

Complaint

A, a limited company complains that Amazon Payments UK Limited, (Amazon) withheld funds in its account for too long after its account was deactivated by Amazon Services Europe (ASE).

A's complaint has been brought to our service by its director Mr Z.

Background

Amazon have said that they are not responsible for the suspension of A's account and have pointed out that this was done by ASE. So, they are unable to provide any information about what led to A's account being deactivated. I will not be commenting on the actions of ASE as this is outside the jurisdiction of this service because ASE is not regulated by The Financial Conduct Authority. However, A's money was held by Amazon, which is within our jurisdiction. As such, whilst I may mention ASE, this decision will focus on whether Amazon have treated A fairly in withholding its funds.

Mr Z became director of A in April 2020. Prior to this, Mr Z's wife, Ms W was the director of the business.

Mr Z has told us that A opened an account with Amazon so it could sell products on Amazon's retail platform in October 2020.

On 28 October 2020, ASE suspended A's sellers account and asked Mr Z to submit further documents about A and to complete a Know You Customer (KYC) compliance interview before it would consider reactivating A's account. At the time A had a balance of just over 136,700EUR in its Amazon account.

ASE told Mr Z that whilst it completed its review and waited for Mr Z to provide the information A's funds would be withheld by Amazon as per the Amazon policy and terms – which permitted the funds to be withheld for up to 90 days under its fund holding policy. However, on 26 January 2021, after the 90-day period was up, A's funds remained restricted.

Mr Z complained to ASE and Amazon and sent several emails between June and December 2021 trying to gain access to A's funds and obtain an explanation about what was required from him in order to sort things out. In response Amazon told Mr Z he needed to speak to ASE about the deactivation of A's account. But ASE didn't respond to Mr Z's attempts to get in touch.

In May 2022, almost a year later, Mr Z brought A's complaint to our service. After our service got in touch with Amazon, ASE set up a video interview with Mr Z and his wife, with a view to establishing whether it could reactivate A's account.

Mr Z attended the video interview on 13 July 2022. Ms W didn't attend, which meant ASE couldn't complete its review. Following this Mr Z sent ASE and Amazon several emails between 15 and 26 July 2022 to find out how he could gain access to A's funds. In response, in August 2022, ASE told Mr Z that Ms W needed to attend a video interview before it could consider reactivating A's account and it sent M Z a link so that he could arrange for this to take place, but the link didn't work. So, Mr Z sent several more emails to Amazon and ASE between September and November 2022 to try and organise a second interview. But Amazon and ASE didn't respond.

After Mr Z brought his complaint to our service one of our investigators looked into what had happened and reached out to Amazon to try and see why things had taken as long as they had done. In response, Amazon told the investigator that Mr Z needed to contact ASE and that it wasn't responsible for the decisions taken by ASE that led to A's account being deactivated. The investigator reviewed everything and issued a view asking Amazon to arrange a second interview with Mr Z and on completion release A's funds adding 8% simple interest.

On 7 July 2023, Amazon responded and said that ASE would reach out to Mr Z to arrange another video interview. On 21 July 2023 Ms W and Mr Z attended the second interview. Following this, on 28 July 2023, Amazon advised that A's funds would be released following the successful completion of the interview. However, Amazon didn't release the funds.

On 31 July 2023, the investigator contacted Amazon to try and find why there was a delay in releasing the funds and seeking a response to her view. On 18 August 2023, Amazon responded and accepted that there had been delays in releasing A's funds back to Mr Z. However, it submitted that these had been in part caused by M W's failure to attend the first video interview and lack of response to reorganise another interview. Amazon said, in order to settle the matter, it was willing to pay A £5,000. But it wasn't willing to pay 8% simple interest on A's balances.

Mr Z didn't accept Amazon's offer. He wants the interest on A's balances for loss of use of these funds. He said Amazon has in effect stolen A's money and had no right to hold onto the money for as long as it had done. He said he had made every attempt to try and sort things out with Amazon and wasn't interested in reactivating A's seller's account with ASE – he just wants A's funds released. And can't understand why it had taken nearly three years for Amazon to finally agree to release A's money.

In September 2023, Amazon confirmed that it was willing to release A's remaining funds, but Mr Z needed to provide his bank details via the Amazon seller platform. However, Mr Z wasn't able to do this due to A's account being deactivated. So, Mr Z remained without A's funds.

Mr Z says that A had been treated very unfairly by Amazon So, he thinks Amazon should pay A more compensation than the £5,000 it has offered along with the interest, for loss of use of the funds. He said he has been caused a great deal of stress and upset by Amazon's actions and hasn't been able to run his business properly due to lack of access to the funds held by Amazon.

As no agreement could be reached the matter has come to me to decide.

Prior to issuing my decision I asked the investigator to go back to Mr Z and Amazon in relation to the date I believed Amazon's 90-day review period ended. The investigator initially thought this was on 3 March 2021, however, the review period ended on 26 January 2021.

Mr Z responded and said that he accepted what I'd said. Amazon responded but didn't provide any comments. Instead, it asked for more time to consider what I'd said. Given the length of time this matter has taken so far, and that both parties have had since May 2022 to submit any information to our service, in order to bring this matter to a conclusion I've decided not to allow Amazon further time to consider this matter and go ahead and issue my decision.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

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 focused 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.

Amazon has said it was holding on to A's funds in line with its terms and conditions. Section 5.3 of its terms say:

"we may suspend the Service and block access to your Account (including without limitation the funds in your Account) if (c) you provide or have provided false, incomplete, inaccurate or misleading information (including without limitation any registration information) or otherwise engage in fraudulent or illegal conduct, (d) we have security concerns regarding your Account, including your Credentials, or (e) we suspect unauthorized or fraudulent use of your Account or any payment information in your Account."

Amazon has explained that it relied on ASE policies related to order performance, and complaints on missing/defective orders. But Amazon still made the decision to hold the funds, even if they were relying on ASE's policies.

Like the investigator, I accept that Amazon has legal and regulatory obligations to comply with. One of these is ensuring it knows who's operating an account with Amazon. And that the account isn't being used for fraudulent purposes. Based on the information I've seen, including that A had changed directors I don't think it was unreasonable that Amazon reviewed A's account and asked Mr Z and Ms W to provide it with information about A, their identification and to attend video interviews.

However, despite being asked by the investigator, Amazon hasn't explicitly stated what concerns it had with how A was operating, just that it had concerns with some orders and who was the beneficiary of A's Amazon account. So, whilst I accept Amazon could withhold A's funds, whilst it completed its review, I don't think it is fair for Amazon to hold onto A's money for as long as it has – which is around three years.

In saying this I've kept in mind that Amazon's terms do state that it can hold A's money for as long as it takes for a review to be completed. This wasn't able to be achieved until Mr Z and Ms W had attended a second video interview in July 2022. And this was only arranged at the insistence of Mr Z and the involvement of our service. However, Amazon continued to hold onto A's funds after it had carried out the second interview – and didn't release any of A's funds until late 2023. It's also still continuing to hold onto some of A's funds despite agreeing to release them last year.

Having looked at all the evidence and circumstances of this complaint I agree that this process has taken far longer than either party would have liked. Amazon says whilst it accepts things took longer than it should have, some of the delays were caused because Mr Z didn't respond to its requests to arrange a video interview and were based on decisions made by ASE.

I've considered what Amazon has said about the delays, and whilst I accept Ms W didn't attend the first video interview, I don't accept that all the delays were as a result of Mr Z not responding to Amazon's requests to arrange an interview as Amazon has suggested. I say this because I've seen screenshots of numerous emails Mr Z sent to Amazon and ASE requesting interview appointments – overall it seems to me that Mr Z was trying to resolve things as quickly as possible. I haven't been provided with any evidence why Amazon wasn't able to complete its review within the 90-day timeframe – such as emails it may have sent to Mr Z asking him to get in touch which explained what he needed to provide in order for his funds to be released and account reactivated. And Mr Z failing to respond. Overall, I've not seen anything to persuade me that the review of A's account couldn't have been completed much sooner than it was after A's account had been deactivated. So, I think A has been deprived of its funds for longer than it should have been.

I've also not seen any evidence that there were any legal reasons Amazon should be holding onto A's money. I appreciate it was ASE and not Amazon who decided to deactivate A's account, but A authorised Amazon to hold, receive and disburse funds in accordance with their payment instructions subject to the terms of Amazon's user agreements. I note too that Amazon haven't made any efforts to try and release the funds they are holding back to A – and didn't do anything until our service became involved. So, I think it's fair to say that the money that Amazon withheld and continues to hold doesn't belong to Amazon, it either belongs to the buyers that paid A, or to A itself. But I've not seen any evidence that Amazon needs to return any of the money to A's buyers. So, I don't think it's fair for Amazon to have held the money in A's account for as long as it has.

Since I don't think it is fair or reasonable for Amazon to have held A's money in the circumstances here, I think the fair outcome here is Amazon should release the remaining money to A. As Amazon is still continuing to hold some of A's funds – 22,355.82 SEK, it should also pay 8% annual interest on these funds from 26 January 2021 until the funds are released.

I understand Amazon released most of A's funds – 131,341.07 EUR and 2,852.72 GBP on 25 August 2023 as I'm satisfied that A was deprived of their funds for longer than necessary, Amazon should also pay A 8% interest on these funds from 26 January 2021 until the date the funds were released – 25 August 2023.

I've considered whether any additional distress and inconvenience should be paid to A. Mr Z has mentioned that the currency exchange rates have changed so he should be compensated for this. I've considered this. But I'm satisfied that 8% interest added to A's account balance is a fair and reasonable way to compensate A for loss of use of the funds.

Mr Z has mentioned feeling distressed by Amazon's actions, however as a limited company A, can't experience distress. Mr Z also hasn't provided any evidence of the impact of Amazon withholding A's funds had on A's business operations, so I can't conclude A is due any further compensation.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint. To put things right Amazon Payments UK Limited should:

- Release the money it holds in A's account
- Pay 8% per year simple interest on 131,341.07 EUR and 2,852.72 GBP from 26 January 2021 until 25 August 2023
- Pay 8% per year simple interest on 22,355.82 SEK from 26 January 2021 until the funds are released and
- must pay the compensation within 28 days of the date on which we tell it A accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

If Amazon Payments UK Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell A how much it's taken off. It should also give Mr Z a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask A to accept or reject my decision before 2 May 2024.

Sharon Kerrison
Ombudsman