

The complaint

C a limited company is unhappy about the decision made by American Express Services Europe Limited (AESEL) to close its accounts and referred it to a collection agency.

C's complaint has been brought to our service by its director, Mr F.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. I'll only provide a brief overview of some of the key events here.

Mr F had four accounts with AESEL – two personal accounts and two business accounts.

This decision will focus on Mr F's complaint about C's business accounts. His complaint regarding his personal accounts will be dealt with separately.

C had a business credit card account (ending 71006) and business charge card account (ending 32001) with AESEL.

In April 2023, AESEL told Mr F it would carry out a review of C's accounts and suspended them while the review took place. In response, Mr F sent AESEL bank account statements which showed his salary payments. Mr F also sent AESEL his payslips and a copy of his credit report.

AESEL reviewed the information Mr F provided. Following its review AESEL told Mr F that C's accounts would close. On 28 April AESEL wrote to Mr F to let him know it was ending its agreement with C and would be asking him to repay the outstanding balance and that the account may be referred to a debt collection agency. The letter set out that the outstanding balance on C's credit card account was £12,178.80 (excluding any unbilled or pending transactions). And that AESEL were ending the agreement because it had reasonable grounds to believe that Mr F would be unable or unwilling to repay C's debts when due, which was a breach of the agreement.

On 17 May 2023, AESEL sent Mr F a final demand and notice of termination of C's agreement for account ending 71006. The letter told Mr F that C's account may be passed to a debt collection agency and that he would receive another letter with who to contact about repaying what C owed. And that AESEL would continue to charge interest on the account balance until it was repaid. The letter told Mr F that C's outstanding balance was £12,178.80 and that after a period of 28 days AESEL may take steps to register a default with credit reference agencies.

C's charge card account had a credit balance of just under £120.

On 22 May 2023, AESEL wrote to Mr F to let him know that C's account had been referred to an external debt collection agency, which I will refer to as B. The letter set out that C owed £11,656.80 and provided B's contact details so that Mr F could arrange repayment of the

balance. AESEL sent a further letter dated 30 May 2023 which told Mr F, C's outstanding balance was £11,894.14.

Mr F was confused by the differing amounts and worried that a default would be registered against him. So, he contacted B to find out how much C owed and try and find out why C's accounts had been closed. After some back and forth, B sent Mr F an email on 8 June 2023, which said C owed £11,894.14, which believing was the full amount owed, Mr F paid in June 2023. However, interest was later applied to the account of £133.83.

Mr F was unhappy with AESEL's decision and complained. He said he hadn't breached the terms of the agreement and always made repayments in line with the terms of the agreement. He said it wasn't fair for AESEL to close C's accounts when he hadn't done anything wrong. He said he felt very upset by the experience and didn't want to deal with the third-party debt collection agency, and that AESEL had treated him unfairly.

AESEL didn't agree it had acted unfairly. It said it was within its rights under the terms of the agreement to review C's accounts and give Mr F notice that they would be closed. It said it was standard practice for closed accounts to be referred to third parties to collect payments on its behalf. And report account activity to credit reference agencies.

Mr F remained unhappy and referred C's complaint to our service. Mr F has explained that he was very upset and worried when he received the letters from AESEL – especially as he had always maintained his payments or cleared the balances of C's accounts. He said he was frightened as the letter mentioned debt collection and said that he'd be referred to credit reference agencies, which would impact his excellent credit score. Mr F was also unhappy that he had to clear the balance of the account sooner than he planned, which meant he had to find the funds out of the blue and was inconvenient.

Mr F said it wasn't fair for AESEL to close the accounts when he hadn't done anything wrong. He said AESEL also sent him letters which said he'd cancelled his direct debits, when he hadn't, all of which he found very upsetting and worrying. To put things right he said he wants AESEL to reinstate C's accounts and his balance, so that he can pay back what C owes in his own time. He also wants compensation for the stress the matter has caused him.

One of our investigators considered the complaint. The investigator asked Mr F and AESEL for more information and reviewed the information. The investigator asked AESEL to explain why it had closed C's accounts. AESEL said that it had carried out a credit review of all of Mr F's accounts so that it could comply with its legal and regulatory obligations. And so that it could complete a creditworthiness assessment in line with the Financial Conduct Authority's responsible lending guidelines. AESEL said that as part of its review it asked Mr F for information, but the information Mr F provided didn't satisfy its credit team that he would be able to repay his debt. So, it decided to close C's accounts immediately in line with the terms and conditions.

After reviewing everything, the investigator said that AESEL hadn't treated C fairly when it had closed its accounts immediately. They also said that the letters AESEL had sent Mr F had been automatically generated, as part of its account closure process. So, they didn't think AESEL had done anything wrong when it sent these to Mr F. To put things right the investigator said AESEL should pay Mr F £150 compensation for the trouble he'd been caused by AESEL closing C's accounts immediately. The investigator also said AESEL hadn't been clear in letting Mr F know exactly how much C owed, so it wasn't fair that it had recorded any adverse information with credit reference agencies. So, they said AESEL should remove this and let Mr F know how much (if anything) was still owing on the account.

Mr F disagreed. He said the amount of compensation doesn't adequately reflect the trouble and upset the matter has caused him. He also wants AESEL to reinstate C's accounts in the position they were when they were closed.

AESEL also disagreed. It said the information Mr F provided didn't pass its internal checks and it had closed C's accounts in line with the terms and conditions.

In response, the investigator provided AESEL with more documents relating to the information Mr F had provided in response to its request for information. AESEL reviewed this, and agreed that there were no discrepancies, but maintained it hadn't done anything wrong when it had reviewed and closed C's accounts.

As no agreement could be reached the matter has come to me to decide.

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've decided to uphold this complaint. I'll explain why:

- AESEL has extensive legal and regulatory responsibilities they must meet when providing account services to its customers. They can broadly be summarised as a responsibility to protect persons from financial harm, and to prevent and detect financial crime.
- As has been explained by AESEL and the investigator, the reason why AESEL asked Mr F to provide information about his finances is because AESEL are obliged to adhere to the regulator – the Financial Conduct Authority (FCA), Know Your Customer (KYC) responsibilities. AESEL is entitled and obliged to conduct such checks in order to comply with its legal and regulatory obligations. AESEL also has to ensure it is lending responsibly to its customers. This applies to both new and existing customers regardless of how many years a customer may have held an account with AESEL.
- The information AESEL was asking Mr F to provide is fairly standard information that banks, and other financial businesses are required to have in order to adhere to KYC responsibilities. It's not in my remit to determine what questions AESEL should ask its customers to ensure it adheres to its these responsibilities. There's no fixed set of questions or period between each customer update request, and they are usually done to reflect the changes in the economy, technology or tactics employed by criminals to commit financial crime.
- AESEL can suspend an account whilst it conducts a review. The account terms and conditions make provision for this. So, I can't reasonably say that AESEL was acting unfairly or unreasonably in asking Mr F for the information that it did. And suspending C's accounts whilst it completed its review.
- Under the terms of the credit agreement, AESEL can end the agreement at any time with two months' written notice – and isn't required to give a reason. It can also end the agreement immediately – which is what happened here. It can also refer the agreement to third-party agencies. I need to decide whether it did so fairly in this case.
- AESEL says it decided to close C's accounts because it had reason to believe Mr F

would be unwilling or unable to repay his debts when due. The investigator asked AESEL to provide further detail about the criteria it takes into account when deciding which accounts to review and close immediately. AESEL has provided some information about why it decided to review C's accounts – but I haven't seen anything to suggest that Mr F was acting outside the terms of the agreement, which would cause AESEL to close C's accounts without notice.

- I say this because when AESEL started its review, the balance on account ending 71006 was just over £12,000 – significantly below the credit limit of £22,500. Mr F had also paid at least the minimum amount due on the account each month until the time he was notified of AESEL's decision to close it. C's other account was in credit. As Mr F was not in breach of the agreement — I'd expect AESEL to be able to clearly demonstrate why his use of the accounts prompted them to close them immediately. I'm not satisfied it's done so here.
- AESEL has explained the main reason for its decision. I'm not able to share this with Mr F as it's commercially sensitive – but I have considered it. As part of its review, AESEL asked Mr F for bank account statements – which AESEL relied on in reaching its decision. Mr F has provided these statements. The investigator has also sent AESEL further information. Based on these statements, I can't see that Mr F's financial situation had significantly changed between the months leading up to AESEL reviewing the accounts and its decision to withdraw them.
- AESEL has also accepted that there aren't any discrepancies with the documents submitted by Mr F and the information the investigator recently forwarded to AESEL. If AESEL had any concerns with the information Mr F submitted, I think it would have been reasonable for AESEL to either discuss this with Mr F or complete further enquiries before it decided to close C's accounts – which is what our Investigator did. But AESEL didn't do so.
- The decision to close the accounts, according to the letter AESEL sent to Mr F on 28th April 2023 was based on Mr F's financial circumstances. I think there are a few reasons this could happen, including: • Mr F's financial circumstances changed, and he no longer met AESEL's lending criteria, • The information provided by Mr F when applying for the account was found to be incorrect, or; • AESEL's lending criteria changed, meaning it was no longer able to offer credit under the terms previously agreed.
- AESEL hasn't been able to demonstrate that any of these circumstances applied here – or that there was any other reason for it to change its mind about its decision to offer a credit facility. And I've already said that there were no discrepancies with the information Mr F provided about his finances – which AESEL now accepts. So, I can't reasonably conclude that AESEL has treated Mr F fairly by doing so – or that it acted in line with its own processes. It follows that I don't think it was reasonable for AESEL to refer the account to a third-party collection agency – as Mr F had maintained payments in line with the agreement up until when the account was closed.
- I must stress that I'm not suggesting AESEL isn't within its rights to decide who it wants to lend to. So, I won't be asking AESEL to reopen Mr F's accounts as much as he wants this to happen. That's because AESEL is entitled to close an account with Mr F just as he is entitled to close his account with them. It's generally for banks and financial businesses to decide whether or not they want to provide, or to continue to provide, banking facilities to any particular customer. But I'm not satisfied AESEL has demonstrated that it treated C fairly by closing its accounts without notice and referring him to a debt collection agency.

- Mr F says the amount of compensation recommended by the investigator isn't enough. I'd like to reassure Mr F that I carefully considered all of the relevant circumstances and the information he provided when considering his complaint. I don't doubt that his experience with AESEL has caused him a lot of stress and inconvenience. My role here isn't to fine or punish AESEL where it makes an error – but to determine how it should put things right, taking into account what is fair and reasonable. With that in mind, I'm satisfied £150 represents a fair level of compensation, for AESEL closing C's accounts without notice. In reaching this conclusion I've kept in mind that these accounts were not C's main bank accounts. And Mr F had access to other accounts.
- When the decision to close was made, Mr F was asked to repay the full debt on the credit card ending 71006. This is in line with the terms and conditions of the account which state *"In any of these circumstances, we may close your account and require you to repay immediately all amounts you owe us under this agreement in full together with any interest and charges that apply."*
- After Mr F cleared what he believed to be C's account balance there was still a small outstanding balance to pay due to interest that had been applied. Having looked at all the correspondence between Mr F, B and AESEL, I'm satisfied that Mr F made several attempts to obtain the exact balance outstanding on the account. I can see Mr F questioned the differing amounts in the letters he received from AESEL, and B finally told him C owed just under £12,000 which Mr F repaid in June 2023. I haven't seen any evidence that AESEL made Mr F aware that there was an outstanding amount left on the account after Mr F made the payment. I understand that Mr F has now cleared this amount.
- Because AESEL didn't provide him with these instructions until after he'd cleared C's outstanding balance, he couldn't have reasonably made it on time. So, I don't think AESEL should record adverse information about any payments being missed relating to this amount to credit reference agencies – as Mr F could not have reasonably made the payment when it was due because AESEL didn't make him aware he still owed anything.
- When AESEL decided to close Mr F's accounts it wrote to him to let him know. AESEL also sent Mr F a letter which said he'd cancelled his direct debit. Mr F has said he was upset and confused to receive the letter, especially as he hadn't cancelled his direct debits.
- I can understand the letter must have come as quite a shock to Mr F and was distressing for him. I note that AESEL has explained that the letter was automatically generated by its systems as part of its closure processes. So, I don't think AESEL made a mistake when it sent Mr F the letters. So, I won't be awarding Mr F any further compensation for this element of his complaint.

To summarise, I don't think AESEL has shown that it treated C fairly when it decided to close its accounts immediately. Discovering that C's accounts were going to be closed without notice caused unnecessary inconvenience to Mr F, as director of C because he had to repay what he owed sooner than he expected. So, to put things right I think AESEL should pay C compensation. The investigator has recommended AESEL pay Mr F £150. Mr F has asked for more compensation. But I need to consider the impact AESEL's error had on C – and having done I think £150 is a fair reflection of the inconvenience AESEL has caused.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint.

To put things right I require American Express Services Europe Limited (AESEL) to:

- Remove any adverse information reported to credit reference agencies connected to the outstanding account balance and missed payments.
- Pay Mr F on behalf of C, £150 compensation for the inconvenience this matter has caused him, as director of C.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or reject my decision before 6 February 2025.

Sharon Kerrison
Ombudsman