

## **The complaint**

Ms K complains that American Express Services Europe Limited won't refund to her the money that she paid for a mobile phone and about the default that it's recorded on her credit file.

## **What happened**

Ms K used her American Express charge card in March 2022 to pay £976 for a mobile phone and accessories. There were issues with the phone and the supplier accepted Ms K's return request for the phone and accessories. Ms K says that the collection of the phone and accessories didn't take place so she didn't pay American Express for them.

American Express sent Ms K a notice of referral to an external collections agency in November 2022 which said that her account had been cancelled, the outstanding amount of £599.04 was payable in full and her account had been transferred to an external debt collection agency.

Ms K complained to American Express in March 2023 because she was unhappy with the default on her credit file due to being misinformed about the dispute process. American Express rejected her complaint and said that it had been unable to establish that any errors were made by it.

Ms K wasn't satisfied with its response so complained to this service. Her complaint was looked at by one of this service's investigators who, having considered everything, didn't think that it should be upheld. He couldn't see anything to suggest that Ms K contacted American Express to dispute the payment for the phone prior to March 2023 and, without that evidence, he couldn't reasonably hold it responsible. He said that Ms K failed to make requested payments for three consecutive months, so he thought that it was fair for American Express to have taken the action it did.

Ms K's complaint was then looked at by another of this service's investigators but he agreed with that outcome. Ms K didn't agree with the investigators' recommendations and asked for her complaint to be considered by an ombudsman.

## **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.

Ms K has provided evidence to show that the supplier accepted her return request. The supplier says that thirteen separate returns were set up for that order between March and June 2022 but the phone and accessories weren't returned to it and Ms K didn't contact it between June 2022 and May 2023 about the return and it was then unable to set up a return for a refund. Ms K says that she phoned American Express about the payment that had been charged to her account but I've seen no other evidence to show that she contacted American Express to dispute the payment prior to March 2023.

If a consumer disputes a card payment, the card issuer may be able to make a chargeback claim to the merchant under the relevant card scheme to try to settle the dispute. There's no right for a consumer to require that a chargeback claim be made and the applicable scheme rules set out the disputes that can be considered and the time limits for making a claim. When Ms K contacted American Express in March 2023, it would have been too late for it to make a chargeback claim for the payment that was made in March 2022 and I'm not persuaded that American Express should have credited the £976 to Ms K's account.

Ms K didn't make the payments that were due on her account by the payment due dates so American Express sent her a notice of referral to an external collections agency in November 2022. It said that her account had been cancelled, the outstanding amount of £599.04 was payable in full and her account had been transferred to an external debt collection agency. I understand that it also recorded a default on Ms K's credit file.

I'm not persuaded that there's enough evidence to show that American Express acted incorrectly in cancelling Ms K's account and transferring the outstanding balance to a debt collection agency. Ms K contacted American Express in April 2023 and said that she'd like to settle the balance on her account if it could be reinstated but was told that she couldn't do that and that she'd need to make a new application for an account if she wanted one. I'm not persuaded that there's enough evidence to show that American Express misinformed Ms K about the dispute process.

American Express is required to report true and accurate information about Ms K's payment history to the credit reference agencies. As Ms K didn't make the required payments on her account, I consider that it was fair and reasonable for American Express to record adverse information on Ms K's credit file and I've seen no evidence to show that the information that it's recorded isn't true and accurate.

I'm not persuaded that there's enough evidence to show that American Express has acted incorrectly in connection with these issues. I appreciate that this will be disappointing for Ms K, but I find that it wouldn't be fair or reasonable in these circumstances for me to require American Express to take any action in response to her complaint.

**My final decision**

My decision is that I don't uphold Ms K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 12 December 2024.

Jarrold Hastings  
**Ombudsman**