

The complaint

S, a limited company, complains PayPal (Europe) Sarl et Cie SCA won't refund it for items sent out but not delivered or returned. S is represented by Mr A, a director.

What happened

S completed two orders for some high-cost items. S used Royal Mail tracked delivery to send the two orders out.

The orders were marked as not delivered but never returned to S. The buyer made a successful buyer protection claim as the items apparently weren't delivered. PayPal then took the money back from S.

S raised a seller protection claim but this was declined as S had no proof the items were delivered. S contacted Royal Mail about the items and found out these two orders were part of an organised fraud involving Royal Mail.

S complained to PayPal, with this new evidence, but PayPal felt it had addressed S' complaint and wouldn't refund. S brought its complaint to this service.

An investigator looked into things and thought S' complaint should be upheld. The investigator was persuaded S' orders had been involved in the fraud, S had a witness statement from a fraud assessor at Royal Mail.

The investigator thought PayPal should refund S for the two orders, refund a dispute fee and pay S a further £200 to compensate for the inconvenience it had been caused. S accepted this outcome.

PayPal said its seller protection is not a legal right, but an agreement with consumers to attempt to protect. PayPal said S could take up the matter of a refund with Royal Mail. PayPal asked for an ombudsman to decide things.

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.

PayPal's seller protection is part of its user agreement. For S to make a successful seller protection claim the agreement says S has to prove delivery of the items. S' tracking information shows the items weren't delivered.

I've read the information S has sent in about the fraud. The evidence is very persuasive, I have no doubt S' items were delivered to the buyers but marked as not delivered.

And I'm persuaded the items weren't returned to S. S is in a position where it has no items and has lost the money. This seems an unfair position for S to be in.

I think the evidence S has provided proves the items were delivered, regardless of what the tracking information online says. I think S has provided PayPal with proof of delivery, albeit not in the way proof of delivery is usually presented to PayPal.

I think the proof of delivery is the witness statement, and other evidence, from Royal Mail. This evidence lays out the fraud and explains what the process was, I think the items were very likely delivered.

PayPal says seller protection is not a legal right. PayPal also says there's no evidence of fraud on its platform, it says any fraud took place outside of PayPal.

PayPal's correct when it says its seller protection isn't a legal right. But seller protection forms part of its user agreement and if a seller qualifies for the protection, then PayPal should refund the seller.

Even where seller protection applies it's very likely sellers have the right to take legal action against the buyer or the courier company.

So, I don't think it's fair, in the specific circumstances of S' complaint, to say this is something S has to take up with Royal Mail. The fact S potentially has a right to claim losses against Royal Mail doesn't invalidate, or replace, PayPal's seller protection.

The relevant considerations in this complaint are very specific. I understand PayPal's position, the items weren't delivered according to the tracking. But I think it's very clear S has been the victim of a fraud, and likely one carried out by, or involving, the buyer.

PayPal's said what happened isn't a trend of fraud on its platform, and I agree. This type of fraud is very specific and rare, so I wouldn't expect PayPal to have seen something like this before to form a trend.

But, on balance, I think it's likely the buyers, using PayPal to make the payment, were part of the fraud. High value items were ordered, very likely delivered, but claimed as undelivered using PayPal's buyer protection.

This means it's likely the buyers received the goods and received a refund for them. This is an unfair position for the buyers to be in. And, in the circumstances, it seems very unfair S loses out here.

S says the fair outcome is for PayPal to refund £4,439.35, the cost of the items less PayPal's fees and a £12 dispute fee.

S also experienced inconvenience around these sales. I don't think it's fair for PayPal to compensate for anything S had to do around its enquiries with Royal Mail.

But S was deprived of a substantial amount of money, and I think this will have impacted S' cashflow and the running of the company. In the circumstances, I think the investigator's assessment of a payment of £200 for inconvenience is fair.

My final decision

My final decision is I uphold this complaint. PayPal (Europe) Sarl et Cie SCA should pay S:

- £4,439.35 for the items S sent out
- £12 for the dispute fee

- £200 to compensate for the inconvenience S was caused

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 14 August 2024.

Chris Russ
Ombudsman