

The complaint

M, a limited company, complains about the way that American Express Services Europe Limited ('AMEX') dealt with chargeback requests and that related refunds were reversed.

What happened

M arranged for a third-party merchant to provide software development services. M paid the third party £10,000 on 7 February 2023, £5,000 on 28 February 2023 and £5,000 on 28 March 2023 using its AMEX card account. A refund of the final payment was made through the chargeback scheme. But although the other payments were also initially refunded these were reversed and re-debited.

AMEX stated in its final response to the complaint that it had told M in a letter of 29 June 2023 that the disputes were ongoing despite the refunds. And when a further review of all the evidence had taken place that the documentation wasn't sufficient for the dispute. It referred to a letter it sent M on 26 September 2023 in which it stated that *"The merchant has already provided details you cancelled the agreement. The merchant has issued a partial refund of 5000 GBP on the related charge for unused hours. The information you sent is not sufficient for us to validate your reasons for re-disputing the charge. Therefore, we are unable to contact the merchant again on your behalf. As a result, we have closed our investigation... We suggest you work directly with the merchant to resolve this matter. If you wish to reopen this investigation, request you to provide us with proof that the merchant has provided a full refund or proof from a third party that merchant's work was not suitable."*

Our investigator didn't recommend that the complaint be upheld. She said that a chargeback was a process by which payment settlement disputes are resolved between card issuers and merchants, under the relevant card scheme rules. The outcome is decided based on those rules and not the underlying merits of a cardholder/merchant dispute. So, she was looking at the actions of AMEX in raising the chargebacks and considering whether any defence complied with the rules.

The outstanding chargebacks of £5,000 and £10,000 were appropriately made under reason code 4553 – goods not as described or defective. The merchant's defence for those payments was considered to be strong enough and as a result she couldn't say that AMEX did anything wrong. It had confirmed that its decision was taken based on all the evidence. And it didn't think that the additional material M had provided was enough to take things any further. M has the option of pursuing things with the merchant directly or in legal proceedings.

M didn't agree and wanted its complaint to be reviewed. It said that it wasn't true that it cancelled the contract. It said that the merchant had said it couldn't work in those circumstances. M referred to a series of online messages with the merchant. M stated that AMEX had ignored this and not commented on it. M wanted all the evidence to be reviewed. M said it hadn't received a partial refund but that this had to come from the chargeback process. It had now arranged three independent audits of the source code from the merchant and AMEX didn't even question this. M stated that the case was reopened by AMEX in September 2023 with the same evidence from the merchant and that this raised

concerns about the consistency and integrity of the information.

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.

Our investigator has explained the nature of chargebacks which are governed by the relevant scheme rules. I would add that this is a voluntary industry scheme and not a right but that we'd expect a chargeback to be raised that fell within these rules.

The working relationship between M and the third party ended. As I will explain below I am not making findings about why. I have though for context seen online messages about this which AMEX has said it considered. And I note that on 14 April 2023 for example M stated to the third party:

"Let's not fall out anymore, let's agree to end things here. If you could deposit the work you've done on the system so far and then refund the remaining hours, that would be appreciated and we leave things here amicably."

AMEX has provided information that the third-party merchant tried to make a refund of £5,000 that day which failed for technical reasons. In any event that payment for the hours not completed by the third-party merchant was refunded to M and no further work on the system took place. M's position is that the work that had been done to that point was defective and wanted this money to be refunded too. AMEX raised chargebacks for the other two payments based on this

There are a number of potential stages to a chargeback process. And while unfortunately M believed that matters were resolved in its favour on those two other amounts of £10,000 and £5,000, the merchant did have the right to defend that decision. I also note the information provided by M including the independent audits and that one of those was dated 22 September 2023. AMEX has confirmed that this information has been taken into account in reviewing the chargebacks and in the further consideration of M's complaint.

I appreciate what is at stake for M. But I'm afraid I don't have a basis to find that AMEX has made a mistake in dealing with the chargebacks and has acted outside the scheme rules. It has considered the material provided by M and made its decision about how to proceed based on that and for the reasons it has set out. I appreciate that M wants me to go behind that and also look specifically at the nature of the commercial dispute with the third party. That's not our role here and I don't have a reasonable basis to require AMEX to do anything further about these chargebacks.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask M to accept or reject my decision before 7 May 2024.

Michael Crewe
Ombudsman