

The complaint

Ms K complains about the way American Express Services Europe Limited dealt with her in respect of her attempts to recover money she paid for flights using her American Express credit card.

What happened

Ms K bought return flight tickets with her American Express credit card. Her trip was due to take place in May 2020. A couple of weeks after her purchase, concerns over the Covid-19 pandemic prompted Ms K to contact “B”, the company she’d booked with. She has medical conditions that made her clinically vulnerable, and because of this it was unsafe for her to travel. While awaiting B’s response, Ms K asked American Express to attempt to recover the money she’d paid, by means of chargeback.

American Express provided a temporary credit to Ms K’s account while it looked into matters. B subsequently told Ms K that the airline (“F”) would only approve a full refund if it cancelled the flight. B said Ms K could wait to see if F cancelled the flight, but that if Ms K herself cancelled, her tickets were not refundable. However, B did ask Ms K to send medical evidence to see whether F would allow an exception to its usual policy. She duly did so.

In the meantime, American Express received a response to its chargeback claim. The response supported what B had already told Ms K – that the flights she’d booked were non-refundable and only allowed a date change. As at that time the flights were scheduled to go ahead and neither party had cancelled, American Express closed the claim.

Ms K asked American Express to reopen the claim. She said she hadn’t been offered a change of date. By this time, the flight departure date had already passed. Noting that she’d been unable to fly or secure a refund, Ms K felt this amounted to a breach of contract. She sought to recover her money from American Express.

B later contacted Ms K to say that F had agreed to refund her. But it was unable to process the refund while the chargeback claim was ongoing. Ms K says she had difficulty getting confirmation from American Express that the claim had been withdrawn, which delayed her refund. And she expressed concern about adverse payment information American Express had recorded on her credit file in relation to the account balance.

Our investigator found that B’s booking terms were sufficiently clear and were consistent with what B told Ms K – and the reasons accepted by American Express in response to the chargeback claim. She didn’t think there was evidence of a breach of contract, or that the circumstances obliged B to provide a refund. The investigator was further satisfied with the approach American Express took to dealing with Ms K’s claim. She felt it had handled things in a timely way, that for the most part it had responded to Ms K’s enquiries when she made them, and that it had provided suitable reasons as to why the claim was unsuccessful.

The investigator also found that American Express had sent Ms K four letters regarding the closure of the claim, in response to her requests. She didn’t find any reason why Ms K should not have received this correspondence. She also noted that Ms K had now received

the refund in question. But she did find American Express had failed to return one of Ms K's calls, and that it could have provided a better service in terms of explaining the claim closure during its conversations with her. Overall, the investigator considered the shortcomings in American Express's service warranted a modest compensation payment of £50.

Ms K remains unhappy with the complaint outcome and has asked for this review.

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.

I fully understand Ms K's concern over the risks she faced in flying during the pandemic, and why she couldn't take the trip she'd arranged. But as the investigator found, that in itself didn't give grounds for a successful chargeback. At the time she raised it, Ms K's flights were still scheduled to go ahead, and her booking terms didn't make provision for a refund even if she was medically vulnerable. With this in mind, although I appreciate Ms K feels that there should have been some leeway in the arrangements, her claim was always likely to be defended on this basis.

Noting what American Express later said, I think there's some third party evidence to suggest that by the time the flights were due to take place, F's planes were grounded – quite likely due to the pandemic. Historical flight data websites indicate that through April and May 2020 F didn't operate any flights under the flight numbers Ms K had booked. These flights usually operated three or four times a week. So that evidence tends to support Ms K's contention that F eventually cancelled the flights. That probably would have entitled Ms K to a refund or other form of financial accommodation, such as vouchers. It also explains why B ultimately was able to secure her a refund.

But that wasn't the situation when Ms K sought to raise the chargeback, and it wouldn't be fair to criticise American Express in this respect. Nor do I think it necessarily follows that when Ms K contacted American Express again in May and June 2020, its response was inappropriate. The fact the flights didn't go ahead would presumably have triggered the refund arrangements B set out in its 'Coronavirus' email to Ms K of 7 April 2020. That said:

"My flight has been cancelled

If your flight has been cancelled, then the process will be initiated by us. You do not need to take any action for this.

How does the process work?

- 1. We receive a cancellation notice from the airline*
- 2. We check with the airline to see if you are eligible for a refund*
- 3. If applicable, we will request the refund amount for you*
- 4. You will receive an email from us regarding the status*
- 5. The airline pays the refund amount to us*
- 6. We will pay the refund amount to you*

Due to the extreme pressure currently put on airlines and us caused by the Coronavirus, it can take a long time before you get an update on this as we are dependent on each airline's delays in processing refunds. We kindly ask you not to contact us as we will be processing all cancellations without need for additional information from you. We deeply regret the inconvenience and appreciate your patience and cooperation."

Of course, I realise Ms K wanted her refund as soon as possible. But even if American Express had instigated a further claim on her behalf, it seems to me likely that B would have provided a similar response; that is, that it would be refunding Ms K when it received payment from F. So pursuing the chargeback was unlikely to have resulted in Ms K receiving her refund any earlier than she did.

This also goes some way towards explaining why there was a delay when B told Ms K that it was ready to refund her, but that she needed to provide evidence of a letter withdrawing the chargeback and a re-billing screenshot for it to do so. That was in September 2020, around four months after the flights were scheduled to take place.

American Express sent several letters to Ms K telling her the chargeback investigation was closed. Ms K clearly received the letters, as she responded to them telling American Express to deal directly with B. While I understand Ms K might by this stage have been somewhat frustrated, that was not American Express's responsibility. B asked Ms K to provide a letter of withdrawal and a copy of her statement showing the transaction being rebilled. It was within Ms K's ability to do so without the further involvement of American Express.

So I can't fairly hold American Express responsible for the additional time or consequences of not receiving the refund in a timely way. That includes any interest she's incurred or adverse data recorded on her credit file. But like our investigator, I do think American Express might have engaged a little better than it did and made the position clearer to Ms K, rather than essentially resending the same letter. The investigator felt it appropriate that American Express pay £50 compensation for the inconvenience that failing caused Ms K, and I share her view that this is a fair amount.

My final decision

For the reasons I've set out here, my final decision is that to settle this complaint, American Express Services Europe Limited should pay Ms K £50.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 26 July 2022.

Niall Taylor
Ombudsman