

The complaint

Mr A complains that American Express Services Europe Limited unfairly defaulted his account when he was furloughed due to the Covid-19 pandemic.

What happened

I issued my provisional decision on this complaint on 4 December 2022. This is what I said:

I've considered the relevant information about this complaint.

Before I issue my final decision, I wanted to give everyone a chance to reply. I'll look at any more comments and evidence that I get by 1 January 2023. But unless the information changes my mind, my final decision is likely to be along the following lines

The complaint

Mr A complains that American Express Services Europe Limited unfairly defaulted his account when he was furloughed due to the Covid-19 pandemic.

What happened

Mr A says he struggled to make payments on his two Amex credit cards in 2020. This was due to the Covid-19 pandemic which caused Mr A to be furloughed by his employer. Also, he says he caught Covid-19 and was unwell for several months.

Mr A says he requested a payment break, but Amex would only offer a bereavement payment break and he wasn't prepared to make a false statement.

As Mr A's two accounts went into arrears, Amex suspended and then defaulted his accounts toward the end of 2020.

Mr A complained to Amex as he felt this was unfair. Also, he wanted the opportunity to repay the accounts in full to avoid being refused a mortgage.

Amex didn't uphold his complaint as they believed they had acted fairly and correctly. They informed Mr A that they had sent him statements and he had failed to make payments within the stipulated timeframes. Also, they said they had made attempts to contact him and had a responsibility to report the defaults to the credit reference agencies.

Mr A complained to our service. Our investigator was satisfied that the defaults were correctly processed. However, as Amex couldn't evidence how they supported Mr A when they became aware of his financial difficulties, she said she couldn't be satisfied that this was reasonable. So, she recommended that Mr A be provided with £150 compensation.

As Mr A remains dissatisfied this case has been referred to me to look at.

What I've provisionally 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 have come to a different view to the investigator.

As Mr A was severely impacted by Covid-19, I first considered the support offered by Amex together with business guidance from the Financial Conduct Authority (FCA).

The FCA said that customers could have payment holidays for a period of up to three months and the business could agree to this twice. In addition, a third set of guidance issued by the FCA explained that consumers who had had two lots of three month payment holidays but whom might still be experiencing financial difficulty because of the impact of Covid-19, should continue to be given ongoing financial assistance by credit providers, such as Amex, following the end of the second three month payment holiday.

So, when analysing the limited information provided by Amex, I can't see any evidence that they provided this type of support. Also, although neither party can provide any call information, I'm persuaded by Mr A's testimony and submissions and think it's more likely than not that he requested a payment holiday before the defaults occurred.

I then considered Amex's default action. There is evidence on file that Mr A missed payments and Amex followed their processes and terms and conditions when applying the suspension and default. However, I don't think it was fair or reasonable for Amex to apply the default at the end of October. This is because I can't see they applied the above-mentioned FCA guidance and, had they done so, they wouldn't be considering a default at this time. Also, Mr A did make some payments when he should've been given a payment holiday.

So, based on the information provided, I'm satisfied that Amex didn't follow FCA guidance and I don't think they treated Mr A fairly or reasonably at a time when he was vulnerable due to Covid-19.

However, although I think Amex should've offered the above-mentioned payment holidays, I'm mindful that the guidance was about short-term support and Amex shouldn't be expected to hold an account open indefinitely without payment. So, whilst I'm sympathetic to Mr A's circumstances and don't think he has been treated fairly by Amex, as he hasn't been able to provide any additional information to assess when and how his financial situation changed, I'm not satisfied that he would've been able to make the necessary payments to Amex even if he had received the payment breaks described by the FCA. And, if he wasn't able to meet the payment terms this would've resulted in another default with his credit record being in a negative position for a longer period.

So, having considered all the above I'm partially upholding this complaint. I'm not asking Amex to reverse the default. However, I do think Amex should compensate Mr A for not offering him payment holidays as this caused additional distress. So, I consider £250 to be a more suitable amount of compensation.

My provisional decision

For the reasons I've given above, it's my provisional decision to partially uphold this complaint and I require American Express Services Europe Limited to pay Mr A £250 compensation.

I'll look at anything else anyone wants to give me – so long as I get it before 1 January 2023. Unless that information changes my mind, my final decision is likely to be as I've set out above.

I invited both parties to let me have any further comments or evidence before the 1 January 2023 deadline.

However, neither party submitted any further information or evidence.

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.

Thinking about everything again, I'm satisfied that Amex didn't follow FCA guidance and I still don't think they treated Mr A fairly or reasonably at a time when he was vulnerable.

However, although I think Amex should've offered the above-mentioned payment holidays, I'm mindful that the guidance was about short-term support and Amex shouldn't be expected to hold an account open indefinitely without payment. So, whilst I'm sympathetic to Mr A's circumstances and don't think he has been treated fairly by Amex, in the absence of any additional information to assess when and how his financial situation changed, I'm not satisfied that he would've been able to make the necessary payments to Amex even if he had received the payment breaks described by the FCA.

And, if he wasn't able to meet the payment terms this would've resulted in another default with his credit record being in a negative position for a longer period.

So, having considered all the above, I'm partially upholding this complaint. I appreciate it will be disappointing for Mr A that I'm not asking Amex to reverse the default here.

However, I do think Amex should compensate Mr A for not offering him payment holidays as this caused Mr A additional distress. I consider £250 to be a suitable amount of compensation.

My final decision

My final decision is that I partially uphold this complaint and American Express Services Europe Limited should make a payment of £250 to Mr A for the distress caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 8 February 2023.

Paul Douglas
Ombudsman