

The complaint

Mr C complains that American Express Services Europe Limited was irresponsible to lend to him.

What happened

Mr C was approved for a credit card with American Express on 23 January 2022, initially with a £10,000 limit. The limit was increased to £11,800 on 30 June 2022.

Mr C says that the credit limit wasn't affordable to him, and he subsequently got into financial difficulty. He says that he is struggling to make the minimum payments and adds that American Express then increased the credit limit without asking him.

American Express says the credit limit was based on internal and external checks and that it was unable to substantiate any errors. It offered Mr C the details of its Financial Difficulties team.

Our investigator recommended the complaint should be upheld. He wasn't satisfied that American Express had carried out proportionate checks and, based on the evidence he'd seen, he found it likely that such checks would have shown that repayments on the new credit card were unsustainable. He said that Mr C should only pay back the amount he'd borrowed, excluding all interest and charges.

American Express responded to say, in summary, that a default on a credit file would not result in an automatic decline. It says Mr C's declared income of £32,000 is in line with current bureau income and that Mr C's repayment history after opening the account indicated there was little or no risk in increasing the credit limit when it did.

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 need to take into account the relevant rules, guidance and good industry practice.

Bearing this in mind, in coming to a decision on Mr C's case, I have considered the following questions:

- Did American Express complete reasonable and proportionate checks when assessing Mr C's application and credit limit to satisfy itself that he would be able to repay the credit in a sustainable way?
 - If not, what would reasonable and proportionate checks have shown?
- Did American Express make a fair lending decision?

- Did American Express act unfairly or unreasonably in some other way?

Initial Application

When Mr C applied for the card, I've seen evidence to show American Express asked him about his employment and income, but I haven't seen what, if any, other checks it carried out. These checks showed:

- A declared gross income of £32,000 per year (around £2,100 per month);
- Mr C was self-employed;

Based on the above, I don't consider American Express had enough information on which to make a fair lending decision. I say that because:

- The nature of Mr C's self-employed work meant that his income fluctuated;
- A credit limit of £10,000 is a significant proportion of Mr C's declared income;
- The minimum payments on such a credit limit could be as much as £500 per month which is almost a quarter of Mr C's declared monthly income.

So, I consider American Express should have found out more about Mr C's financial circumstances before it approved the application. As such, I've looked at Mr C's bank statements and credit file and found:

- His income was actually over £5,000 less than the £32,000 he'd declared – this amounted to around £1,800 per month, of which £1,440 was from a stable source;
- Mr C had two satisfied defaults on his credit file;
- He had three loans on which he was repaying about £170 per month and a credit card almost at its £1,500 limit;
- There were no housing or utility costs as these were included in his employment;
- Other regular expenditure came to around £400 per month;

Based on the above I'm not satisfied that American Express made a fair lending decision because:

- A credit card is a long-term, open-ended credit facility and Mr C would have been committed to making minimum payments of around £500 if he made use of the £10,000 limit;
- Given his existing credit facilities, this meant he needed to commit around 40% of his income to repaying credit (and over half of his guaranteed income);
- He had limited disposable income each month with which to repay more than the minimum required.

So, I find Mr C could not sustainably afford to have a credit card with a £10,000 limit and it follows, therefore, that I also consider American Express should not have increased his credit limit when it did, in June 2022.

In summary, I find American Express was irresponsible to have approved Mr C's application, although I can't see it acted unfairly in any other way.

My final decision

My decision is that I uphold this complaint. American Express Services Europe Limited should:

- Rework the account removing all interest and charges that have been applied.
 - If the rework results in a credit balance, this should be refunded to Mr C along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. American Express should also remove all adverse information regarding this account from Mr C's credit file.
 - Or, if after the rework there is still an outstanding balance, American Express should arrange an affordable repayment plan with Mr C for the remaining amount. Once Mr C has cleared the balance, any adverse information in relation to the account should be removed from his credit file.

*HM Revenue & Customs requires American Express to deduct tax from any award of interest. It must give Mr C a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 16 November 2023.

Amanda Williams
Ombudsman