

The complaint

Mr R complains Payver Limited (Payver) unfairly returned to sender two payments from his account.

What happened

Mr R opened an account with Payver in early January 2023. On 20 January 2023 Payver asked for evidence specifically relating to two incoming payments, which totalled €16,000.

Mr R provided information regarding both payments to Payver. This included invoices for services provided. Payver also asked for details regarding the professional services Mr R offered. Based on the information provided and the fraud reports issued by the sending banks Payver made the decision to initiate refunds from Mr R's account for the two payments – €9,000 and €7,000.

During the review of Mr R's account, access was restricted and in May 2023 the outstanding balance on the account was transferred to another account held by Mr R.

Mr R raised concerns about the handling of his account with Payver, explaining the return of the funds was unfair given he had provided information regarding his entitlement to them. Mr R referred his complaint to our service and in its submissions Payver explained it had carried out a review of the account in line with its legal and regulatory obligations. Based on the information provided it wasn't satisfied the payments in were legitimate and its decision to return the funds to sender was fair.

An Investigator reviewed Mr R's concerns, and in summary found the following:

- Payver acted reasonably in freezing and reviewing Mr R's account given its legal and regulatory obligations.
- Payver hadn't provided enough substantive evidence to show its decision to return the funds was the fair and correct course of action to take. Mr R had provided sufficient evidence to show he was entitled to the funds.
- Payver should refund the payments to Mr R's account and apply 8% simple interest to the date of settlement.

Mr R accepted the Investigator's recommendations. Payver didn't agree with them, and in summary explained the following:

- The payments were returned to source as a SEPA Request For Refund by the Originator (REFO) was made. Payver was under an obligation to process the refund under the SEPA scheme rules. It didn't need to carry out a detailed proof of entitlement exercise given the scheme rules.
- Prior to the REFO request Payver had detected unusual account activity and suspected fraudulent activity. Payver explained that given the account usage Mr R is likely to have also been the victim of fraud.

The Investigator reviewed Payver's additional comments and maintained the opinion the complaint should be upheld. They explained the SEPA rules and account terms don't allow Payver to return funds unchallenged.

Payver maintained it had made the right decision to return funds as per the SEPA rules and account terms. As no agreement could be reached, the complaint has been referred to me – an ombudsman – for a final decision.

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.

Payver is strictly regulated and must take certain actions in order to meet their legal and regulatory obligations. They're also required to carry out ongoing monitoring of new and existing relationships. That sometimes means they need to restrict customer's accounts – either in full or partially while they carry out their review. As part of the review, Payver is also able to make enquiries about transactions on an account. These measures help ensure Payver is able to effectively meet its obligations in relation to financial crime.

Payver says it restricted Mr R's account due to concerns about the account activity. It says this was then followed by two REFO requests, which it complied with due to the SEPA scheme rules. Mr R doesn't agree his funds should have been returned to source, as he has proven his entitlement to them. I'm persuaded Payver had concern enough to review Mr R's account. However, I don't agree that it should've returned the two payments in question to sender. I will explain why.

Firstly, I've considered the terms and conditions of Mr R's account. These provide Payver with specific rights in relation to the management of an account. Payver's submissions suggest it is able to reclaim funds without the need for a full review of the sending bank's case for reclaim. But the terms and conditions of the account don't specify this, and in treating its customer's fairly I would expect Payver to consider any reclaim request carefully. A full proof of entitlement exercise should be undertaken, and specific details regarding the reasons for the reclaim should be established. Although Payver asked for proof of entitlement from Mr R, I can't see that it clearly established the basis for the reclaim.

Alongside the account terms and conditions, I've looked at the SEPA scheme rule requirements. Payver's comments suggest it is obliged to honour a REFO request from a sending bank, and there isn't a requirement to carry out a review of the request. The scheme rules don't state an automatic refund should be issued, and I can see the rules allow the beneficiary, Mr R in this case, the opportunity to challenge the reclaim within 15 days. It doesn't appear that Payver put this to Mr R to provide him an opportunity to explain the transfers.

I can see Payver carried out a basic proof of entitlement exercise. The exact trigger for this isn't clear, but it seems the account activity alongside the REFO requests required more details from Mr R. As part of its entitlement exercise Payver asked Mr R for the two payments into his account. Mr R provided invoices to Payver, but these weren't sufficient to satisfy it that Mr R was legitimately entitled to the funds. Payver didn't ask Mr R for further evidence or carry out a more detailed review at this stage. I think in order to satisfy itself that returning the payments was fair, Payver needed to clearly establish details of Mr R's digital services.

As part of our review Mr R has provided further details regarding the payments. This includes screenshots and emails, as well as details of a well-known crypto platform that Mr R

used as part of the services he offered. Although I appreciate the account activity may not have been within Payver's risk appetite, based on the information provided I'm persuaded Mr R has taken adequate steps to show his entitlement to the funds.

Payver has explained it has limited information regarding the reclaim reasons, and our service can contact the recalling bank to obtain details. I don't consider that appropriate or necessary. Ultimately, I must decide whether Payver had sufficient grounds to return the payments. Further, Payver's duty to Mr R required it to clearly ascertain the basis for a reclaim, and the lack of information demonstrates that the refund was based on incomplete information.

Following the block of the account processing of the reclaim requests Payver made the decision to close Mr R's account. It's clear Mr R's account usage prompted concerns. Payver have relied on the terms and conditions when closing Mr R's account. This service won't generally intervene in a bank's commercial discretion. Payver exercised their right to no longer offer Mr R banking facilities and I've seen nothing to suggest that they've made an unfair decision.

It follows that by not returning these funds to Mr R he has unfairly lost out. Payver followed the REFO request without carrying out sufficient checks regarding Mr R's entitlement to funds. To fairly resolve this complaint Payver should refund these funds to Mr R.

Putting things right

To put things right, Payver Limited, must:

- Pay Mr R all the funds it withheld which I understand to be €16,000.
- Pay 8% simple interest per annum on €16,000 from the date funds were returned to sender to the date of settlement*.

*If Payver Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr R how much it's taken off. It should also give Mr R 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 given above, I uphold this complaint and require Payver Limited to put things right by doing what I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 5 September 2024.

Chandni Green
Ombudsman