

The complaint

Mr B complains that PayPal UK Ltd (PayPal) is refusing to refund him the amount he lost as the result of a scam.

Mr B is being represented by a third party. To keep things simple, I will refer to Mr B 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, Mr B started chatting with someone (X) via a gaming chat facility. The conversation developed and moved across to another private messaging application.

Mr B and X continued to chat and share personal information. After a short time, it appeared Mr B and X had formed a romantic connection and X told Mr B she would visit him in the UK.

X then said she had arrived in the UK and was staying at a hotel. X initially asked Mr B to help pay her hotel costs as her card had been hacked and she didn't have the means to pay, and Mr B agreed.

X then explained she had caught covid and would have to quarantine. X explained she had additional expenses which included hotel costs, doctors' fees, and general living expenses. X again asked Mr B to help her with the payments convincing him to make payments to her friend for the bills to then be paid.

After making each payment X explained another cost that needed to be paid before she was able to meet Mr B in the UK and he continued to make the payments as requested. Mr B's savings were soon depleted, and he realised X was not genuine so refused to make any further payments.

Below are a list of the payments Mr B made in relation to the scam:

<u>Payment</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>
1	24 October 2022	Individual 1	£2,000
2	27 October 2022	Individual 2	\$4,611.28
3	30 October 2022	Individual 2	\$6,848.61
4	6 November 2022	Individual 2	\$5,352.58
5	6 November 2022	Individual 2	\$4,978.12
6	13 November 2022	Individual 2	\$1,121.31

Our Investigator considered Mr B's complaint and thought it should be upheld in part. PayPal 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.

It has not been disputed that Mr B has fallen victim to a cruel scam. The evidence provided by both Mr B and PayPal sets out what happened. What is in dispute is whether PayPal should refund the money Mr B lost due to the scam.

Recovering the payments Mr B made

The payments Mr B made via PayPal were made to individuals and PayPal has confirmed these amounts were quickly moved on shortly after they were received. So as no funds remained in the payee's accounts, it would not be possible to recover the payments Mr B made in relation to the scam.

Should PayPal have reasonably prevented the payments Mr B made?

It has been accepted that Mr B authorised the payments that were made in relation to the scam, albeit on X's instruction. So, the starting point here is that Mr B 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 PayPal should have been aware of the scam and intervened when Mr B made the payments. And if it had intervened, would it have been able to prevent the scam taking place.

I think it would have been reasonable to expect PayPal to intervene when Mr B sent payment 3. It was unusual for Mr B to send large payments via PayPal, and this was the second large payment Mr B sent in just 3 days totalling more than \$10,000. I think this should have caused PayPal to have concerns.

Had PayPal intervened and asked Mr B probing questions about the payments he was making, as I think it should have, I think it's likely Mr B would have provided honest responses and it would have found that Mr B was making payments to pay X's accommodation and doctor fees, having met her online and never actually meeting her in person.

I think this would have been a major concern to PayPal and it should have given Mr B a clear warning that the payments he was attempting were likely in relation to a scam. I think if such a warning was given it's likely Mr B would not have made any further payments and any further loss would have been prevented. So, PayPal is responsible for Mr B's loss.

Did Mr B contribute to his loss?

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000).

In the circumstances I don't think it would be fair to say Mr B contributed to the loss. I say this because X was very persuasive giving a full cover story as to why she needed Mr B's help making the payments he did following her already gaining Mr B's trust over time, tricking Mr B into believing he was part of a caring relationship.

Putting things right

To put things right PayPal UK Ltd should:

- Refund all the payments Mr B made in relation to the scam from payment 3 onwards.
- Add 8% simple interest to the amount it pays Mr B from the date he made the payments to the date they are refunded (less and lawfully deductible tax)

My final decision

I uphold this complaint and require PayPal UK Ltd put things right by doing what I've outlined above.

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

Terry Woodham
Ombudsman