

The complaint

H, a charity, complains that PayPal (Europe) Sarl et Cie SCA unreasonably withheld 90% of their income, with no prior notice. They'd like to be compensated for the lack of access to the funds.

What happened

The facts of this case are well known to both parties, and largely not in dispute, so I will cover them only briefly here.

H organises an event for which they sell tickets. In January 2023 H opened an account with PayPal to accept payments for their event. But in February 2023 they found that PayPal had placed a limit on the account, preventing them from withdrawing most of their funds. When they contacted PayPal, they were told this money would be held until after the event had taken place, and this was in line with the terms of the account.

The funds were later released in July 2023.

Unhappy with this H referred the complaint to our service – saying they were aware there could be a 21-day hold on payments but had not been informed when they opened the account that this could be longer. They said they'd discussed it with PayPal before accepting payments and were reassured they'd receive the funds upfront.

Our investigator thought the complaint should succeed – they reasoned that while a reserve such as this was included in the terms, the amount withheld was unusually high. They didn't feel PayPal had demonstrated the risk involved, as H was a long established charity which has run events for many years. They suggested PayPal should pay H 8% simple interest per annum on each payment held for longer than the agreed 21 days.

This was accepted by H, but PayPal disagreed. As such the complaint has 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.

The terms of H's account allow PayPal to apply a reserve to a customer's account if they consider it appropriate. And H has accepted that they were aware that some funds could be withheld. But while this is a commercial decision for PayPal to make, I would expect them to be able to justify the level of reserve placed, and for the length of time the reserve was in place for. They are still under an obligation to treat their customers fairly and reasonably. And I'm also mindful that a reserve of 90% is a very high level to retain.

I've considered what PayPal have said about the decision to apply the reserve. Ultimately though I'm not persuaded by their explanation for the amount and length of the reserve. And I'm satisfied that H hasn't been treated fairly and reasonably.

PayPal's primary rationale for placing the reserve was to mitigate risks from chargebacks or refunds, as H's business model was focused on a single event which is at risk of cancellation. While I can understand this in principle, this is a very generic justification and not specific to H. I've not seen anything to show that PayPal engaged with H to determine the actual risk of cancellations or refunds.

PayPal have also said that H received a large volume of transactions in a short period of time, which I accept would likely prompt some form of review. PayPal has said as H had no previous history of providing events using PayPal, they could not verify H could deliver the event. Although the appendix to the terms regarding reserves says PayPal will consider payment history with them, and "other providers". I've not seen any attempt to engage with H on this point or find out about H's previous payment history.

Publicly available information shows the H's event has run for several decades, so I don't see that it could be considered a one-off event. And the Charity Commission website also provides information such as H's yearly income, so PayPal could have taken this into account when considering the turnover on the account. Nothing I've seen from PayPal has given any indication they took this into account. Nor has PayPal identified any specific risk from H here, beyond that events are sometimes cancelled.

Ultimately, I find that PayPal have provided very little justification for the considerable reserve limit of 90% on H's account, and it seems incredibly disproportionate. I'm not persuaded that PayPal were exposed to such a level of risk that this amount of reserve was reasonable.

PayPal have said H self-onboarded, without completing compliance checks. But I also note from the communication from PayPal that H was told no information was outstanding, and the reserve team would not reconsider their decision. I don't find this to be a reasonable position to take. As such, I can't say that PayPal's decision to hold the 90% reserve was fair or reasonable.

Because I'm satisfied that the reserve wasn't fair or reasonable, I've considered what fair redress for this would be. H has said that when opening the account, they had been advised by PayPal that funds may be held for 21 days. H has been consistent on this point and commented that if they had known of the reserve, they likely wouldn't have opened the account. So, I think as a starting position H ought reasonably to have expected a 21 day delay for any funds paid into the account.

After the 21 days, I see it as reasonable that PayPal pay 8% simple interest per annum on the value of the funds, until the date the funds were released. It's not possible for me to go back and reconstruct every financial decision H would have made differently if they'd had access to these funds, to determine the true impact of this. So, I'm satisfied the 8% interest award is an appropriate way to reflect the overall loss of the use of these funds during that time.

My final decision

My final decision is that I uphold this complaint and PayPal (Europe) Sarl et Cia SCA must pay 8% interest per annum on the amounts held in reserve from 21 days from the date of payment, until 19 July 2023, when the funds were released.

If PayPal considers that it's required by HMRC to deduct tax from the interest award, they should let H know how much has been deducted. They should also provide a certificate showing this if requested, which H can use to reclaim this tax from HMRC if they are eligible.

Under the rules of the Financial Ombudsman Service, I'm required to ask H to accept or reject my decision before 24 July 2024.

Thom Bennett
Ombudsman