

The complaint

Mr A complains Epayments Systems Ltd (“Epayments”) blocked his account and withheld the funds in it. Mr A adds this has caused him substantive financial loss, distress, and inconvenience.

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 Mr A couldn't access his funds.

In September 2022, Epayments announced it was closing its business and started reviewing its customers' accounts in line with its legal and regulatory obligations before processing any payments.

From October 2022, Epayments started the process of collecting information from its customers so that it could meet its legal obligations before refunding them. In March 2023, Epayments asked Mr A to provide it with such information. Mr A provided the information Epayments asked of him, and in August 2023 he was able to withdraw the funds.

Unhappy that he did not have access to his funds for over three years, Mr A complained that this had caused him financial loss, distress and inconvenience. Epayments did not uphold Mr A's complaint. In short it said it was withholding Mr A's funds in line with its policies, procedures and because it had to meet strict legal requirements regards the refund process.

Mr A referred his complaint to this service. He said Epayments should pay 8% interest for the period he didn't have access to his funds. And that it should pay him €10,000 compensation and refund any fees for when the account was operational.

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

- Epayments is responsible for Mr A not having access to his funds. That's because its accounts were restricted due to weaknesses in its financial crime controls that were identified by the FCA
- As Mr A was deprived of his funds, Epayments should compensate him by paying 8% simple interest on them from when they were first blocked up until settlement
- The financial impact to Mr A of being deprived of his funds is what the 8% simple interest award covers. And £150 is fair compensation for the worry Epayments caused him
- If any currency conversion fees, or other fees/commissions are charged by Epayments, or their banking partner, during the refund process, these should also be refunded
- Epayments doesn't have to refund Mr A any monthly fees charged on his account as these relate to when the account was operational prior to February 2020

Mr A agreed with what our Investigator said. But Epayments didn't. Epayments made an offer of 1% of the balance plus £150 compensation to Mr A, but he declined. Epayments then sent this service its response. In summary, Epayments said:

- Its terms allow it to withhold any refunds where KYC information is outstanding
- Epayments hasn't breached any terms of its contract
- As EMI's (Electronic Money Institutions) do not pay interest on its accounts, Mr A would have had no reasonable expectation or right to any. This service doesn't have evidence of what Mr A would have done with the money to show awarding interest in this way is fair – so awarding it is inappropriate
- By awarding 8% simple interest, Epayments ability to solvently wind-down will be adversely impacted

As Epayments did not 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 significantly impacted Mr A, given he had no access to his funds from February 2020 up until they were released in August 2023.

Whilst the FCA requested Epayments to suspend its activities there was nothing it could have done in relation to returning Mr A's funds during this period. Epayments say it shouldn't be held fully liable for any detriment to Mr A 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. And I don't think this is an over-simplification as Epayments suggest.

So I think Epayments should put things right by addressing the fact Mr A has been deprived of his funds through no fault of his own.

Mr A received his funds in August 2023 after the process was started, albeit intermittently ceased, from September 2020. 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 would have been 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.

It's difficult to find if Epayments caused any delay here given it had to intermittently stop the refund process and it involved a liquidated business and other banking partners. But I'm

persuaded the award I will be making of 8% simple interest will address the matter of Mr A being deprived of his funds for as long as he was.

I note Epayments doesn't agree with 8% simple interest being added because there isn't any way of knowing how Mr A would have used his funds should he have had access to them. I also note Epayments wants to see evidence of how he would have utilised these funds.

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 Mr A shouldn't be awarded compensation in this way, so I'm satisfied this is fair redress.

Mr A has said he should be awarded €10,000 compensation for the financial loss, distress and inconvenience he's suffered. Much of the loss Mr A refers to has already been considered when awarding 8% simple interest. He's also clarified that he wasn't using his account for business purposes to meet supplier costs.

But he is clear that having his money withheld by Epayments through no fault of his own caused him worry and inconvenience. Having carefully considered this, and what our approach to such awards is, I'm satisfied £150 is fair compensation for the trouble and upset Epayments actions caused him.

If Epayments, or its partners, have charged Mr A any conversion or commission fees when releasing the funds, these should be refunded as I don't think it's fair or reasonable for them to be applied. However, I don't think Epayments needs to refund any fees it charged Mr A for his account before February 2020 when it was operational. That's because Mr A would've accepted those fees when opening his account and he was using it and therefore deriving the services he had set out to.

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 a fair way to resolve individual complaints between businesses and their customers, based on the individual facts of the complaint.

Putting things right

To put things right, Epayments must:

- Pay 8% simple interest on the funds it released to Mr A from when it first restricted his access up until settlement*
- Not apply any fees or charges for releasing funds to Mr A – as detailed above. If it or its banking partner has applied such charges, they should be refunded
- Pay Mr A £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 Mr A how much it's taken off. It should also give Mr A a tax deduction certificate if he asks for one, so he 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 Mr A to accept or reject my decision before 30 January 2024.

Ketan Nagla
Ombudsman