

The complaint

Mr F complains that American Express Services Europe Limited ('Amex') wrongly applied a default to his credit file.

What happened

Mr F had a business credit card and a personal credit card with Amex. In 2018 Mr F received notice that a default would be applied to his business credit card following its suspension. Amex also informed Mr F that it would suspend his personal credit card until he provided certain information.

Mr F said he was unable to resolve the matter with Amex. And the company appointed by Amex to collect the debt combined both his personal and business card balances. Mr F was willing to pay the outstanding amount on his personal card. But the company would only discuss a payment plan for the combined debt.

Mr F said a default was registered against his personal credit card account – even though he was willing to clear the balance. And he doesn't feel Amex has treated him fairly. If the debts had been treated separately he would've been able to clear the amount on his personal credit card. So he'd like Amex to accept payment separately and remove the default on his personal credit card.

Amex said it'd reviewed Mr F's accounts and no longer felt able to offer a credit facility. So in accordance with the terms and conditions it'd decided to close the accounts and transfer their management to an outside agency. Amex said it had an obligation to provide accurate information to the credit reference agencies. And it didn't think it'd made any errors. So Amex said it was unable to remove the defaults.

Mr F wasn't satisfied with Amex's response. So he contacted our service and our investigator looked into the matter. Our investigator didn't think Amex had treated Mr F fairly. The letter sent to Mr F for his personal credit card explained he could discuss a payment plan for the personal card balance by getting in touch with the third party who now managed the debt. But it seemed the outside agency wouldn't discuss a payment plan with Mr F unless it combined both debts.

Our investigator didn't think it was fair to add the debts together and then apply a default for the personal amount. Mr F had been consistent in saying he wanted to arrange a payment plan for his personal credit card debt. If he'd been allowed to do so he would've avoided a default on his credit file. So to put things right our investigator felt Amex should remove the default that'd been applied to Mr F's personal credit card account.

Amex didn't agree with our investigator. So it's asked for an ombudsman's final decision. It said Mr F was liable for both debts and defaults had been placed on each card.

Amex said if Mr F had wanted to repay the balance on one card and not the other he could have done so. And he could have made small payments to show willingness to engage. But no payment had been received for over thirty months.

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.

If our service thinks a mistake has been made we try and put the consumer back in the place they'd have been if the mistake hadn't occurred. So I've looked very carefully at everything that's happened to see if Amex has done anything wrong. And if so what it needs to do to put things right.

This complaint is about the default applied to Mr F's credit file for his personal credit card account. So I'll focus my decision on that issue and whether Amex treated Mr F fairly when it applied a default to that account.

Amex said Mr F was aware from an early stage how the debt was being managed by the outside agency. And it was standard practise for them to combine debt from different balances. But I don't think that was fair. The two debts were separate entities. The agency didn't amalgamate personal card debts from different providers. One was for a personal credit card account. The other was for a business credit card account.

Regardless of whether or not Mr F considered himself personally responsible for the business debt I think he should've been given the opportunity to repay or set up a separate payment plan for his personal credit card account. Mr F said he wanted to deal with the debt on the business card account separately. And I don't think that's unreasonable.

Depending on the structure of Mr F's business a default on his business credit card account might not impact on Mr F's personal credit rating in the same way as a default on his personal card credit account. So I can understand why Mr F wanted to approach the two debts separately.

At the time the default was applied against the personal credit card account, the records show Mr F was asking to only arrange payment for the personal card. But the call notes suggest Mr F was told he could only make payments towards the combined debt.

I've not seen anything to show Mr F was given the opportunity to just deal with the balance on his personal card. Had he been able to do so he would've avoided the default applied to his credit file that he's complaining about.

I can see Mr F made a payment in December 2018. He made the payment to Amex as he wanted it to go towards the balance on his personal credit card only. Amex says it accepted the payment to help Mr F avoid another late payment marker. But Mr F wasn't able to deal with the outside agency in the same manner. Although it detailed the two balances in separate letters in January 2019, later correspondence refers to an 'outstanding combined balance'.

Mr F says he was told any further payments would only reduce the combined debt. And Amex says Mr F wasn't willing to discuss any further payments unless the negative marker on his credit file was removed.

I appreciate that it's a number of months since Mr F last made a payment towards his debts. And I understand Amex's concerns that it needs to reflect how Mr F's accounts were being managed to the credit reference agencies. But I don't think the default marker was applied correctly to Mr F's personal account. And that means potential new creditors aren't getting a totally accurate view of what was happening when the default was applied.

From what I've seen, at the time the default was applied Mr F appeared willing to deal with the outstanding balance on his personal credit card account. Its possible he could've obtained the funds from friends or family. Or he could've discussed a payment plan to avoid a default being registered against him.

But Mr F wasn't able to do that. He was told he could only reduce the combined amount. And Mr F said he wasn't willing to make further payments unless they were placed against his personal debt to allow him to deal with the business debt separately.

Putting things right

I've looked carefully at everything Amex has said. But I think Mr F was prevented from taking the necessary steps to avoid the personal account being defaulted. Instead, his inability to deal with the much larger combined debt resulted in a default marker against a smaller personal debt.

Based on what I've seen I think the default against Mr F's personal credit card account was applied unfairly. It follows that Amex should remove the default applied to the personal credit card account in April 2019.

I hope Mr F will then be able to discuss the situation and reach an agreeable solution.

My final decision

My final decision is that I uphold this complaint. American Express Services Europe Limited should remove the default applied to Mr F's personal credit card account in April 2019.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 1 April 2022.

Andrew Mason
Ombudsman