

The complaint

Mr R complains about American Express Services Europe Limited (AESEL) (“Amex”) and the way it managed his credit card account.

What happened

Mr R took out a credit card with Amex in November 2010 with a credit limit of £1,500. Between 2011 and 2018, there have been five credit limit changes taking it from £1,500 to £15,500.

Mr R is unhappy with Amex’s decision to increase his credit limit and feels it was irresponsible of it when he says it was clear that he was experiencing financial difficulties. Mr R has explained that during this time he was and continues to suffer with his mental health and was in a vulnerable position. He feels that the interest he paid alone shows the card was unaffordable for him.

Amex didn’t agree. It says it increased Mr R’s limits fairly and in line with its terms and conditions. It explains it does a series of checks before it will make a credit limit increase. These checks didn’t show Mr R to be a high risk to lend to. It also said it wrote to Mr R before and after an increase giving him an opportunity to decline it, Amex didn’t think it had done anything wrong. Amex also said it wasn’t aware that Mr R was suffering with his mental health or struggling with financial difficulties until he told it in his complaint letter in December 2019.

Our investigator didn’t uphold the complaint. He thought Amex had acted responsibly. He thought they’d conducted the relevant checks we’d expect to see. And as they’d wrote to Mr R before the increase giving him the chance to opt out, he thought they’d acted in line with the terms and conditions. He also didn’t think it would be fair to expect Amex to assume Mr R was suffering with his mental health without being told this was the case. So, he didn’t think Amex needed to do anything further. Mr R didn’t agree with this view, so the complaint has been passed to me for a 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.

Having done so, I’m not upholding the complaint for broadly the same reasons as the investigator.

Mr R says he has been suffering with his mental health over the last 4-5 years. And he thinks Amex should have done more to help him. I acknowledge what he’s said here but for me to agree that Amex has done something wrong, I’d need to be sure the actions it took when increasing Mr R’s credit limit, it had failed to adhere to the terms and conditions or were unfair and unreasonable. And, in this situation I don’t think they were, I’ll explain why.

Credit increase 2017

In March 2017, Amex increased Mr R's credit limit from £9,600 to £11,500. I've looked at Mr R's statements in the lead up to the increase and his annual credit card statement for the period November 2015 - November 2016. I can see Mr R had charges for four missed /late payments and two charges for being over his credit limit. However, in January 2017 Mr R paid £9888.09 off the card bringing the balance back down to £254.30. This type of account activity isn't unusual and from what I've seen I'm not persuaded this would alert Amex that Mr R was in financial difficulty.

In February 2017 Mr R's closing balance was up to £4,390.42. So, although there is some considerable spend in this month Mr R was still well within his £9,600 credit limit. And the point of a credit card account is to allow customers the opportunity to spend up to the limit should they wish to. So, I don't think the spending in this month meant that Amex should've been aware of any financial difficulty Mr R had, or that he was suffering with his mental health. So, I don't think Amex did anything wrong in offering Mr R an increase to his credit limit in March 2017.

Credit increase 2018

In March 2018, Amex increased Mr R's credit limit from £11,500 to £15,500. Again, I've looked at Mr R's statements in the lead up to the increase. Mr R's annual credit card statement for the period November 2016 - November 2017, shows he had one missed/late payment charge and two charges for being over his credit limit. However, I don't think Mr R's account activity appears out of line with how many credit cards are managed. Between the annual statement and the increase Mr R was paying more than the required minimum payments and I can't see anything that would alert or raise concern to Amex. So, I don't think Amex did anything wrong in offering Mr R an increase to his credit limit in March 2018.

Prior to both these increases, I can see Amex completed the required checks before offering Mr R increases to his limits. If the checks don't flag any issues, then it will be up to Mr R to decline the increased limit as per the terms and conditions of the account. It's not for me to criticise Amex internal processes on how it calculates its decisions to lend to customers. It's my role to decide if the checks it completed were proportionate to the level of increase and that the decision was made fairly. From what I've seen Mr R hasn't been treated differently to other customers that are in the same position, the checks were proportionate and Mr R's risk score was low.

Credit increases between 2011 and 2013

Due to General Data Protection Regulation (GDPR), Amex are not obliged to hold records for more than 6 years so its unable to provide evidence of what information was sent to Mr R in 2011, 2012 and 2013 regarding the credit increases. In the absence of that information I must base my decision on what I think is most likely to have happened and to consider that I've looked at the terms and conditions of the account and what happened with the latter credit increases - from 2017 onwards.

Amex have shown that it wrote to Mr R prior to the increases in 2017 and 2018 and that gave him 30 days to opt out of the increase. It also gave details how Mr R if he chose to, could opt out of receiving future automatic credit limit increases. It also wrote to him after the increases to confirm his limit had been increased and invited him to contact it if he had any queries. Mr R was of course free to ask Amex to not increase his limit and he could have asked at any time to decrease the limit if he was struggling with managing his payments and he could have engaged with it to discuss his financial situation, but he chose not to.

I'm satisfied from what I've seen that I think it more likely than not that the earlier credit increases are likely to have followed the same procedure in line with the terms and conditions of the account.

Having reviewed Mr R's credit card statements from January 2014 through to December 2019, I can see after the limit increase in 2013, Mr R had a period towards the end of 2014 and the beginning of 2015, where he was consistently over his credit limit. However, he was making his minimum payments regularly, so again I don't think this would have been enough to alert Amex that Mr R might have been struggling with managing payments.

Amex has shown that it wrote to Mr R in March 2015 to explain the impact of making minimum payments on his account and to contact it if he is worried about managing his finances. From what I've seen Mr R chose not to contact it and shortly after, he brought his account back within his credit limit.

I understand Mr R feels that Amex shouldn't have increased his credit limits. And it should've known he wasn't managing his account by the amount of interest he was paying. But from what I've seen although there were times of erratic spending and paying minimum payments, I don't think this was enough to alert Amex that Mr R was struggling with his personal and financial situation without him telling it.

I've also reviewed the terms and conditions of the account, to make sure Amex have acted accordingly. It says Amex can increase or decrease the limit, if it gives the customer notice, and the option to decline it. I'm satisfied that it did, so I'm persuaded Amex has adhered with the terms and conditions.

So, although I do appreciate the difficulties Mr R has faced personally and financially, I don't think Amex has acted unfairly or unreasonably when it offered the unsolicited increases to Mr R's credit limit. The rules set out in the Financial Conduct Authority (FCA) handbook says a business should assume a consumer has mental capacity, unless told otherwise. It says the following:

"A firm should assume a consumer has mental capacity at the time the decision has to be made, unless the firm knows, or is told by a person it reasonably believes should know, or reasonably suspects, that the consumer lacks capacity"

From what I can see, Mr R didn't make Amex aware of his personal circumstances until he contacted it in December 2019 and raised a complaint. I therefore don't think Amex had enough information that would've allowed it to recognise Mr R as a vulnerable customer and offer any additional support before he made it aware of his circumstances.

Now that Amex is aware, we expect businesses to act positively and sympathetically. There are many ways it can do this, for example breathing space, repayment plans, additional support and so on. However, these options are only available once a business knows about a consumer's circumstances. I'm satisfied since Amex has learnt of Mr R's circumstances it has offered to help Mr R and asked him to contact its financial difficulties department to arrange a payment plan or discuss other debt relief solutions.

So, in summary, I won't be asking Amex to do anything further.

My final decision

For the reasons outlined above, I don't uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or

reject my decision before 29 October 2020.

Angela Casey
Ombudsman