

The complaint

Company P ("P") complain Epayments Systems Ltd ("Epayments") blocked their accounts and withheld the funds held in them.

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 P couldn't access their funds.

In December 2022, Epayments sent P a final response to their complaint. In short, Epayments explained that its business activities had been closed for the last three years because of weaknesses in its financial crime controls as identified by the FCA.

Epayments also explained it had begun the process of ceasing its business activities and entering a solvent wind-down. And that it was now focused on providing its customers with full refunds - and it will continue to safeguard any funds until it is able to do so.

Epayments also said that refunds will be made once it, and its banking partners, are able to complete certain checks. P referred their complaint to this service.

Epayments explained the FCA was aware it had to temporary pause its refund process since October 2022 to ensure it met legal obligations. But that it was still asking P for information so that it could issue a refund when it was possible to so.

One of our Investigator's looked into P's complaint. In summary, they found:

- Epayments isn't currently able to refund P's money. But it should refund P the money held in their accounts when its able to complete any further checks required by the FCA
- Epayments is responsible for P not having access to their funds. That's because its accounts were restricted due to weaknesses in its financial crime controls that were identified by the FCA
- As P were deprived of their funds, Epayments should compensate them by paying 8% simple interest on them from when they were first blocked up until settlement
- Epayments should pay P £150 compensation for the inconvenience they've caused
- Epayments, and its partners, may have charged currency conversion fees and commissions when refunding any balances. It's not fair for P to pay any fees or charges for accessing their funds – so Epayments should refund such fees and charges if imposed against P

P agreed with what our Investigator said. Epayments then made alternative offers to P which ranged from £750 compensation to 1% of the balance, plus £150 compensation for

inconvenience caused. P refused these offers.

Epayments have made no comments in response to what our Investigator said on this complaint. But I'm aware it doesn't agree with this service awarding 8% simple interest, saying amongst other things, that it will affect its ability to wind-down in an orderly manner.

Epayments has however said that its KYC team have completed its checks for P, and the accounts are now ready to be refunded.

As Epayments have made alternative offers to that of our Investigator, and as it hasn't told us whether it agrees with what they said, I must now decide this complaint.

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 significantly impacted P, given they have had no access to their funds since February 2020.

Whilst the FCA requested Epayments to suspend its activities there was nothing it could have done in relation to returning P's funds. Epayments say it shouldn't be held liable for any detriment to P 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 P was deprived of their funds through no fault of their own.

Epayments has recently told this service, as I said above, that it is now in a position to return the funds to P. 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 Know Your Customer (KYC) checks and/or Customer Due Diligence (CDD).

So any refund of funds should have been subjected 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.

As P has been deprived of its funds because of Epayments' failings, I'm persuaded it should pay 8% simple interest from the date the accounts were blocked to when they are refunded. Awarding 8% simple interest when a consumer has wrongly been deprived of their funds is in line with the approach at this service. I haven't seen compelling enough reasons as to why P shouldn't be awarded compensation in this way, so I'm satisfied this is fair redress.

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.

I'm also satisfied £150 compensation is fair award for the inconvenience this matter has likely caused P. In reaching this award, I've considered P has been inconvenienced when chasing Epayments for answers, and how having such a substantive sum withheld in this way would cause added inconvenience especially as they say it's started to affect their ability to do business.

I don't think it's fair or reasonable for Epayments, or its banking partners, to charge P any conversion or commission fees if these have been applied – or will be. So if any such charges have been made, or are intended, they should be refunded to P.

Putting things right

To put things right, Epayments must:

- Pay 8% simple interest on the funds held in P's accounts from when it first restricted their access up until settlement*
- Not apply any fees or charges for releasing any funds to P – as detailed above. If it or its banking partner do apply such charges, they should be refunded
- Pay P £150 compensation for the inconvenience it has caused them

* If Epayments considers that it's required by HM Revenue & Customs to deduct tax from that interest, it should tell P how much it's taken off. It should also give P a tax deduction certificate if they ask for one, so they 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 P to accept or reject my decision before 12 November 2023.

Ketan Nagla
Ombudsman