

The complaint

Mr S complains that American Express Services Europe Limited (Amex) lent to him irresponsibly.

What happened

In February 2022, Mr S applied for a credit card from Amex. It was agreed with a limit of £8,000. Minimum payments (or more) were made until September 2022, when they stopped. In October 2022, Mr S advised Amex he was in financial difficulty and in November 2022, he advised Amex he'd entered an IVA.

In February 2023, Mr S's debt with Amex was referred to a debt collection agency to manage. The interest rate was set to zero.

Mr S complained. He said he had a gambling habit and was in financial difficulty when he applied for the Amex card. He said Amex should've looked at his bank statements at the time. If they had, they would've seen the extent of his gambling. He said the lending was irresponsible and the debt should be written off.

Amex said Mr S passed all their credit checks when he applied for the credit card. They declined Mr S' complaint.

Mr S brought his complaint to us. Our investigator upheld Mr S' complaint. He said he could see that Mr S had other debts of £5,300 and a mortgage of £223,000. Monthly repayments therefore took up a significant proportion of his monthly income. He thought it likely this would've shown up in Amex's credit checks, and Amex should've asked him more about his finances. If they had, they could've looked at Mr S' bank statements. These would've shown he was gambling heavily. As an example, he made £1,650 in gambling payments in the two weeks up to Christmas 2021. So – Amex shouldn't have given him the credit card. He said Amex should refund interest and fees and remove any adverse markers from Mr S' credit file.

Amex didn't agree. They said Mr S' verified income at the time of the application was £40,000 p.a, and he passed their checks without any concerns being flagged. Therefore, there was no reason to ask for any further information, including bank statements. Amex asked that an ombudsman look at Mr S' complaint – and so it has come to me to do that.

I made a provisional decision which said:

Mr S' complaint is about irresponsible lending. All lenders have an obligation to lend money responsibly. We must check whether Amex acted in line within the Financial Conduct Authority (FCA) rules on creditworthiness assessment as set out in its handbook, (CONC) section 5.2. These say that a firm must undertake a reasonable assessment of creditworthiness, considering both the risk to it of the customer not making the repayments,

as well as the risk to the customer of not being able to make repayments. We look at:

- 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 bearing in mind the information gathered and what the lender knew about the borrower's circumstances?
- And a reasonable and proportionate check would usually need to be more thorough:
 - the lower a customer's income, and the higher amount to be repaid.
 - the greater the number of loans and frequency of loans.
 - the longer the term of the loans
 -

It's important to note that the checks must be proportionate to the amount being lent – so the higher the amount, the greater the checks must be, and the lower the amount, then fewer checks can be made.

I've considered Mr S' complaint in the light of this guidance. Amex showed us evidence that Mr S passed their credit checks. They told us that Mr S' application showed an income of £40,000 p.a. And he got a high credit score under their credit assessment criteria.

Mr S argues that had Amex looked at his wider financial situation - and his bank account - they would've seen he was in difficulty and was gambling. So – the crux of this complaint is: what did Amex see when they looked at the application? Because if they could not have reasonably seen if he had wider financial problems, then there was no requirement or reason for Amex to ask to look at his bank statements and his other financial commitments.

Our investigator worked out that Mr S' other debts were £5,300. I wanted to understand more about what Amex would've seen in February 2022 – when Mr S applied for the credit card.

Mr S sent to us his credit report. I looked at this and it shows that as of February 2022, he did have some other loan and credit commitments – but I don't think they were significant in his circumstances, and the repayments were being made. The credit report shows:

Bank loan A: balance as at February 2022: circa £350. Paid to date.

Bank loan B: balance as at February 2022: circa £750. Paid to date.

Finance company loan C: balance as at February 2022: circa £2,500. Paid to date.

Bank mortgage loan: balance as at February 2022: circa £223,000. Paid to date.

Bank credit card: Limit as at February 2022: £4,000. Balance circa £2,000 Monthly payments made. But defaulted later – in January 2023.

Therefore – looking at Mr S' situation when he applied for the credit card from Amex – he did have some other debts, but when viewed against his income, they looked to be reasonable – and he was making the contractual payments to them. It looked like Mr S was managing his overall situation satisfactorily. So – that's the information that Amex would've seen and which fed into their credit checks.

I could then see that Mr S' problems appeared to take hold later – after the application to

Amex. I could see:

New bank loan D: £12,550. Drawn May 2022.

New Bank loan E: £8,000. Drawn April 2022.

New loan F: £5,265. Drawn April 2022.

New loan G: £5,000. Drawn May 2022.

So – it looks as though Mr S' finances deteriorated some time after he applied for the credit card from Amex – as he borrowed a lot more money after that time. I don't think it's reasonable to expect Amex to have known what Mr S was going to do after his application in February 2022 – we can only expect Amex to make a lending decision based on the information they could see at the time. And it was only later – in November 2022 – when Mr S decided to apply for an IVA, which would've then taken into account all his debts at that time.

There is no evidence to suggest that Mr S told Amex about his gambling habit during the application process – so Amex couldn't be expected to have known about it. Therefore, based on what I've seen, I think Amex did complete sufficient credit checks when Mr S applied for the card, and didn't need to look into his circumstances any further - such as looking at his bank statements.

I know Mr S will be disappointed by this provisional decision – which is that Amex acted reasonably in providing him with the credit card, and I'm not recommending that Amex do anything here.

Responses to the provisional decision:

Neither Mr S nor Amex made any comments. I now need to make a final decision.**(continued)**

.

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.

As neither Mr S nor Amex made any comments, my final decision is unchanged from the provisional decision.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 July 2023.

Martin Lord
Ombudsman