

The complaint

Miss B says American Express Services Europe Limited irresponsibly lent to her.

What happened

Miss B applied online for a credit card on 27 May 2021. She was given a £1,000 limit. Miss B says her credit file can't have been properly checked, she had significant debt at the time that she was struggling to repay. She also believes when she tried to complain to Amex it failed to accurately capture her concerns. She says this had caused her stress and financial hardship.

Amex says it made no error and all appropriate checks were carried out.

Our investigator did not uphold Miss B complaint. He found Amex had not lent irresponsibly to Miss B.

Miss B disagreed and asked for an ombudsman's review. She said Amex's analysis of her debt at the time was wrong, her outgoings were higher than the investigator had stated and she maxed out on this card from the outset. She was reliant on her overdraft, gambling and using buy-now-pay later plans – all signs of financial pressure.

I reached a different conclusion to the investigator and so I issued a provisional decision. An extract follows and forms part of this final decision. I asked both parties to send any comments or new evidence by 9 October 2023.

Extract from my provisional decision

I can see Amex asked for some information from Miss B when she applied. It asked for her gross annual income and for her employment details. It carried out a credit check. From these checks it concluded Miss B would be able to afford the card and it allocated her its lowest credit limit of £1,000.

I am not wholly persuaded these checks were proportionate as Amex was giving an open line of credit with no checks on Miss B's declared income, and no knowledge of her outgoings. This was in the context that her credit score was low, as it has acknowledged.

However I won't comment further on this as even based on the information it gathered I don't think it made a fair lending decision. Amex initially told this service Miss B had £12,178 debt across loan and cards when she applied. Miss B challenged this, sending in supporting evidence. We then asked Amex for the detailed results of the credit check it completed to better understand what it had known.

These show Amex was aware Miss B had outstanding debts of around £40,800 and it knew she was already spending around £1,100 each month on her existing credit commitments, so over 55% of her monthly income. From this, as a responsible lender, it ought to have concluded she could not afford to take on any more debt without there being a high risk she would need to borrow to repay or suffer some other adverse financial consequence. And

Amex needed to be certain Miss B could sustainably make her repayments before approving her application.

It follows I think Amex was wrong to lend to Miss B.

I haven't seen any evidence that Amex acted unfairly towards Miss B in some other way. I note Miss B is unhappy with how it responded when she called to complain. But this is not something I can look at. There is a difference between a complaint about a financial service and a complaint about how a firm has handled a complaint. I can only look at the former. Miss B's concerns about how Amex responded to her complaint is not a complaint about its provision of or failure to provide a financial service – it's distinctly about complaint handling. And under our rules I cannot consider complaint handling.

I then set out what Amex would need to do to put things right.

Both parties responded ahead of the deadline. Miss B accepted the outcome and Amex agreed to settle the complaint as I had instructed.

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.

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account when considering Miss B's complaint.

As neither party sent in any new information for me to consider I have no reason to alter the findings or conclusion in my provisional decision.

This means for the reasons set out above I find Amex was wrong to lend to Miss B.

Putting things right

As I don't think Amex ought to have opened the account, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. But I do think Miss B should pay back the capital she has borrowed as she has had the benefit of that money.

Therefore, Amex should:

- Rework the account removing all interest, fees, charges and insurances (which have not already been refunded) that have been applied.
- If this results in Miss B having made overpayments these should be refunded to Miss B along with 8% simple interest (calculated from the date of overpayment to the date of settlement)*.
- If this will result in an outstanding balance, Amex should agree an affordable repayment plan with Miss B.
- Once Miss B has cleared any outstanding capital balance, any adverse information in relation to the account should be removed from her credit file.

*If Amex deducts tax from the interest element of this award, it should provide Miss B with the appropriate tax certificate so she can submit a claim to HMRC if applicable.

My final decision

I am upholding Miss B's complaint. American Express Services Europe Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 2 November 2023.

Rebecca Connelley
Ombudsman