

The complaint

Mr M complains Epayments Systems Ltd (“Epayments”) blocked his 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 Mr M couldn't access his funds.

The original restrictions were later lifted on 23 February 2022 and Epayments began the process of reviewing its customers' accounts and refunding them. Unhappy with his funds being withheld, Mr M complained.

Epayments explained it was now taking steps to enable Mr M to access his funds. But this would be subject to Mr M passing the checks, and he will be emailed about the next steps in due course. Mr M referred his complaint to this service.

In August 2022, Epayments asked Mr M for information to provide proof of his ownership of the 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.

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

- Epayments isn't currently able to refund the money held in Mr M's account. So they won't be refunding him now. But once the restrictions are removed, Epayments should refund Mr M the funds held in his account subject to further checks being completed as required by the FCA
- Epayments is responsible for Mr M 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 M 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
- Epayments should pay Mr M £150 compensation for the distress and inconvenience he's suffered
- 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

Mr M agreed with what our Investigator said. In response, Epayments made alternative offers to Mr M which ranged from £500 compensation overall to 1% of the balance. As Mr M refused these offers, his 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 Mr M, given he has had no access to his funds from February 2020.

Whilst the FCA requested Epayments to suspend its activities there was nothing it could have done in relation to returning Mr M's funds during this period. Epayments say it shouldn't be held liable for any detriment to Mr 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 Mr M has been deprived of his funds through no fault of his own.

From the information I've seen it doesn't appear as though Mr M has had his funds returned. I note Epayments have been asking him for information related to proof of his identity and entitlement to the funds.

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 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 may argue there isn't any way of knowing how Mr M would have used his funds should he have had access to them. 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 why Mr 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 likely caused Mr M. In reaching this award, I've considered Mr M has been inconvenienced when chasing Epayments for answers, and how having such a substantive sum withheld in this way would cause him stress and anxiety.

When Epayments can release the funds to Mr M, I don't think it's fair or reasonable for it, or its banking partners, to charge him any conversion or commission fees. So these should not be applied.

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.

Based on the facts of Mr M's case, I'm satisfied it's fair for Epayments to redress him as detailed above.

Putting things right

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

- Pay 8% simple interest on Mr M's funds from when it first restricted his access up until settlement*
- Not apply any fees or charges when releasing the funds to Mr M – as detailed above. If it or its banking partner do apply such charges, they should be refunded
- Pay Mr 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 Mr M how much it's taken off. It should also give Mr M 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 M to accept or reject my decision before 13 October 2023.

Ketan Nagla
Ombudsman