

The complaint

N complains that Prepay Technologies Ltd (PTL) is refusing to refund the amount it says was lost as the result of a scam.

N is being represented by a third party. To keep things simple, I will refer to N throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, N says it has fallen victim to a scam. N made two transfers to a company I will call X to produce items for it that were not received. As the items were not received N contacted PTL to complain it had fallen victim to a scam.

PTL responded to N. It said there was not enough evidence to show X was operating a scam and that it considered there to be a civil dispute between N and X.

The payments in dispute are:

Payment	Date	Payee	Payment Method	Amount
1	21 November 2023	X	Transfer	£1,140
2	26 November 2023	X	Transfer	£4,560

Our Investigator considered N's complaint and didn't think it should be upheld. N disagreed, so this complaint has been passed to me to decide.

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.

The evidence provided by both N and PTL sets out what happened. What is in dispute is whether PTL should refund the payments N made.

Recovering the payments N made

N made the disputed payments via transfer. When payments are made by transfer PTL has limited recovery options available to it. It could ask the operator of the receiving account to refund any funds that remain, but PTL considered the payments made by N to be legitimate, and that a civil dispute between N and X had taken place, so I don't think it was unreasonable that this option was not considered.

Even if this option was attempted, I would not expect the receiving bank to refund the payments. I have viewed X's statements and it appears X is a legitimate business that continues to operate today.

I have also considered whether N should receive a refund for the payments in dispute under the Contingent Reimbursement Model (CRM) Code. But PTL does not sign up to the code and therefore it is not bound by it.

Should PTL have reasonably prevented the payments N made?

It has been accepted that N authorised the payments that were made from its account with PTL. So, the starting point here is that N is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether PTL should have intervened when the payments being made, and if it did intervene would it have prevented them from being made.

I don't think the payments were of a significant enough value that I would have expected them to have triggered PTL's fraud prevention system prompting it to intervene. So, I don't think it missed an opportunity to prevent them from being made. But even if PTL had intervened at the time, I think it's likely the payment would have been discussed and it would have been found that N was making a payment to X having instructed it to produce something for it, and on receipt of an invoice. At the time X would also have shown as a legitimate business.

I don't think it would be reasonable to suggest PTL should have had any concerns about the payments and warned N not to make them.

As PTL does not sign up to the CRM code and I have found it was not required to intervene with the payments it is not responsible for refunding the payments in dispute. I do not need to make a finding on whether X was operating a scam as PTL would not be required to refund the payments even if it was.

In any event, N has made payments to X having placed an order with it. X is still trading now and at the time the order was placed had been trading for several years. Businesses are unable to complete orders for countless reasons, but this does not mean that they set out with the worst of intentions.

I appreciate N has found other businesses that have also had a bad experience with X and there are negative reviews for X available online. But again, this is not enough for me to say X was operating a scam from the outset, and I think it's most likely N is now in dispute with X having not received an order that it placed with it. This is not the same as a scam.

With the above in mind PTL is not required to refund the payments N has disputed.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask N to accept or reject my decision before 27 December 2024.

Terry Woodham
Ombudsman