

## **The complaint**

Mr R complains that PayPal (Europe) Sarl et Cie SCA ("PayPal") allowed him to use his account to gamble extensively without any interventions or checks. Mr R says that PayPal's failure to intervene caused him a great deal of financial loss and harm.

Mr R also says that PayPal irresponsibly lent to him as it allowed him to use 'eCheques' which Mr R says is a form of credit.

## **What happened**

Mr R has held a PayPal account for a number of years. He says that around 2021 he developed a gambling habit, that he says became an addiction, and used his PayPal account to transfer money to gambling companies. Mr R says that he was transferring money through this PayPal account frequently.

Mr R says he called PayPal in 2022 to ask that it place a block on his account, he says he was told that was not possible.

In 2023 Mr R complained to PayPal. In response PayPal issued its final response letter on 3 July 2023.

PayPal explained that on 17 June 2023 it had arranged for an exemption to cease collections on Mr R's account and Mr R was given the option to resolve the balance partially, without any further interest or fees being applied. It explained that on 19 June 2023 it had arranged to cancel remaining automated payments to gambling websites and confirmed that as it had not provided credit, there can't have been irresponsible lending. It said that the negative balance on the account was caused by unsuccessful bank transfers, rather than because it had lent money to Mr R. PayPal also explained that on 22 June 2023 it had offered to credit £170 to Mr R's account, so as to bring the account to a zero balance, but acknowledged that Mr R had declined the offer. PayPal pointed out that it couldn't close the account as there was still an outstanding balance left on the account. Although the matter of the outstanding balance has since been resolved and the account closed.

After Mr R referred his complaint to this service, one of our investigators assessed the complaint and they did not uphold the complaint. They concluded that PayPal had not provided Mr R with credit and therefore they were unable to say that PayPal had irresponsibly lent money to Mr R.

Mr R didn't accept the investigator's findings, so the matter was referred for an ombudsman's decision.

I issued a provisional decision on 11 June 2024, explaining why I was minded to uphold the complaint. However, after I considered the responses to my provisional decision, I was minded to increase the amount of compensation I had awarded. So I issued another

provisional decision on 11 October 2024. I have included an extract of my second provisional decision below and it forms a part of this decision.

***“What I’ve provisionally decided – and why***

*I’ve reconsidered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.*

*Having reconsidered everything, taking on board all of the additional information that has been provided, I am minded to say that PayPal should pay more compensation to Mr R than I had stated before. But I still don’t think that PayPal should reimburse Mr R for all of the money he sent to gambling websites from his PayPal account. I will explain why.*

*As I’d said in my previous provisional decision, PayPal should have been (and arguably was) alerted to the fact that, in all likelihood, Mr R was using his PayPal account to fund his gambling. And given the amounts and frequency of payments, that the manner he was using his account was causing harm.*

*However, even if PayPal had intervened, I still can’t reasonably say that Mr R would have stopped gambling through other means. I say this given that he said it’d become an addiction and therefore he was doing so compulsively. And so I think the losses he incurred, he likely would’ve incurred anyway, even if PayPal had intervened, as ultimately I think it is likely he would’ve found alternative ways to continue gambling even if PayPal had stopped him. Furthermore, the money Mr R sent to gambling companies wasn’t money that had lent Mr R, so PayPal can’t be held responsible if other businesses decided to give Mr R credit. Therefore, because PayPal didn’t lend Mr R money, it was under no regulatory obligation to assess whether what was happening was ‘affordable’ for Mr R.*

*Because of this I don’t think it would be appropriate to say that PayPal should reimburse Mr R for all of the money he sent to gambling companies from his PayPal account. However, as I stated in my previous provisional decision, I think it ought to have been clear to PayPal that Mr R was using his account in a way that was likely causing harm to him and therefore I think that PayPal should’ve intervened in some way – whether that be to provide support or signposting to agencies for his gambling habit or place restrictions on his account in some way. But unfortunately it seems that PayPal did none of this.*

*Mr R has provided many responses about how being allowed to continue sending large amounts of money to gambling companies through his PayPal account has impacted him. I won’t go into details within this decision, but in summary it is clear that Mr R was suffering from poor mental health which, I’m sorry to hear, also led to him self-harming as a result of the impact his gambling habit had on him.*

*When weighing up the specific impact PayPal’s failure to intervene had on Mr R, I think that a higher award is warranted. Having considered everything that Mr R has said, I think that a fairer amount of compensation is £1,000. I say this because, I don’t think the award of £500 I was originally minded to say that PayPal should pay Mr R, fully reflect the harm done to Mr R as a result of PayPal’s failure to intervene.*

*I recognise that Mr R would like more compensation than this. But I have to be mindful that I can't hold PayPal responsible for the impact that Mr R's gambling habit had on him. It's clear that Mr R had a gambling habit and this habit in itself clearly caused a great deal of distress and harm to Mr R. I can only hold PayPal responsible for the distress and harm that PayPal's failure to act contributed to, what were clearly already very distressing circumstances for Mr R. Mr R was clearly suffering and PayPal's failure to intervene, when I think it should've done more, clearly added substantially to Mr R's distress and suffering.*

*I note that Mr R, in some of his responses, mentioned using a different 'account' with PayPal. However, PayPal confirmed that the email address that Mr R said he used to use was associated to the same PayPal account as the one that Mr R has complained about in this case. So, it doesn't seem to be the case that it was a separate 'account' as such.*

*In some of his responses, Mr R seems to be saying that I should award redress so as to punish PayPal. However, it is beyond the remit of this service to fine or punish financial businesses for any apparent wrongdoing. All I can do, where I think a financial business has done something wrong, is to say what it should do to put matters right for the individual complainant(s). And in this case, I think an award of £1,000 fairly reflects the substantial distress that PayPal's failure to act contributed to Mr R's already very distressing circumstances.*

*Mr R also took umbrage that I said he had a gambling addiction from 2021. I apologise if that is not the case. I only referred to his circumstances as being a gambling addiction because he'd told us that he'd been gambling since 2021 and had himself referred to his habit as an addiction.*

*I note that Mr R said he spoke to PayPal over the phone to ask for eCheques to be blocked. Since my provisional decision, PayPal provided a call recording of the conversation that Mr R referred to.*

*In the conversation, Mr R didn't explain to PayPal that he had a gambling habit nor did he ask for support. But he did ask if it's possible that payments were not sent as an eCheque. PayPal explained that although the availability of eCheques can't be 'turned off' as such, it did say that, if he doesn't want payments to be made via eCheque, he can make payments by debit card instead.*

*During this phone call, it does seem that the member of staff he was speaking to had briefly looked at Mr R's account. And I think it should've been apparent to PayPal from even a cursory glance at the transactions on the account - given the high frequency and amounts being sent to gambling companies - that Mr R was using his account in a way that was a high likelihood it was causing harm to Mr R. I therefore think that it could've taken steps to intervene and offered some support at that point, rather than just say to make payments via his debit card. This call took place in 2022 and it was not until June 2023 that PayPal started taking measures to put things right, following Mr R raising his complaint. Therefore, it looks like PayPal's failure to act in 2022, meant that he was still experiencing the same difficulties until he proactively took action in the following year.*

*So, whilst I still think that the outcome I reached in my provisional decision was fair, I do think, upon reflection, that a higher award for the distress and harm caused to Mr R is warranted in the specific circumstances of this case.*

*Mr R was suffering from poor mental health, and he was clearly in a great deal of turmoil and distress. And I think that his distress and suffering was exacerbated further by PayPal's failure to respond to clear signs of his vulnerability. Overall, I think it's the case that PayPal's failure to act had a greater impact on Mr R than I had fully appreciated when I issued my first provisional decision, which is the reason why I now think that the award should be increased.*

### **Putting matters right**

*Having reconsidered everything, I'm currently minded to say that PayPal should pay Mr R £1,000 for the distress and harm caused by its failure to take action. But, for the reasons already outlined above, I don't think that PayPal should reimburse Mr R for the payments he made to gambling companies through his PayPal account."*

After I issued my provisional decision, PayPal didn't respond. But Mr R sent a number of responses and made a number of points. Whilst I won't repeat everything he said here, I have outlined a number of points he raised, including that:

- I had not grasped the complaint and keep skirting around the boards.
- The loophole needs to be closed or an option to opt out given.
- Mr R accepts that eCheques are not a lending facility but says that, because of how they work, he was effectively gambling with PayPal's money.
- Mr R says that he is still suffering today, repaying debt he'd accrued elsewhere due to his gambling habit.
- Mr R says he closed his PayPal account, but says he now can't use another selling platform as it primarily uses PayPal to process payments
- Mr R says that PayPal's actions should be brought to the attention of the FCA and the Gambling Commission and says that £1,000 doesn't come close to compensating him for the distress caused.
- Mr R says eCheques are not a security feature imposed by PayPal and are in fact a payment option he could select.

### **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 reconsidered everything, including the multiple responses that Mr R sent, I remain of the view that this complaint should be upheld and that PayPal should pay Mr R £1,000 compensation for the distress and harm it caused him due to its failings in this matter.

In terms of Mr R's point that eCheques were not a security feature and were in fact a payment option he was presented with, I accept that Mr R was able to select eCheque as a payment option. Although I understand that PayPal can impose processing a payment via eCheque as a security measure as well.

I also understand that by sending payments via eCheques, this meant that Mr R could potentially send more money than he may've had in his current account at that time. That is because there is a delay in the payment being sent and the money being collected from his account. However, as Mr R seems to accept, I can't say that eCheques constitute lending just because there is delay in settling payments under the eCheque process.

However, as I said in my provisional decision, due to the high volume of transactions being made to gambling companies on Mr R's account, I think that PayPal ought to have recognised this and intervened. Indeed, I think that when Mr R called PayPal in 2022 and asked if payments could not be sent by cheque, whilst he was given correct information i.e. if he didn't want to use eCheques he could make the payment using his debit card instead, I do think that PayPal missed an opportunity to intervene.

I'm sorry to hear that Mr R says that I have not understood his complaint. I would like to assure Mr R that I have fully considered his points, but it's the case that I don't think that PayPal should reimburse Mr R for all of the money he lost when making payments to gambling websites through his PayPal account. This is because, as the eCheque payments were not a form of lending, PayPal was not obliged to check if Mr R could afford to make the payments he was making. Also, based on what Mr R has said about the severity of his gambling habit and the compulsive nature of what he was doing, even if PayPal had intervened and prevented Mr R from making such payments from his PayPal account, I find it likely that he would've found an alternative way to make the payments to the gambling companies. So, I think Mr R would've in all likelihood still incurred similar losses and would've still suffered from a great deal of distress and harm that his gambling habit was clearly causing him.

This is also the reason why the compensation for the distress and harm is £1,000, and not a larger amount that Mr R has asked for. Essentially, because even if PayPal had intervened and provided support to Mr R, I think Mr R likely would've still suffered a great deal of distress and suffering caused by his gambling habit. And so, the £1,000 award is to reflect PayPal's contribution - by failing to intervene or provide Mr R with support when it was clear he was using his account in a way that was likely causing him harm - to Mr R's distress and suffering, in what were clearly already distressing circumstances.

Mr R asked how I have come up with the figure of £1,000. In reaching this figure, I have considered a number of things. Firstly, I considered everything that Mr R has said about his circumstances and the impact this matter had on him, including the timescales involved. I've also taken into account that, in my view, a large part of his distress and suffering was caused directly by Mr R's gambling habit, which in itself I can't hold PayPal responsible for. I've also taken into account awards this service has awarded in similar circumstances to Mr R's. And when reaching the figure of £1,000, I was mindful that any award I make does not act as a fine or punishment, as that is something that this service is unable to do.

Overall, having weighed everything up, I am satisfied that PayPal's contribution (by its failure to act) to Mr R's distress was substantial but not the sole cause of his distress. I acknowledge that the impact on Mr R was greater than it otherwise would've been given that he was clearly vulnerable due to suffering from health conditions. I also think this amount is warranted given the timescales involved from when I think PayPal reasonably could've intervened and provided Mr R with support but failed to do so. So I remain of the view that £1,000 compensation is fair and reasonable in the circumstances of this complaint.

Finally, I note that Mr R says that he has closed his PayPal account and now can't sell items on another platform, because it mainly uses PayPal to process payments. I'm sorry to hear about that, but in the circumstances, I can't reasonably hold PayPal responsible for the impact that the closure of the account had on him.

### **Putting things right**

I require PayPal to pay Mr R £1,000 for the substantial distress and harm that its failure to act caused Mr R.

### **My final decision**

Because of the reasons given above and in my provisional decision, I uphold this complaint and require PayPal (Europe) Sarl et Cie SCA to do what I have outlined above to put matters right, in full and final settlement of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 29 November 2024.

Thomas White  
**Ombudsman**