

The complaint

Mr G complains Epayments Systems Ltd (“Epayments”) blocked his account and withheld the funds 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 G 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. Epayments explained it was now taking steps to enable Mr G to access his funds. But this would be subject to Mr G passing the checks, and he will be emailed about the next steps in due course.

Around September 2022, Mr G was invited to start the refunds process. Mr G started sending Epayments the information it requested of him. However, on several occasions he was told the Banking partner's Epayments were working with were not satisfied with the information he sent for its checks.

Epayments required information from Mr G to show his entitlement to the funds. Mr G was unable to get statements from the e-wallet he used to transfer funds to his Epayments account as that company has since liquidated.

Unhappy with the delays and for not receiving his funds that were withheld by Epayments since 2020, Mr G complained.

Epayments apologised to Mr G for any distress and inconvenience caused by the delay in processing his refund. It explained it has obligations to meet when carrying out such refunds, and the information Mr G has to date provided hasn't been deemed satisfactory.

Epayments also explained that it had to temporarily pause its processing of certain refunds – and it must ensure its checks meet all legal requirements. Mr G referred his complaint to this service.

Mr G started providing more information to help Epayments complete its checks. Our Investigator also approached the liquidators of the firm Mr G used to transfer his funds from to his Epayments account to get a statement. When they received some information, they forwarded this onto Epayments.

In June 2023, Epayments said Mr G was now in the final stages of its checks. And in July 2023 it told Mr G, that following the FCA's involvement, it was now ready to resume issuing refunds to its customers.

Later in July 2023, Epayments offered Mr G 1% of his balance, and £150, compensation. Mr G did not agree as he thinks Epayments should pay interest comparable to the rate of inflation for the time he's been without access to his funds.

On 4 August 2023, Epayments successfully refunded Mr G's funds. Epayments also said it couldn't pay further compensation from that which it had already offered as its terms and conditions entitled it to withhold the funds. And, Electronic Money Institution's (EMI), like itself, do not pay interest on its accounts.

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

- The reason Epayments accounts were restricted was due to weaknesses in Epayments' financial crime controls, which were identified by the FCA. So Epayments is responsible for the impact to Mr G for not having access to his funds
- Epayments should pay Mr G 8% simple interest per annum on the funds from when they were blocked until settlement. This is in line with industry standards for compensation and covers multiple uses of the money
- Pay Mr G £150 for the distress and inconvenience the blocks had on him
- If any currency conversion fees, or other fees/commissions were charged by Epayments or their banking partner during the refund process, these should also be refunded

Mr G agreed with what our Investigator said. Epayments did not, and in summary have made the following key points:

- Epayments agreed with the FCA in 2020 to suspend its operation of accounts to help remediation steps to be taken under its supervision. This process became protracted for a myriad of reasons. Because of this it took the decision to enter a solvent wind-down. Epayments have not been found to have breached its legal requirements and it must comply with the FCA's recommendations.

So, it's inaccurate and a very significant over-simplification to blame all the delays on Epayments

- The terms of the account Mr G signed up to allow Epayments to suspend (or terminate) the operation of accounts where it believes it is required to do so because of law or regulation. These provisions also allow the re-opening of the account to be in the sole discretion of Epayments. Because of this, Mr G has no entitlement for payment related to delays
- As EMI's do not pay interest on its accounts, Mr G would have had no reasonable expectation or right to any. Mr G should provide evidence of what he would have done with the money to show awarding interest in this way is fair
- 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.

I'm very aware that I've summarised the events in this complaint in far less detail than the parties and I've done so using my own words. No discourtesy is intended by me in taking this approach. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I do stress however that I've considered everything Mr G and Epayments have said before reaching my decision.

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 G, 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 G's funds during this period. Epayments say it shouldn't be held fully liable for any detriment to Mr G 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 G has been deprived of his funds through no fault of his own.

Mr G 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 G being deprived of his funds for as long as he was.

I note Epayments don't agree with 8% simple interest being added because there isn't any way of knowing how Mr G 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.

Mr G says he has shown Epayments that the funds came from crypto currency exchange(s). Such exchanges are normally done for the purpose of creating financial gain. But even if that wasn't the case here, 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 G 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 Mr G. In reaching this award, I've considered Mr G 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.

If Epayments, or it's partners, have charged Mr G 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.

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 G from when it first restricted his access up until settlement*
- Not apply any fees or charges for releasing funds to Mr G – as detailed above. If it or its banking partner has applied such charges, they should be refunded
- Pay Mr G £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 G how much it's taken off. It should also give Mr G a tax deduction certificate if he asks 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 Mr G to accept or reject my decision before 27 October 2023.

Ketan Nagla
Ombudsman