

The complaint

Mr B complains that American Express Services Europe Limited (AESEL) didn't process one of the Credit Balance Refunds (CBR's) he asked them to, and they provided poor customer service.

What happened

Mr B says he received a refund back to his Amex credit card for a cancelled cruise, but he noticed a payment had not been processed. Mr B says that he received letters informing him what he needed to do to get his money back, but he says he would be charged for his bank to obtain the statement needed to process the refund. Mr B says he asked Amex why this was needed, and nobody could tell him. Mr B says he was not offered or given the chance of a partial refund. Mr B made a complaint to Amex, and he says he made it clear that he wanted a call back from the complaints team to discuss his complaint, but Amex responded via email.

Amex partially upheld Mr B's complaint and credited £25 to his account. They said Mr B rang them on 18 December 2023 about a CBR regarding two refunds received by a merchant. They said the agent advised the funds can take ten working days from validation, and if they needed further information they would contact him within five working days. They said on the same day they wrote to Mr B informing him they had issued a refund of £655.48, and in order to issue the remaining £1,010 they needed a bank statement showing the payment of £1,030.45 clearly showing the sort code, bank account number, the holders name, and the bank branding, without redacting any data.

Amex said when Mr B rang them on 20 December 2023 their agent advised him that one CBR had been processed automatically, but the other one had not been processed, and they would raise this again. Mr B rang Amex again on 23 December 2023 and their agent explained that as the payment was made some time ago, it was likely they had been unable to verify the source of the payment and CBR's must go back to the source account. Mr B brought his complaint to our service.

Our investigator did not uphold Mr B's complaint. She said she hadn't seen any evidence of wrongdoing on Amex's part regarding the CBR as she was not satisfied that this was something that Mr B couldn't have cooperated with. She said Amex requested standard information and they later explained this in their final response.

Mr B asked for an ombudsman to review his complaint. He made a number of points. In summary, he asked why nobody from Amex called him to discuss his complaint as he was told it was allocated to someone who wasn't trained for calls, he asked what the legislation was that Amex were following to take the actions they had, and why Amex held his money for so long.

As my findings differed in some respects from our investigator's, I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

"I've considered all the available evidence and arguments to decide what's fair and

reasonable in the circumstances of this complaint.

Firstly, I'm aware that I've only summarised Mr B's complaint points. And I'm not going to respond to every single point made by him. No discourtesy is intended by this. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to reach what I think is a fair outcome.

I'd like to explain to Mr B that it is not within this service's remit to tell a business how they should run their policies and procedures, such as how they should implement their Anti Money Laundering (AML) procedures, including what they require from a customer to release a CBR. It would be the role of the regulator – the Financial Conduct Authority, who have the power to instruct Amex to make changes to their policies and procedures, if necessary.

I'd like to explain to Mr B that Amex are required to have an AML procedure in place. They would be required to follow The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. Under section 33 (1) of this legislation it says "A relevant person must apply enhanced customer due diligence measures and enhanced ongoing monitoring, in addition to the customer due diligence measures required under regulation 28 and, if applicable, regulation 29, to manage and mitigate the risks arising" Section 33 (a) says "in any case identified as one where there is a high risk of money laundering or terrorist financing - (i) by the relevant person under regulation 18(1)".

Section 33 F3 (g) goes on to say "in any other case which by its nature can present a higher risk of money laundering or terrorist financing." So I'm satisfied that if the CBR wasn't returned to the original source of funds then this would, by its nature present a higher risk of money laundering when Amex weren't able to locate the account details of the source of funds (unlike the other CBR which was automatically processed as they had the source of funds for that payment).

Amex would also need to have AML controls in place to satisfy their obligations under the regulator, the Financial Conduct Authority. The Financial Crime Guide handbook sets out under FCG 3.2.3 that "The assessment of money laundering risk is at the core of the firm's AML effort and is essential to the development of effective AML policies and procedures. A firm is required by Regulation 18 of the Money Laundering Regulations to undertake a risk assessment.

Firms must therefore put in place systems and controls to identify, assess, monitor and manage money laundering risk. These systems and controls must be comprehensive and proportionate to the nature, scale and complexity of a firm's activities. Firms must regularly review their risk assessment to ensure it remains current."

In the same section of the handbook there is a table showing examples of good practice. One of the things in this table is "Consideration of money laundering risk associated with individual business relationships takes account of factors such as" and one of the things listed is "source of funds". So I don't find it unreasonable that Amex asked Mr B to provide evidence of the source of funds by providing a bank statement showing the payment they asked him to.

I've viewed Amex's internal procedures regarding CBR's. And Amex did follow their procedure to ask for the bank statement from Mr B. I've also considered whether a partial CBR could have been offered, so I asked Amex about this. They've told me that a CBR is dependent on the status of an account, so in theory a partial refund could've been

requested, but this would be subject to their CBR rules. So they would still need to see Mr B's bank statement to provide him with even a partial CBR.

I would not expect Amex to refund the money without satisfying themselves that the refund was being returned to the same account he made a payment from to satisfy themselves they were meeting their AML procedures. While Mr B feels they are withholding his money by doing this, Amex would be breaching their AML procedures by refunding him this money without the document they asked for. And by breaking this, they could face action from the regulator. So I can't say Amex acted unreasonably here, despite the strength of feeling Mr B has about their actions.

I've considered the service Mr B received from Amex. I've listened to a number of phone calls that Mr B has had with Amex. On 18 December 2023, Mr B speaks to an agent to request the CBR. She tells Mr B that she would submit the request for him. She also tells him that it would be refunded within ten working days, but if they needed any further information they would contact him within five working days.

Mr B rang Amex two days later when a £655.48 payment had left his account, but not the full CBR he requested. The agent explains that payment was automatic, and the account wasn't in credit by the amount Mr B requested. Mr B tells the agent it was at the time he requested the CBR. The agent tries to process this again for Mr B, and a complaint is raised for Mr B. An expectation is set that he would receive a call about this.

But I'm persuaded that the agent let Mr B down here. I say this as she didn't notify Mr B that they'd issued him a letter dated 18 December 2023, setting out what Mr B needed to do to get the £1,010 refund. So although she raised another CBR for Mr B, realistically, because of the letter Amex sent him on 18 December 2023, this would never have been processed without the required documents. If the agent had realised the letter had been sent she could have notified Mr B about this, explained their procedures, and managed his expectations.

On 23 December 2023 Mr B rang Amex, and he had received the letter from Amex. Mr B tells the agent that nobody had explained this to him before and nobody had contacted him about it. But the original agent did say that if they needed further information they would contact him within five working days. So Amex did contact him via a letter in five working days. They didn't promise to ring him about the CBR (although they set an expectation of a phone call regarding his complaint). And I'm not persuaded it would have been proportionate to go through every possible scenario with Mr B on the original call.

Mr B rings Amex on 3 January 2024. He says he was told he would get a call within five working days. While Mr B wasn't told this, when he raised his complaint he was told they would try and call him in three working days of him making the complaint. On this call the agent reiterates this and she says if they don't give them a call they would email him. Mr B wasn't told about the email when he raised the complaint. And Mr B didn't receive the email. Amex have forwarded me the contents of this email and they said it was sent to him on 21 December 2023. So it could be that this was delivered to a spam/junk mail folder, which would be out of Amex's control.

Mr B rings Amex on 12 January 2024 when an agent tried to ring him the previous afternoon, but Mr B was in meetings, and he wasn't available. Mr B said he asked Amex what the legislation was that they were relying on, but it wasn't in his response. But on the call recordings I've listened to Mr B didn't ask them this question. He asked for a manager to call him. The agent said he would put a request in to reopen Mr B's complaint, and he said he would try and ensure Mr B would be contacted in the next five business days.

Mr B was called by Amex later that day. The agent tells Mr B that it isn't necessarily procedure to ring a customer during their investigations. He tells Mr B his colleague (who dealt with Mr B's complaint) isn't on the phones. Mr B asks the agent what legislative framework Amex are using to hold onto his money. The agent says this was in the response to his complaint. Mr B is audibly distressed that he didn't get a call back about his complaint. Mr B asked if the agent was a manager. The agent confirmed he wasn't a manager. Mr B says he had asked to speak to a manager.

The agent told Mr B how their complaints process works. He transferred Mr B to the relevant department to see if he could raise another CBR for a different amount, but Mr B was trying to speak to the agent when hold music started playing. When Mr B was being transferred, he voiced his displeasure about being placed on hold when he was trying to ask the agent a question.

I am persuaded that Mr B was let down by Amex with poor customer service on multiple occasions. Amex paid Mr B £25 for not telling him about the correct timescales for their complaints. But this wasn't the only time Amex let Mr B down. The agent who raised Mr B's complaint set an expectation that Mr B would have a phone call about his complaint. While the last agent who spoke to Mr B clearly set out how their complaints process works and what they would do if they couldn't resolve his complaint in three working days, this wasn't explained to Mr B on any of the previous calls I've listened to.

If Mr B would have been told the same information by the agent who raised his complaint that he was told on the last call, then at least Mr B would be aware of Amex's process, even if he may not agree with it. On the call prior to the agent ringing him back, Mr B was clear he wanted to speak to a manager. But the agent who spoke to him did not tell Mr B that the call wouldn't be from a manager, so again, Mr B was set an expectation that Amex didn't deliver on.

The agent on 20 December 2023 should have explained to Mr B the contents of the letter that they sent him on 18 December 2023. But as she raised another CBR, this wasted both of their time, so it further frustrated Mr B to receive a similar letter dated 20 December 2023. Mr B was transferred to another department while he was trying to ask the last agent a question, which further frustrated him.

So I've considered what would be a fair outcome for this complaint. Amex followed their AML procedures regarding the CBR, and they requested information from Mr B which he didn't send them. So I can't say they were unfair not to process the CBR. But I have highlighted a number of examples of poor customer service in this decision. So I'm not persuaded that £25 compensation is proportionate for the poor customer service Mr B was given at times.

I'm persuaded that a further £100 compensation to total £125 compensation is proportionate to recognise the impact of the poor customer service had on Mr B. So it follows I intend to ask Amex to put things right for Mr B."

I invited both parties to let me have any further submissions before I reached a final decision. Both parties accepted the provisional 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 neither party have provided me with any further information to consider, then my decision and reasoning remains the same as in my provisional decision.

Putting things right

In my provisional decision I said I intend to uphold this complaint in part. I said I intend to ask American Express Services Europe Limited (AESEL) to pay Mr B a further £100 compensation for distress and inconvenience. I'm still satisfied this is a fair outcome for the reasons given previously.

My final decision

I uphold this complaint in part. American Express Services Europe Limited (AESEL) should pay Mr B a further £100 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 August 2024.

Gregory Sloanes
Ombudsman