

## **The complaint**

M complains that American Express Services Europe Limited (Amex) applied default markers to its credit file and haven't refunded the value of membership points accrued on the account that were due to it.

M is represented in bringing this complaint by one of its directors, Mr M.

## **What happened**

In September 2022, Amex wrote to Mr M to say M's account had been suspended while they carried out a review of the account. The letter explained that Mr M needed to provide documentation they'd requested within 14 days of the date of the letter.

Mr M contacted Amex and asked what he needed to do for the suspension to be lifted, and he was told he would need to speak to Amex's credit review team. Mr M provided the requested documents to Amex's credit review team on 27 September 2022 but received no acknowledgement from them.

In October 2022, while Mr M was waiting for an update from the credit review team, he cancelled M's direct debit to Amex. M's bank advised Amex of the cancellation. As a result, Amex sent direct debit mandate forms to Mr M for new ones to be set up. The direct debits were not reinstated by Mr M, but a manual payment was made to the account in October.

M missed the payment due in November 2022. Amex sent a final request for payment in a letter to Mr M dated 18 November advising that the account would be closed on 5 December if payment wasn't made. At that stage, Amex hadn't yet updated M on the outcome of the review.

Amex wrote to Mr M on 16 December informing him that having completed a full internal review they were no longer in a position to extend their facilities to him. On 17 December, as no payment had been received from M in December, Amex also sent a final demand and notice of termination to Mr M asking for payment of the full outstanding balance. This letter explained that if payment of the full balance was not received within 28 days it was likely to affect M's credit file.

Mr M complained to Amex who said a decision was made to close the account following a review of the account. They said they had written to Mr M to advise him of the pending closure of M's accounts and said that in line with the terms and conditions of Membership provided to M, Amex can suspend or cancel an account if deemed appropriate at any time and are not obliged to provide a reason for the cancellation.

A payment was made to the account by Mr M in January 2023, with the full balance being settled in December 2023.

Mr M was unhappy with Amex's handling of the matter, so he brought M's complaint to our service. One of our investigators considered the complaint. She initially said she was satisfied that Amex had fairly suspended and subsequently closed the account.

She also said the default markers on the credit file and lost membership points stemmed from M not continuing to make payments to Amex as and when they were due, so she wasn't going to ask Amex to take any action. At the time she gave this opinion, the information available to her indicated that Mr M hadn't provided the documents requested by Amex's credit review team until late November 2022.

However, additional information provided by Amex and Mr M which showed that the information requested for the review was actually provided to Amex on 27 September 2022. As such, our investigator reconsidered her opinion.

She said Amex should've responded to Mr M in a timelier manner, so she considered what would've happened had the restrictions on M's account been lifted sooner. She thought it was likely that M would've regained access to its membership points up to October 2022. So, she asked Amex to pay £250 compensation to M for the inconvenience the delay in reviewing the information had caused. And to deduct the value of the membership points M had accrued up to the time the account went into arrears from the balance M owed to Amex.

Nonetheless, our investigator maintained that Amex were not responsible for the default markers on the credit file, as M missed multiple payments which breached its contract with Amex.

Amex accepted the second view of our investigator and agreed to pay both the compensation and to credit M's account with the value of the total points forfeited.

Mr M didn't agree and asked for an ombudsman to review the matter, so the case was passed to me to decide.

### **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.

Both parties have made detailed submissions, which I confirm I have read in full. However, I'll keep my comments to what I think is relevant. If I don't comment on any specific point, it's not because I've not considered it but because I don't think I need to comment on it in order to reach the right outcome.

#### *The suspension*

In September 2022, Amex suspended M's account, however they chose not to share the reason for the suspension with M - which they were entitled to do. Amex shared their reasons with our service, and having reviewed this information, I'm satisfied that there was a legitimate reason for the action they took. So, I don't think Amex made an error in suspending the accounts when they did.

However, Mr M provided the information requested by M's credit review team within the requested timeframe, but Amex didn't review it in a timely manner. As a result, restrictions remained on M's account for longer than necessary. While Amex didn't give a timeline for how long the suspension would remain in place or how long the review would take, I think it was unreasonable for them to take as long as they did to review the information. So, I agree with our investigator that Amex should pay £250 to M to reflect the inconvenience they caused it by not reviewing the information provided in a timelier manner, and for the time Mr M spent trying to contact them by phone to resolve the matter.

In addition, I think it's fair for Amex to pay M the value of the membership points accrued on

the account up to the point the account went into arrears. I say this as Mr M supplied the information requested by Amex on time, and there were no missed payments at that stage, so I don't see why M should lose the value of these points.

### *The cancellation of the account*

By the time the information was reviewed by Amex in December 2022, Mr M had cancelled M's direct debit to them and some payments due on the account for November and December had been missed. As a result, when Amex's credit review team did review the account, they took the decision to cancel M's account with immediate effect.

I've reviewed Amex's reasons for cancelling the account, and I've looked at the terms and conditions of the Cardmember Agreement. This states that Amex can end the agreement immediately if the total account balance is repeatedly not paid.

I've considered whether it was fair for Amex to cancel the account after two missed payments, and whilst I think Amex's decision was swift, I don't think it was unreasonable when I consider that the direct debit had also been cancelled so Amex had no surety that the outstanding balance was going to be repaid. As it turned out, apart from a small repayment in January 2023, it wasn't until December 2023 that M settled the account.

In addition, Mr M was warned in November that the account would be defaulted if the account balance wasn't paid, so when it wasn't paid again in December, Amex took the decision to cancel the account. I therefore don't think it was unreasonable for Amex to have taken the decision to cancel the account, nor do I think it was unfair for them to have informed the credit agencies about the missed payments which continued until December 2023.

I appreciate that if the account hadn't been suspended it's unlikely the direct debit would've been cancelled by Mr M and it's possible the account may not have been closed. However, from the information I've seen, Amex had a good reason to suspend the account and both Amex and our investigator reminded Mr M that M needed to keep up with its payment obligations as and when they were due regardless of the suspension.

I can understand that the directors of M were frustrated with the suspension remaining in place, but M still had an obligation to make the repayments due on the account as and when they came due. Amex were not responsible for the direct debit being cancelled and payments being missed, this was a result of the action taken by Mr M.

And unfortunately, despite Mr M's dissatisfaction with the situation, it was the cancellation of the direct debit and the noncompliance with the repayment terms of the account that ultimately led to the account being closed and the default markers being applied to the credit file. So, I can't say the account was cancelled or the default markers added to the credit file in error, and I won't be asking Amex to remove them.

### **Putting things right**

Whilst I haven't found that Amex unfairly suspended or cancelled the account, I do think they were too slow to review the information provided by Mr M. For this delay, they should make a payment of £250 to M for the inconvenience they caused.

In addition, Amex have already agreed to pay M the value of the membership points accrued on the account up to the point the account went into arrears. Amex originally agreed to credit M's account with the value of the points, however, as the account has now been settled, I'd request that Amex transfer the value of the points directly to M.

**My final decision**

I uphold this complaint in part and order American Express Services Europe Limited to pay £250 to M plus the value of the membership points accrued on M's account up to the point the account went into arrears.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M, on behalf of M, to accept or reject my decision before 18 April 2024.

Tara Richardson  
**Ombudsman**