

The complaint

F is a company, and this complaint is brought on its behalf by its director, whom I'll refer to as "Mr Z". F complains that Amazon Payments UK Limited ("APUK") has withheld funds on its account without good reason.

What happened

In or around April 2019 F opened a sellers account with Amazon Services Europe SARL ("ASE"), a company registered in Luxembourg. It did so in order to sell goods through the Amazon website. As part of the overall arrangement, payment processing and related services were to be provided to F by APUK. That is, APUK received payments from F's customers and, after certain deductions such as its and ASE's fees, paid funds out to F's nominated bank account.

On 27 October 2020 ASE suspended F's account. It said that it had requested, but not received, information about certain products which F was selling. In July 2023 it said that it was closing F's accounts because it was concerned it was being used for "... *deceptive, fraudulent, or illegal activity*...". F took this to mean that it was being accused of supplying fake goods, although in the course of our investigation APUK indicated that the concerns were that F had not provided evidence that the goods it supplied complied with relevant safety regulations in the countries in which they were sold.

Mr Z complained on behalf of F that its account had been suspended and closed, and that APUK had not released funds held on the account.

APUK said that the question of restriction and closure of the account was a matter for ASE, and referred Mr Z to that company. Mr Z noted however that he had had a similar issue with another company with which he was involved and that the question of withholding funds was a matter for APUK; and he referred to a decision which a different ombudsman had issued, confirming that to be the case. He referred the matter to this service.

One of our investigators issued a preliminary assessment of F's complaint. She agreed that the decision to suspend and close the account had not been made by APUK and that this service could not consider a complaint about ASE, since it was not providing a financial service from within the UK. She was not however persuaded that APUK was entitled to withhold funds. She recommended that APUK pay F the amount held to the credit of its account, together with interest from the date of suspension until payment.

APUK replied with a settlement offer. It said it would pay a total of £9,292.02 to settle the complaint. This represented the balance on the account plus interest at 8% from 27 October 2020 (the suspension date) to 21 August 2024 (the date of the offer).

Mr Z did not accept the offer. He said that the balance on the account was rather more – £17,604.83. APUK said that its offer did not include funds held in Italy, Spain and Germany – those funds were not held by APUK. Mr Z noted that the decision he had received on the similar case did not make deductions for funds held outside the UK.

Because it was not possible to resolve matters informally, the case was passed to me for further consideration.

Having reviewed the case, I issued a provisional decision in which I said:

... [My] current view about how F's complaint should be resolved is broadly the same as the investigator's. I am however issuing this provisional decision so that APUK can provide clarification on account movements, and so that both parties can make final submissions, should they wish to do so.

First, I agree that the decisions about suspension and closure of the account were not made by APUK. I do not therefore need to comment any further on them. I shall however deal with the withholding of funds by APUK.

ASE has suggested that F has not provided documents it needs to allow it to continue to trade. It is not entirely clear whether the documents it needs concern the authenticity of goods F was selling, their compliance with safety regulations, or a combination of the two.

APUK says that, where there are concerns, funds will be withheld so that, amongst other things, ASE can provide customers with refunds where that is appropriate. I have however seen no evidence of customers who have raised actual concerns or of refund claims, even though F's account has been inactive for nearly four years. It has been closed for more than a year.

In the circumstances, I do not believe it is fair for APUK to continue to hold F's funds.

In respect of funds that may be held outside the UK (and not therefore held by APUK), I do not believe that makes any difference to APUK's liability to F. I am not aware that F has any payment services agreement in connection with his Amazon seller account other than that with APUK. So, even if funds are held in other countries, they remain under the control of APUK, in the sense that it must be able to call on whichever institution holds them to return them to F. But for the account suspension, any overseas funds would have been distributed to F by APUK, even if they were not actually held by APUK. I see no reason why that position should be different in the current circumstances.

For these reasons, I believe that APUK should return all the funds held to the credit of F's account, together with interest at 8% a year from 27 October 2020 until the date of payment.

APUK did not respond to my provisional decision by the deadline I set. Mr Z was broadly in agreement with my provisional conclusions but said that interest should be calculated from late March 2020, not from 27 October 2020. The reason for that was that payments to F had ceased in March, several months before the account had been suspended on 27 October. He referred to the decision issued in respect the other company with which he was involved.

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 only matter which remains in issue is the question of the date from which interest should be calculated.

Where an ombudsman determines a complaint in favour of a complainant, they can include an interest award in their determination – DISP3.7.1(2)R of our rules. It is not however compulsory that they do; the ombudsman has a discretion, both in whether to include interest and in its calculation.

As a matter of practice, the Financial Ombudsman Service does routinely include interest in its awards where it considers that a complainant has been wrongly deprived of funds. Typically, it uses a rate of 8% a year, reflecting the rate at which interest is generally applied to county court judgments, although it can be more or less than that.

There does not appear to be any dispute in this case about the appropriate interest rate or the sums on which interest should be applied. And it should apply until the date of payment. The issue I need to consider is simply when the calculation should start.

As I have indicated, interest is, in effect, compensation for being wrongly deprived of funds. I note that F did not receive funds for several months before its account was suspended. It does not follow however that it was wrongly deprived of those funds. I indicated in my provisional decision that ASE had concerns about the goods which F was selling. It is not for me to say whether those concerns were well-founded, but they were not wholly unfounded.

The terms of the agreement between F and APUK said that payments would usually be made within 14 days. However, they also allowed APUK to withhold payments for one or more of a number of reasons. Those reasons included the need to cover pending chargeback claims and similar risks. As I have indicated, I have not seen that there were any such claims, but in my view there was a real risk that they might have arisen between March and October 2020. In my view, APUK was entitled to keep funds to meet any possible claims in that period.

It follows that APUK cannot be said to have been wrongly withholding money from F in that time and that F was not wrongly deprived of funds. From around the end of October 2020, however, the risk reduced significantly as time limits for F's customers to make chargeback claims expired. For that reason, I remain of the view that it is fair to calculate interest from 27 October 2020, and not some earlier date.

My final decision

For these reasons, my final decision is that, to resolve F's complaint in full, Amazon Payments UK Limited should pay F:

- the full balance on its account, including any sums held outside the UK and/or in any currency other than GBP; and
- interest on any such sums at 8% a year simple from 27 October 2020 until the date of payment.

To the extent (if at all) Amazon Payments UK Limited has made any payment to F after 27 October 2020, it should pay F interest on the sum paid from 27 October 2020 until the date on which payment was made.

Amazon Payments UK Limited should also provide F with a summary of payments made from 27 October 2020, showing the dates and amounts of such payments and the calculation of any interest included.

Under the rules of the Financial Ombudsman Service, I'm required to ask F to accept or reject my decision before 7 November 2024.

Mike Ingram
Ombudsman