

The complaint

Mr C complains that American Express Services Europe Limited (AESEL) irresponsibly lent to him.

What happened

Mr C applied for an Amex credit card in August 2022. His application was accepted, and he was given an £8,500 credit limit. Mr C says Amex irresponsibly lent to him. Mr C made a complaint to Amex, who did not uphold his complaint. Mr C brought his complaint to our service.

Our investigator did not uphold Mr C's complaint. She said that Amex should have made further checks, however, further checks would have likely shown that Mr C could afford to sustainably make repayments for the £8,500 credit limit.

Mr C asked for an ombudsman to review his complaint. He said being approved for a credit limit which was around a third of his annual income was irresponsible, he also said that due to the minimum payments required on the account he had to choose between food and petrol to avoid charges on the account. Mr C said he was constantly overdrawn on his bank accounts, incurring daily overdraft charges.

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.

Before agreeing to approve the credit available to Mr C, Amex needed to make proportionate checks to determine whether the credit was affordable and sustainable for him. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks Amex have done and whether I'm persuaded these checks were proportionate.

Amex said they completed a credit check with a Credit Reference Agency (CRA) and they considered information that Mr C had provided them before approving his application. The information showed that Mr C declared a gross annual income of £26,000. The CRA reported unsecured balances of £5,681. But the checks Amex have forwarded me do not give an indication of all of the things I would expect to see on CRA checks, such as any defaults, any County Court Judgements (CCJ's), any accounts in arrears etc.

So I would expect Amex to complete further checks, especially given that the credit they were going to approve for Mr C was around a third of his gross annual income that he declared.

Mr C has provided his credit file so I can get an idea of his financial situation at the time Amex completed their checks. The credit file shows a credit card with a third party lender

being opened in August 2022, prior to the Amex credit card being opened, however, as credit files tend to take 4-6 weeks to update, I would not expect Amex to be aware of this even if they looked at Mr C's credit file as part of their checks. So they would not be able to take this into account as part of their checks.

Mr C's credit file doesn't appear to show any adverse information such as any defaults, CCJ's or arrears prior to the acceptance of his account, so I can't fairly say the credit checks should have given Amex cause for concern. His credit file also shows two accounts being settled in the six months prior to his Amex account being opened which shows he was paying £195 a month collectively for these two accounts, so it may appear that Mr C could have £195 a month to put towards his repayments.

But given the amount of credit Amex were going to approve for Mr C and based on his income, I'm persuaded that they should have carried out further checks to ensure the repayments would be sustainable and affordable for him.

One of the things Amex could have done was to contact Mr C to get an understanding of how he would be able to afford repayments sustainably for a relatively large credit limit. Or they could have asked for his bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for him.

Mr C has provided his bank statements leading up to this lending decision on three accounts that he held, as he often transfers money between his accounts. His salary is showing as different amounts, ranging from £1,453.60 in May 2022 to £1,796.41 in July 2022. This could suggest either that Mr C had a pay rise over this time (as his June 2022 salary credited his account for over £1,700 also), or he could have been working overtime or receiving bonuses which may not have been sustainable moving forward.

So I asked Mr C if he could recall why his salary increased by more than £300. Mr C told me that he wasn't sure why his salary increased, but he didn't pass his probationary period. He said his last credit from that employer was on 25 August 2022 and with his new job his salary was approximately £200 less a month than his previous job.

I'd like to thank Mr C for providing this information. But it would not be foreseeable to Amex when they completed their checks that Mr C would be starting a new job earning £200 a month less than his previous role. And I can't see that he informed Amex of this at the time to enable them to take this information into consideration. So I've looked at what else Mr C's statements showed to see what Amex would have been able to consider if they made further checks.

Two of Mr C's accounts had an overdraft facility. Mr C entered an overdraft on both of these accounts at times. On the other account which didn't appear to have an overdraft facility, Mr C enters an unarranged overdraft in June 2022. He had a direct debit returned unpaid as he didn't have sufficient funds in the account. But this appears to be an oversight as Mr C had sufficient funds in another one of his accounts at the time, and he wasn't overdrawn on that account at the time.

It would appear to a third party that Mr C had disposable income to be able to sustainably afford repayments for a credit limit of £8,500 at the time Amex completed the checks (considering Amex wouldn't be aware of both Mr C's new credit card he opened and him starting a new job shortly after the account was opened with a lower salary).

I say this as Mr C's statements show that he had the affordability to pay for non-essential transactions, and also to put money in a savings account on a regular basis. Mr C has told us that one of these payments was for rent, but it was paid into a savings account with

agreement from his family. But based on the reference of the payment, it would not be apparent to a third party that the payment of £180 was for rent, and it wouldn't have been proportionate for Amex to make further enquiries on this payment if they had of requested his statements as part of a proportionate check.

So I'm persuaded that Amex made a fair lending decision in accepting Mr C's application and to provide him with a credit limit of £8,500, based on what proportionate checks would have shown prior to the acceptance of the account.

I've considered what Mr C has said about having to choose between food and petrol to meet his repayments on his Amex account. I'm sorry to hear this was the case. But I'm not persuaded that this would have been foreseeable to Amex prior to the acceptance of the account for a number of reasons (or shortly after his account was opened either).

I say this because Amex would not be aware Mr C wouldn't pass his probationary period and receive a lower salary with his new job. This happened after the credit card was approved. In addition to this, Amex would not know that Mr C had opened a new credit card with a third party lender earlier in August 2022 as his credit file would be unlikely to have reflected that at the time considering it generally takes 4-6 weeks for a credit file to update.

Once Mr C's Amex card was opened, he made repayments which were considerably higher than his minimum payment, which I wouldn't expect him to be able to do if he was suffering from financial difficulty around this time. And I can't see that he discussed any financial difficulty with Amex directly, therefore there wouldn't be any obvious indicators to Amex that he was struggling financially, especially as he made no cash withdrawals, and he hadn't missed any repayments.

If Mr C is struggling financially currently, I would encourage him to contact Amex directly to see how they can assist him, and to go through the available options with him. I would expect them to explain how these different options would reflect on his credit file, so Mr C can make an informed decision with what option (if any) would be suitable for him and his current circumstances.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I can't conclude that Amex lent irresponsibly to Mr C or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here. So it follows I don't require Amex to do anything further.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 20 February 2025.

Gregory Sloanes
Ombudsman