

The complaint

Mr I complained that American Express Services Europe Limited (AESEL) lent to him irresponsibly

What happened

Mr I applied for a credit card with AESEL. The application was approved, and the card was issued in June 2016. In the same month, AESEL reviewed the activity on the account. They took the decision to close his account due to the nature of the transactions. They said these breached the terms and conditions of the card. Two months' notice to close the account was sent to Mr I. In August 2016, notice of default was sent to him. The debt was referred to a debt collection agency and entries made on Mr I's credit file. Mr I repaid the debt over a period and the final payment was made in January 2018.

Mr I complained. He said he shouldn't have been given the credit limit of £5,000 in the first place as he was only 20, with no credit track record. He couldn't afford the debt and he took loans from other lenders to service it. He said that the debt had been sold to a debt collection agency who'd charged fees of £3,500. Interest was still charged by AESEL and also late fees were applied. His credit file had been marked with the debt. He said he's suffered from stress as a result.

AESEL replied in November 2019. They said that they had approved the card and its limit based on their internal approval processes, plus information from credit reference agencies. In June 2016, they had reviewed My I's account and found transactions were being made in breach of their terms and conditions. In August 2016, the account was cancelled and referred to a debt collection agency. They did not charge any fees. The debt stayed with AESEL and interest was payable on it. The debt was repaid in January 2018. They said that they'd not made an error and did not uphold Mr I's complaint.

Mr I brought his complaint to this service. Initially our investigator wasn't persuaded that AESEL had acted fairly here. She noted that Mr I was 20 and therefore an adult and able to make his own decisions. But she considered the lending was irresponsible. She thought that there were insufficient credit checks made, especially when the debt was 23% of Mr I's income, with no previous history of borrowing money. She recommended that AESEL refund all interest paid on the debt, plus 8% simple. She found no evidence that fees had been charged by the debt collection agency. She thought the notice of default and the entries on the credit register were reasonable.

AESEL disagreed. They said that Mr I had passed their credit approval checks. These were based on the Financial Conduct Authority's guidelines within the Consumer Credit Sourcebook (CONC). They said the debt of £5,000 could be repaid in five years by making the minimum monthly repayments. Mr I had managed to repay the debt by January 2018, and this showed it was affordable. They said that the debt wasn't sold to a debt collection agency and it stayed with AESEL.

Our investigator asked Mr I for his credit file and bank statements for the period leading up to the application for the card. He provided bank statements but couldn't send his credit file to

us. AESEL couldn't evidence Mr I's credit file either. They said they'd checked it. She reconsidered the information and issued a further opinion in December 2020. She said that the checks carried out by AESEL were reasonable and proportionate. The lending appeared affordable. AESEL can set its own criteria for agreeing to lend money. There was nothing that suggested that AESEL should've done further checks or concluded that the debt was unaffordable. This was shown by the fact that Mr I managed to repay the debt by January 2018. She hadn't found anything from Mr I's bank statements to suggest that he was in financial difficulty.

Mr I asked that his complaint be reviewed by an ombudsman.

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.

We can't tell AESEL what its credit checks should be – but our job is to decide whether they lent to Mr I irresponsibly.

I considered whether what they did was reasonable and proportionate when considering all the facts available at the time. In deciding whether a customer was provided with unaffordable credit or provided with credit irresponsibly, we need to understand:

- Whether the lender completed reasonable and proportionate checks to satisfy itself that the borrower would be able to repay any credit in a sustainable way?
- If reasonable and proportionate checks were completed, did the lender make a fair lending decision made bearing in mind the information gathered and what the lender knew about the borrower's circumstances?
- If reasonable and proportionate checks weren't completed, would reasonable and proportionate checks more likely than not have shown that the borrower was more likely than not unable to sustainably repay what they were being lent?
- Did the lender act unfairly or unreasonably in some other way?

AESEL say they make a judgement on whether to lend based on their own criteria, plus a credit file check. They can't evidence what the check showed, but it showed as satisfactory as Mr I passed their credit score. So, I've taken into account what information is available about the application. I've seen that Mr I said in his application that he earned £22,000 per annum. He was in regularly paid employment. I could see little other information on the application form, for example, other debt commitments, residential status etc.

We asked Mr I for a copy of his credit file, but he couldn't provide this. His bank statements at the time show a regular net monthly salary of £1,455 per month – this is consistent with his annual gross salary. They show no obvious payments to other lenders. So, if AESEL had looked at the statements, I can't see that they would have had any immediate concerns about. There were some regular payments in connection with gambling, but these weren't causing Mr I any obvious problems in him maintaining his account and gambling is a legitimate way of spending money. So, I don't think this on its own would have been a reason for AESEL to necessarily have thought twice about lending to Mr I.

I see that the debt on the card was drawn up to its limit in the first month. It may be that Mr I used this money to clear other debts he held – but given how he used the balance on the

card, there's no clear evidence of how this was used. In any event, AESEL wouldn't have been aware of this when making their lending decision, unless Mr I told them he was going to pay off existing debts – and there's no evidence that he did.

Mr I has said that he was too young to borrow £5,000 and had no history or experience of borrowing money – but he was an adult, aged 20 and responsible for his own decisions. And everyone must start somewhere. What's important here is that AESEL acted responsibly in checking whether the lending was affordable – as it should've done for any of its customers – and I think it did.

Mr I managed to repay the card debt by January 2018 – over 20 months. This in itself suggests that the debt was affordable overall and would support AESEL's original lending decision. He has said that he managed to do this by borrowing from other lenders. We have no evidence that this was the case. But in any event, this was after AESEL's decision to lend the money – and we can only look at what information they had to go on at the time.

Mr I also said that he was charged late fees on his debt by AESEL – I found no evidence of this. He also said that he was charged fees of £3,500 by the debt collection agency – I found no evidence of that and he later said that he's been mistaken.

It looks to me that AESEL took the decision that they didn't want a relationship with Mr I as a result of the review of his account in June 2016. They were entitled to do what followed. They could charge interest on the debt in line with its terms and conditions. The closure of the account was justified as the terms and conditions said "*you may not use your account for illegal activities or in a manner which disguises the true nature of the transaction*". They were clear in their letter dated June 2016 for the reasons for closure. The final demand letter in August 2016 terminated the card and gave notice that the debt would be passed to the debt collection agency and an entry would be made on Mr I's credit file.

I can only make a decision based on what AESEL knew at the time of when they agreed to lend Mr I the money. And based on what I have seen, there was nothing which suggested that they should have been concerned or needed to make deeper inquiries into Mr I's circumstances. So, their lending decision was reasonable and proportionate, and I won't be asking them to do any more.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 18 February 2021.

Martin Lord
Ombudsman