

The complaint

Company V (“V”) complains Epayments Systems Ltd (“Epayments”) blocked their 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 V couldn’t access their funds.

Unhappy with its actions V complained. Epayments upheld V’s complaint but explained that due to the FCA’s actions it was withholding their funds and that it would continue to safeguard them.

V referred their complaint to this service.

The original FCA restrictions were later lifted on 23 February 2022 and Epayments began the process of reviewing its customers’ accounts and refunding them. 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.

V say they have received the funds in the account. One of our Investigator’s looked into V’s complaint. In summary they found:

- Epayments is responsible for V 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 V 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 V G £150 compensation for the inconvenience they’ve suffered
- Epayments, and its partners, may have charged currency conversion fees and commissions when refunding any balances. It’s not fair for V to pay any fees or charges for accessing their funds – so Epayments should refund such fees and charges if imposed against V

V agreed with what our Investigator recommended. Epayments didn’t agree it should pay V 8% simple interest on the funds. It added that the majority of V’s funds were released on 22 August 2022, but that 19.42 Euros still remained in the account. And in order to comply with its Know Your Customer (“KYC”) obligations it asked V to complete a form in March 2023 and return it back, but this still hasn’t been received.

Epayments say without fulfilling its KYC obligations there can be no claim for interest. It also argues there is no way of knowing how V would have used the funds, and so interest shouldn’t be added to them. And this service should refrain from making any interest award

which interferes with Epayments ability to wind down in an orderly manner.

Epayments then made alternative offers to V which ranged from £750 compensation to 1% of the balance. As V refused these offers, their 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 V, given they had no access to their funds from February 2020 up until they were released to in August 2022.

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

V has received most of its funds, but a nominal amount remains in the account. Epayments say V hasn't returned a form related to the KYC checks it needs to carry out – and it won't release the remaining funds until its satisfactorily completed these checks in line with its obligations.

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.

I agree V should complete any KYC checks it's required to before 19.42 Euros can be returned to it, and before any interest is paid by Epayments against this amount. But Epayments wouldn't have released most of the funds in August 2022 without discharging its KYC or CDD obligations. So I'm satisfied it needs to pay 8% simple interest on the funds it has already released from restriction up until settlement.

I note Epayments don't agree with 8% simple interest being added because there isn't any way of knowing how V would have used their funds should they 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 as to why V shouldn't be awarded compensation in this way, so I'm satisfied this is fair redress.

So, in summary, Epayments should pay 8% simple interest on the funds it has released up until settlement on 22 August 2022. It should also pay 8% simple interest on the 19.42 Euro's from when the account was restricted up until settlement after its successfully completed its KYC checks.

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 V. In reaching this award, I've considered V has been inconvenienced when chasing Epayments for answers, and how having such a substantive sum withheld in this way would cause added inconvenience.

I don't think it's fair or reasonable for Epayments, or its banking partners, to charge V 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 V.

Putting things right

To put things right, Epayments must:

- Pay 8% simple interest on the funds it released to V on 22 August 2022 from when it first restricted their access up until settlement*
- Pay 8% simple interest on 19.42 Euros from when it first restricted V's access up until settlement* subject to any KYC checks being satisfactorily completed
- Not apply any fees or charges for releasing any funds to V – as detailed above. If it or its banking partner do apply such charges, they should be refunded
- Pay V £150 compensation for the 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 V how much it's taken off. It should also give V 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 V to accept or reject my decision before 20 October 2023.

Ketan Nagla
Ombudsman