

## **The complaint**

Ms M complains Epayments Systems Ltd (“Epayments”) restricted her account and withheld the funds held in it.

## **What happened**

On 11 February 2020 the regulator, The Financial Conduct Authority (FCA), placed limitations on Epayments. As a result Epayments were not able to process any transactions until the limitations were lifted. So, because of this Ms M couldn’t access her funds.

In August 2021, Ms M received communication from Epayments to start the process of releasing her money. In October 2022, Ms M was able to transfer out over half of her funds. But at the end of October 2022, Epayments had to put a temporary pause on its process of refunds to ensure it met its legal obligations.

Unhappy Ms M complained. Epayments didn’t uphold Ms M’s complaint. In its response, and in summary, some of the key points Epayments made were:

- As part of the refund process and in accordance with its renewed Know Your Customer (KYC) requirements, Epayments has started contacting its customers who are yet to access their funds with a request for additional information. It’s required by regulations to ensure the information it holds about customer accounts is accurate and up to date before processing a refund
- Epayments sent Ms M renewed requests to provide information it needs to meet its KYC obligations from late 2022 and through 2023. Epayments apologised for any inconvenience the process was causing her, but reasserted it needed to do this to meet its obligations. Epayments set-out what it needed from Ms M and in what format

Ms M referred her complaint to this service. Epayments told one of our Investigator’s that it needed more information from Ms M before it could refund her remaining funds. It also offered to pay 1% of her balance from February 2020 and £150 compensation for the inconvenience caused.

Ms M did not accept this as a resolution to her complaint. One of our Investigator’s looked into Ms M’s complaint. In summary, they found:

- Once Ms M completes Epayments’ KYC checks, the remaining funds in her account should be refunded to her
- Epayments is responsible for Ms M not having access to her funds. That’s because its accounts were restricted due to weaknesses in its financial crime controls that were identified by the FCA
- As Ms M was deprived of her funds, Epayments should compensate her by paying 8% simple interest on them from when they were first blocked up until settlement
- Epayments should pay Ms M £150 compensation for the inconvenience it caused

- Epayments, and its partners, may have charged currency conversion fees and commissions when refunding any balances. It's not fair for Ms M to pay any fees or charges for accessing her funds – so Epayments should refund such fees and charges if imposed against Ms M

Ms M agreed with what our Investigator said but reiterated she was having issues with Epayments asking for more information for its KYC review.

Epayments did not agree with what our Investigator said. Some of the key points it made were:

- Epayments is required by the FCA to withhold the funds until the FCA's Know Your Customer ("KYC") checks are outstanding
- Epayments hasn't breached its contract with Ms M
- This service has no evidence that Ms M would not have either put the funds into another non-interest-bearing EMI (Electronic Money Institution) account or invested in a highly lucrative investment vehicle. Therefore the award of 8% is inappropriate
- The ombudsman service should refrain from making any award that interferes with its ability to wind down in an orderly manner in the interests of all its customers

As Epayments didn't agree, this complaint has now 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.

Having done so, I've decided to uphold this complaint. I'll explain why.

As a regulated business, Epayments has certain obligations which it must comply with. Epayments is subject to regulation by the FCA. The FCA applied restrictions on Epayments for reasons widely publicised and also detailed on its company website. As a result, Epayments suspended its operations. This impacted Ms M, given she had no access to her funds from February 2020.

Whilst the FCA requested Epayments to suspend its activities there was nothing it could have done in relation to returning Ms M's funds during this period. Epayments say it shouldn't be held liable for any detriment to Ms M whilst the FCA's limitations were imposed.

After carefully considering this, I'm not persuaded it's fair or reasonable in the circumstances of this complaint to find Epayments didn't do anything wrong. I say that because Epayments had to suspend its operations due to failures on its part. So I think Epayments should put things right by addressing the fact Ms M has been deprived of her funds through no fault of her own.

Ms M had around £7,500 refunded to her in 2022. But funds remain in her account. I note Epayments has been asking Ms M for information related to checks its obligated to carry out. Ms M says she is finding the process frustrating and Epayments keep asking for new information which is delaying matters.

As a regulated business, Epayments must comply with extensive legal and regulatory obligations. These generally cover the entire period of its customer relationship – from

application to eventually the end of the relationship. This includes KYC checks and/or Customer Due Diligence (CDD).

So any refund of funds should be subject to these checks. It's worth noting these checks include not just the verification of a customer's identity, but also establishing the purpose and intended nature of the business relationship and origin of funds.

Epayments argue there isn't any way of knowing how Ms M would have used her funds should she have had access to them. Awarding 8% simple interest when a regulated businesses' customer has wrongly been deprived of their funds is in line with the approach at this service. I haven't seen compelling enough reasons why Ms M shouldn't be awarded compensation in this way, so I'm satisfied this is fair redress.

I'm also satisfied £150 compensation is fair award for the distress and inconvenience this matter has caused Ms M. In reaching this award, I've considered what Ms M says she's had to do to in getting the matter resolved, and the stress and worry it has caused her.

When Epayments is able to release all the funds to Ms M, I don't think it's fair or reasonable for it, or its banking partners, to charge them any conversion or commission fees. So these should not be applied – and they should be refunded if already applied on the partial refund it made in 2022.

I'm aware Epayments is going through a winding down process. To be clear, it's not my intention to interfere with Epayments' winding down of its business – that's not the role of our service. My role here is ultimately to decide what a fair way to resolve individual complaints between businesses and their customers, based on the individual facts of the complaint.

### **Putting things right**

Epayments must satisfy its legal and regulatory obligations - which include any KYC or CDD checks - before releasing the remaining funds to Ms M. Once it's able to do this, Epayments must do the following to put things right:

- Pay 8% simple interest on Ms M's funds from when it first restricted their access up until settlement\*.

So this will mean Epayments must pay 8% simple interest on the amount its already released to Ms M from when it first restricted the account until the day it sent this amount to her. And it should pay 8% simple interest on the remaining balance from when the account was first restricted up until settlement

- Not apply any fees or charges when releasing the funds to Ms M – as detailed above. If it or its banking partner do apply such charges or already has, they should be refunded
- Pay Ms M £150 compensation for the distress and inconvenience it has caused

\*If Epayments considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Ms M how much it's taken off. It should also give Ms M a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

**My final decision**

For the reasons above, I uphold this complaint. Epayments Systems Ltd must now put things right as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 15 December 2023.

Ketan Nagla  
**Ombudsman**