

## **The complaint**

Mr D complains American Express Services Europe Limited (AESEL) unfairly closed his account.

## **What happened**

The detailed background of this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr D held an AESEL credit card account. This account enabled him to collect BA Avios points. At the end of March 2022 AESEL informed Mr D it was carrying out a review of his account. AESEL asked Mr D for details regarding payments into the account and explained that it would close the account if the information wasn't received by the end of May 2022.

Mr D says he provided the necessary information to AESEL and the block on his account was lifted. On 1 July 2022 AESEL informed Mr D that it would close his account in two months. When Mr D queried the closure, AESEL explained it hadn't received the necessary information from Mr D as part of its review. Mr D's account closed, and he applied for a new one, but this was subsequently blocked and closed.

Mr D raised a formal complaint with AESEL about the handling of his account. In particular Mr D said he had provided adequate information about the payments to the account. Mr D also explained the closure resulted in the loss of his companion voucher and BA Avios benefits. AESEL issued a final response letter, explaining the necessary documents were only sent in October 2022, after AESEL had issued a notice to close the account. It said the account closed in September 2022, and it had acted fairly given the information it held. It also said any Avios benefits would be forfeited upon the closure of the account.

Mr D remained unhappy and referred his complaint to our service. An Investigator reviewed the complaint and found the following:

- AESEL provided limited information for our investigation. Based on the limited evidence it seemed Mr D provided the necessary information and AESEL unfairly closed his account.
- The closure resulted in stress and inconvenience, so AESEL should compensate Mr D with £200 in recognition of the poor service provided.
- AESEL should reopen Mr D's account.

AESEL agreed to the compensation recommended but explained Mr D's account could not be reopened. Mr D remained unhappy with the recommendations, saying they failed to address his concerns about his Avios benefits and companion vouchers.

As no agreement could be reached the matter has come to me to decide. I issued my provisional decision on 10 July 2024 and both sides had until 24 July 2024 make any final comments.

## **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.

I've included my provisional decision below.

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*The initial assessment of the complaint was carried out with limited information from AESEL about how it handled Mr D's account. However, further information has now been provided which changes the initial recommendations made.*

*Our rules allow us to receive evidence in confidence. We may treat evidence from financial businesses as confidential for a number of reasons – for example, if it contains information about other customers, security information or commercially sensitive information. It's then for me to decide whether it's fair to rely on evidence that only one party has seen. It's not a one-sided rule; either party to a complaint can submit evidence in confidence if they wish to, and we'll then decide if it's fair to rely on it. Here, the information is sensitive and on balance I don't believe it should be disclosed. But it's also clearly material to the issue of whether AESEL has treated Mr D fairly. So, I'm persuaded I should take it into account when deciding the outcome of the complaint.*

*I can see Mr D feels very strongly about his complaint. That's clear from what's he's said to us and to AESEL. Whilst I appreciate Mr D's frustration and how this matter has impacted him, it's important to point out that the only thing in question here is whether AESEL has done what it should have done. I think it has and I'll explain why.*

*AESEL has important legal and regulatory responsibilities to meet when providing accounts to customers. Those obligations are ongoing and don't only apply when an account is opened. They can broadly be summarised as a responsibility to know its customer, monitor accounts, verify the source and purpose of funds, as well as detect and prevent other financial harm.*

*AESEL will review accounts to comply with these responsibilities. It's common practice for banks and other financial service providers to restrict access to accounts to conduct a review - doing so helps prevent potential financial loss or other harm that could otherwise result. I've considered the basis for AESEL's review, which I find was legitimate and in line with its legal and regulatory obligations. So, I'm satisfied AESEL acted fairly by blocking Mr D's account and it had no obligation to tell him the basis of its concern or forewarn him of its intention. So, I can't say AESEL have done anything wrong when it decided to review Mr D's accounts.*

*As part of their review, AESEL asked Mr D for detailed information about the source of funds used to repay the balance on the account – which they're entitled to do under their obligations. Mr D has said that the issue of third-party payments shouldn't have been a problem as the payments were made from companies he owned. Having reviewed everything, I think AESEL's requests were reasonable in the circumstances. Ultimately, it is AESEL who decide what information they do or do not require as part of a due diligence review. Because of that, I can't fairly conclude AESEL acted inappropriately when it asked Mr D to provide it with information about the source of funds in his account.*

*I'll next deal with AESEL's decision to close Mr D's account. Sometimes following a review, a bank will decide to close an account. AESEL is entitled to close an account with Mr D just as*

*he is entitled to close his account with AESEL. It's generally for banks and financial businesses to decide whether or not they want to provide, or to continue to provide, banking facilities to any particular customer. Unless there's a very good reason to do so, this service won't usually say that a bank must keep a customer or require it to compensate a customer who has had their account closed.*

*As long as they reach their decisions fairly, it doesn't breach law or regulations and is in keeping with the terms and conditions of the account, then this service won't usually intervene. But before AESEL closes an account, they must do so in way which is fair and complies with the terms and conditions of the account. I've looked at the terms and conditions and they state that AESEL could close Mr D's account by giving at least two months' notice. And in certain circumstances it could close the account immediately.*

*In this case, given the suspension of the card, AESEL essentially closed Mr D's account without notice. For AESEL to act fairly here they needed to meet the criteria to apply their terms for immediate closure – and having looked at these terms and all the evidence that the bank has provided, I'm satisfied that AESEL did. So, it was entitled to close the account as it's already done.*

*A significant part of Mr D's complaint relates to his use of companion voucher and the BA Avios benefits system. Mr D says the abrupt closure of his account means he is now unable to claim the benefits he has accrued, as an active AESEL account is required to utilise the benefits. The terms and conditions of Mr D's AESEL agreement explain:*

*What happens if we close your Card Account?*

*If we close your Card Account in accordance with the Card Account Agreement, you will no longer earn Avios and any Avios that have not yet appears on your American Express Avios balance will be forfeited. Any Avios already in your American Express Avios balance will still be transferred to your British Airways Avios balance.*

*AESEL has gone on to explain that the benefits have no monetary value and as the scheme is run separately by British Airways it isn't able to assist Mr D any further. I appreciate Mr D's comments about his historic use of the benefits and that he can only use benefits with an active AESEL account. Mr D has been unable to successfully open another AESEL account. I understand Mr D's frustration with this, but generally, businesses such as AESEL have a broad discretion over who they can choose to provide accounts to, so long as they don't have any discriminatory criteria in deciding this. This is a commercial decision for them to make. Our service wouldn't often suggest a firm would have to provide an account to somebody – what we would do is look to see that they've been treated fairly and reasonably.*

*Based on AESEL's submissions I think its decision to no longer offer its services to Mr D is fair. As detailed above, I don't think AESEL acted unreasonably in reviewing and closing the account. So I don't think it would be fair to hold it responsible for any associated losses Mr D says he has experienced or require it to open a new account for Mr D.*

*The Investigator recommended AESEL award Mr D £200 for the poor service received. This included Mr D's responses to AESEL's information requests not being acknowledged. Based on the evidence I've seen I can see there were instances where AESEL could've provided a better level of service, and AESEL accepts this. I think the £200 accurately reflects these failings and is a proportionate offer for the issues Mr D experienced. However, for the reasons I have explained above, I won't be directing AESEL to reopen Mr D's account.*

*I realise Mr D will be disappointed by my decision. But having looked at all the evidence and circumstances of this complaint, I can't conclude that AESEL have treated Mr D unfairly in its*

*review and eventual closure of his account. So, I won't be telling AESEL to do anything further to resolve Mr D's complaint.*

**Putting things right**

*AESEL should pay Mr D £200 for the poor service provided whilst it was reviewing his account.*

**Responses to the provisional decision**

AESEL didn't respond to the provisional decision.

Mr D replied explaining he still wishes to see the information AESL based its closure decision on and is happy to waive confidentiality as the information relates him. However, the fact the information relates to Mr D's account doesn't mean it can be disclosed to him. As explained in my provisional decision the information has been disclosed to this service in confidence so I'm unable to elaborate further. I can assure Mr D that based on the information I've seen I am satisfied the closure was carried out fairly and in line with AESL's regulatory and legal obligations.

Mr D has also highlighted that he had accrued more than one companion voucher and the vouchers he held are the equivalent of £10,000. Based on the information I've seen the vouchers are part of a wider scheme and a number of criteria need to be met in order to utilise them. So, I don't think a monetary value can be attached to them in this way. In Mr D's case AESL have made the decision to no longer offer him an account, and this ultimately means these benefits can no longer be used. I appreciate Mr D's frustration over this, but given I'm satisfied the closure was fair I don't think AESL need to compensate Mr D for this.

Further, I can see Mr D says other financial institutions have given clear directions about how it would like payments to be made, and he has followed this request and not experienced issues. Mr D says AESL should've made a similar request with his accounts. I can see from the information submitted by AESL there was a discussion around how payments were made from the account, so I think Mr D had a level of awareness of AESL's potential concerns. It is for AESL to decide how to approach issues regarding the management of an account, and each financial institution will have its own set of risk-based criteria. In this particular case AESL made the decision to end its relationship with Mr D rather than engage further with Mr D, and the terms and conditions of the account allowed it to do this in the manner it did.

Mr D says he can't see a valid reason for AESL's decision to close his account and believes they have taken a personal dislike to him. I understand Mr D's upset, but I can assure him that based on the evidence I've seen there isn't anything to suggest the closure is related to personal reasons. I must also highlight it's legal and regulatory obligations mean AESL is unable to make a closure decision based on discriminatory criteria.

I know this will not be the outcome Mr D was hoping for and he will be disappointed with the decision I've reached. But I hope my decision provides some clarity around why I won't be asking AESL to open a new account for him.

**Putting things right**

American Express Services Europe Limited (AESEL) should pay Mr D £200 for the poor service provided whilst it was reviewing his account.

**My final decision**

My final decision is that I uphold this complaint in part.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 29 August 2024.

Chandni Green  
**Ombudsman**