

## The complaint

Mr W complains that PayPal (Europe) Sarl et Cie SCA did not refund a series of payments he says he did not authorise.

## What happened

Both parties are aware of the circumstances of the complaint, so I won't repeat them again in detail here. In summary, Mr W says his phone was stolen on a night out with friends and a few days later, he discovered a number of unauthorised transactions on his PayPal account. These were as follows:

- 17/12/2022 23:05:52 - £190
- 17/12/2022 23:06:22 - £9,900
- 17/12/2022 23:07:15 - £8,000
- 18/12/2022 16:38:16 - £500
- 18/12/2022 16:46:09 - £3,500
- 18/12/2022 18:55:26 - £30

And the following reversals were made:

- 18/12/2022 05:10:00 - £8,000
- 19/12/2022 8:22.53 - £3,500
- 18/12/2022 - £30

Mr W raised a claim for the outstanding £10,950 but Paypal said there was no evidence the payments were unauthorised, as his account was protected by biometrics and a PIN. Our Investigator looked into it and felt it was more likely the transactions were unauthorised due to the unusual activity which matched fraudulent patterns.

Paypal disagreed with this, amongst other things, they pointed out that Mr W raised a claim at around 5:30am on 18 December 2022 in which he said 'can you please cancel the payment as it was a scam'. Which they felt indicated the payments were authorised. Because they disagreed, the complaint was passed to me. I issued a provisional decision in which I explained I thought it was reasonable that Paypal had held Mr W responsible for the transactions in question. My provisional decision read as follows:

*Generally, Paypal is able to hold Mr W liable for the disputed transactions if the evidence suggests it's more likely than not that he made or authorised them himself. This position is confirmed in the Payment Service Regulations 2017 (PSRs) and the terms and conditions of his account.*

*From what I've seen, the payments were made using Mr W's trusted device. While this is important, it isn't enough on its own to say Mr W is liable for the transactions. Paypal also has to show it's more likely than not that Mr W himself made or otherwise authorised the transactions.*

*Mr W's testimony has not been clear, but as he thinks he may have been spiked, this is*

*understandable. He is unsure exactly how his phone was taken, but thinks it may have been when he was getting into a car to go home. He also thinks his phone may have been unlocked as his friend had just used it to call someone, but again this is unclear.*

*It's therefore possible a third party was able to access his phone. PayPal has provided the activity log for the Paypal app on Mr W's mobile phone. This shows that Mr W's Paypal app was accessed via his mobile phone device multiple times after he says the theft occurs. All of these initial log ins were completed using biometrics, specifically facial identification (face ID). And all of the payments were completed via face ID.*

*In order for face ID to be changed on Mr W's device, my understanding is that the passcode for the device would need to be entered. However, there is no explanation as to how Mr W's passcode could have been compromised based on his version of events. I understand Mr W has said his Paypal personal identification number (PIN) was written down within his phone, however it does not follow that the passcode needed to enter his phone would also be saved as it would be needed to access the device in the first place.*

*With no reasonable explanation as to how a third-party would be able to access Mr W's biometrics without him present, I think it was reasonable for PayPal to decline Mr W's claim, as all of the transactions have been carried out using face ID.*

*I have to consider all of Mr W's testimony, alongside the evidence available. He has said he contacted PayPal on the evening of 19 December, however PayPal's records show they received a phone call in the morning of the 19 December about the disputed transactions. In addition, there was a disputed transaction claim raised for what appears to be the £8,000 payment at 5:30am on 18 December. which said, 'can you please cancel the payment as it was a scam'. Mr W has said he did not raise this disputed transaction claim himself and this must have been carried out by the fraudster.*

*However, I don't think it is more likely a fraudster would raise a scam claim on a payment they made and then go on to make further fraudulent transactions after that point. I can see at around 5:00am a number of login attempts using a PIN was attempted on the PayPal website, and not the app on the mobile phone device. When this was unsuccessful the PIN was re-set, and a successful log-in attempt was made. Following this, the disputed transaction claim was raised. Where I do not know what has happened, I have to consider what I think is more likely in the circumstances. And on balance, I think it's more likely Mr W logged onto his PayPal account online and raised a disputed transactions claim that way.*

*However, as I've explained above, this does not tie in with what Mr W has told us. As a result, it is difficult for me to reasonably rely on Mr W's testimony and place weight on it. I want to be clear that in saying that I am not placing any blame on or accusing Mr W. I have to review all of the evidence available to me, which includes testimony, and use it to come to an outcome I think is fair. In this case, based on what I've seen so far, Mr W's testimony does not tie in with the evidence I've seen. While the activity on Mr W's PayPal account around the time of the account does appear to be unusual, it doesn't align with the type of unauthorised fraud Mr W has described.*

*With all of this in mind, I currently do not intend to uphold this complaint. I think PayPal has acted reasonably when it declined Mr W's claim, and based on what I've seen so far, I think it can hold Mr W liable for the transactions in question.*

*Paypal did not respond to my provisional findings with any more evidence or comments for me to consider.*

*Mr W responded and said it was clear how his phone was taken, as it was taken from his*

pocket. He pointed out that three separate addresses had been added to the account in short succession and that his type of phone can be kept unlocked indefinitely so the fraudster could have accessed it.

### **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've considered Mr W's additional comments carefully. I accept that Mr W believes his phone was taken from his pocket as his friend says he placed it there after using it. Though this does not materially change my findings as set out in the provisional decision.

I also accept that there was some unusual activity on the account at the time of the transactions, such as different addresses being added. And I mentioned this as part of my provisional decision. However, the evidence available does not align with the type of unauthorised fraud that Mr W has described.

I am still of the opinion that it was reasonable PayPal did not refund the disputed transactions as the log-ins to the app as well as the transactions were verified by face-ID. This could not be bypassed simply by the phone being unlocked when it was taken, so there has not been a reasonable explanation as to how this could have been compromised. In addition, Mr W's testimony doesn't align with the evidence available which suggests he became aware of the scam much earlier than what he's told our service.

On balance, I think PayPal has acted reasonably when it declined Mr W's claim, so I don't recommend a refund in the circumstances.

### **My final decision**

I do not uphold Mr W's complaint against PayPal (Europe) Sarl et Cie SCA.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 25 April 2024.

Rebecca Norris  
**Ombudsman**