

## **The complaint**

Ms K complains that American Express Services Europe Limited won't refund a payment she made using her charge card.

## **What happened**

In March 2022, Ms K purchased a mobile phone using her American Express charge card. She says the phone was faulty and contacted American Express to ask it to stop the payment being taken by the retailer. She says American Express told her it couldn't stop the transaction because she had authorised the purchase. She says it told her that if she couldn't obtain a refund from the retailer, she could ask American Express to help her get her money back.

Around a year later, Ms K asked American Express for help in obtaining a refund. She said the retailer had failed to give her a refund. American Express said it couldn't help. This was because she was out of time for a chargeback claim to be made.

Ms K then raised a complaint about American Express not providing her a refund she also said that it had acted unfairly in closing her account in March 2023. American Express didn't uphold her complaint, it re-iterated that it couldn't assist with her claim for a refund and said that it hadn't acted unfairly in closing her account. It said this was because Ms K's account had built up significant arrears which she had not paid when a final demand for payment was sent.

Our investigator didn't recommend the complaint be upheld. She agreed that American Express hadn't acted unfairly towards Ms K. She said that it was too late for a chargeback to be completed when Ms K asked for a refund and that the account closure was reasonable based on the amount of arrears that had built up on the account.

Ms K didn't agree, so the complaint has been passed to me for a decision.

## **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 Ms K bought the mobile phone using her American Express charge card, I've thought about whether it acted fairly in trying to obtain a refund for her.

A chargeback provides a mechanism for American Express to ask for a payment Ms K made to be refunded, but only in a limited set of circumstances. What circumstances apply are set out in the card scheme rules. One of those circumstances is where Ms K may have received defective goods. However, the rules set out that a chargeback can only be initiated no later than 120 days from the date the goods were received.

Ms K contacted American Express for help around a year after purchasing the mobile phone, so this was clearly outside of the timescales set out in the chargeback scheme rules. This

means that American Express couldn't pursue a refund for her through this route. While Ms K says she initially contacted American Express within a few days of purchase, this was before she had attempted to resolve things with the retailer first (another requirement for the chargeback to be processed).

The card scheme rules set out that the chargeback needs to be processed within 120 days from the date the goods were received. While Ms K may have notified American Express of a potential dispute within that time, it wasn't clear that a chargeback was required to be processed until Ms K later said that her attempts to obtain a refund from the merchant were unsuccessful. She didn't notify American Express of this until around a year after she made her purchase. For these reasons, I'm satisfied American Express didn't act unfairly or unreasonably in not processing a chargeback for Ms K. There was no other route available for American Express to try and assist Ms K with obtaining a refund.

Lastly, Ms K is unhappy that American Express closed her account. Ms K was required to repay her balance in full each month on her charge card. From September 2022, she failed to do this, so her account was closed in March 2023. As her arrears had built up for over six months and American Express had written to her with a final demand for payment, I'm satisfied it acted fairly and reasonably in closing her account.

While Ms K says she didn't receive any letters from American Express concerning the closure of her account, I can see the letters were correctly addressed. Further, I've seen no reason to doubt that they weren't sent. In any event, it seems Ms K was aware her account was significantly in arrears and had not made any payments since December 2022 towards the outstanding balance. So, I don't think the arrears and default now showing on her credit file are either an unfair or inaccurate reflection of her ability to maintain the account. As she was in arrears and hadn't made payments for some time, I don't think American Express has acted unfairly in not re-opening her account.

### **My final decision**

For the reasons given above, I don't uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 26 March 2024.

Tero Hiltunen  
**Ombudsman**