll call 'X' via Skrill. She was then contacted by an individual claiming to work for X, who was in fact a scammer. They convinced Miss G that her payments were risk and that she had to move all her funds in X to a new wallet. However, when she did so, she no longer had access to the funds and instead the scammer did. The payments were as follows:

- 14 May - £4,999
- 14 May - £400
- 16 May - £4,999
- 16 May - £4,999
- 16 May - £1,525
- 17 May - £4,999
- 17 May - £4,999
- 17 May - £1,525

These funds, along with what was already in her wallet with X, were all lost to the scammer. Miss G contacted the police who launched an investigation but ultimately were unable to facilitate any arrests due to the individuals being outside of their jurisdiction. She also raised a complaint with her current account provider who said the loss had occurred when the funds were with X, so they were not liable. Finally, she raised a complaint with Skrill who were unable to provide her with a meaningful response to her complaint prior to her bringing it to our service.

Our Investigator looked into the complaint and felt that the loss had all occurred on X, so Skrill had provided the service asked of them and did not cause the loss. As Miss G disagreed with this, the complaint was passed to me for review. I looked over everything and based on what I saw, I still felt the case should not be upheld, but for different reasons to that of the Investigator. I therefore issued a provisional decision which read as follows:

It's not in dispute that Miss G has been the victim of a cruel scam; what's left to decide is whether PaySafe should have done more to prevent it.

Miss G has said that she did not have an account with Skrill and instead, this was just used as a payment method to fund her wallet with X. Looking at the transaction history from Skrill, I can see that transfers in occurred and then payments were made to X. However, the amounts of the transfers in and the payments out to X are not the same. This suggests to me that the funds were held by Skrill until Miss G made the payments to fund the wallet with X. So, I think she did have an account of some form with Skrill and this is how the payments were facilitated to X.

It should be noted that Miss G made a number of genuine, undisputed transactions to X via

Skrill between 8 March and 13 May 2022 that were being held in her wallet with X, which were then lost to the scammer. I agree that for these transactions, the scam began after Skrill was directed to send the funds to X, therefore Skrill was not involved in the facilitation of the scam for these payments.

However, Miss G then made the transactions listed above following contact from the scammer on 13 May which she made as a direct result of the scam. I therefore think that Skrill was involved in the processing of these payments that were linked to the scam and these should therefore be reviewed in more detail.

In line with the Payment Services Regulations 2017, Skrill is expected to execute authorised payment instructions without undue delay. It is agreed that Miss G authorised these disputed transactions. She transferred the funds from Skrill to her own cryptocurrency account, before subsequently transferring them on to the scammers. So, the starting position is that she, rather than Skrill, is liable for the loss resulting from these payments.

However, there are circumstances when it might be appropriate for Skrill, as an electronic money institute (EMI), to identify a fraud risk and to therefore take additional steps before processing a payment. Such as when the payment is significantly unusual or uncharacteristic when compared to the normal use of the account.

I've therefore looked at the previous, genuine transactions Miss G made via Skrill and compared the ones listed above to them. On balance, the transactions involved in the scam match the general pattern of the genuine transactions made. I say this because the values and the frequency of the payments are similar, so based on what I've seen so far, I don't think Skrill should reasonably have identified these as suspicious and carried out further checks prior to processing them. So, I don't think Skrill missed an opportunity to reveal the scam.

Finally, as the funds were moved to X and then onto the scammer, it was not possible for Skrill to recover the funds once they were made aware of the scam. Having carefully considered everything available to me so far, I don't currently think Skrill needs to refund Miss G with the transactions in question.

PaySafe Limited, trading as Skrill, did not respond to my provisional decision.

Miss G responded and said that Skrill misled herself and her current account provider for seven months about the possibility of a refund. She added that she did not have an account or wallet with Skrill and instead it was just a payment method to top-up her account with X.

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.

I'd like to thank Miss G for taking the time to respond to my provisional decision with her additional comments. I've considered whether they make a difference to the findings set out in my provisional decision.

Firstly, Miss G has said that she did not hold an account or wallet with Skrill. However, based on what I've seen I think it's more likely she did have some form of agreement with Skrill, as the payments in and out on the statements Skrill provided are different, suggesting some funds remained with Skrill. This is important as it therefore means Miss G had a relationship with Skrill, meaning we can consider her complaint against them.

Secondly, Miss G has said that her main grievance is that Skrill gave her false hope for seven months while they said they would respond to her claim, but they never did. I appreciate this must have been very frustrating for her. Having carefully reviewed everything, I explained in my provisional decision why I did not think Skrill needed to refund Miss G, as the transactions in question were not so out of character that they warranted further checks prior to them being processed.

With this in mind, while I can appreciate how frustrating having to wait for an answer would be, as I don't think Skrill needs to refund Miss G, I don't require it to take any further action in relation to the delay in responding to her claim. As an earlier response to her claim would not have changed the overall outcome to the complaint.

While I appreciate this is not the outcome Miss G was hoping for, I hope this has gone some way to explain my reasoning for the outcome I have reached.

My final decision

I do not uphold Miss G's complaint against PaySafe Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 23 February 2024.

Rebecca Norris
Ombudsman