

The complaint

Ms B has a number of complaints related to her credit cards with American Express Services Europe Limited ('AESEL') including that it failed to correctly set up a direct debit for her.

What happened

Ms B has had credit cards with AESEL for a number of years including a Gold member credit card (the 'Gold card') and a British Airways credit card (the 'BA card').

From the end of 2022 up to April 2024, AESEL has issued final response letters at different times which address different complaint issues raised by Ms B. Each final response letter explained to Ms B that she had a right to refer her concerns to the Financial Ombudsman Service if she remained unhappy. The dates, and summaries, of the issues covered within each final response letter were as follows:

- 22 December 2022 – addressed Ms B's dissatisfaction with the cancellation of her BA card due to inactivity and an application for a new card being declined.
- 7 March 2023 – addressed that a direct debit wasn't set up properly for one of her credit cards.
- 12 April 2023 – addressed several complaint points including a new BA credit card being approved without Ms B's knowledge; her Gold card credit limit being reduced; and late payment markers being added to her credit file.
- 25 September 2023 – addressed customer service issues and about AESEL not extending the dates for the use of Companion Vouchers (the 'vouchers') issued as part of a BA card reward scheme.
- 12 March 2024 – addressed an issue with a direct debit not being set up properly following a request by Ms B made in July 2023.
- 3 April 2024 – addressed AESEL not extending the dates for the use of the vouchers.

AESEL didn't consent to our service looking at any of the complaints where they had been brought too late due to being referred to us more than six months after the relevant final response had been issued.

Our investigator considered Ms B's complaints. However, he didn't think we had the power to consider any of the issues covered by the final response letters issued prior to 2024 because these had been referred too late. Our investigator thought we could consider the issues covered in the April and March 2024 final response letters.

Ms B disagreed with our investigator's view and the matter was passed to me for a decision. I issued a provisional decision concluding that several of the matters Ms B had referred to us were out of time. Ms B responded reiterating the arguments she said in response to the investigator's view including that she didn't think AESEL was acting fairly in relation to the vouchers she was promised. The matter has been passed back to me for a decision.

What I've decided – and why

The complaints I can't consider

Not all complaints that are brought to this service are ones we can look at. When we receive a complaint, we always check whether it's within our jurisdiction. We do this by considering the Dispute Resolution Rules laid down in the Financial Conduct Authority Handbook of rules and guidance, commonly known as 'DISP'. These rules can be found on the Financial Conduct Authority's website.

DISP 2.8.2R (1) says that, unless the business consents (AESEL hasn't), or there are exceptional reasons to explain the delay, we can't consider a complaint if it's been brought more than six months from the date the business sent its final response letter.

Ms B didn't bring the complaints I've summarised above to our service until 18 April 2024. This means that all the final response letters issued from December 2022 through to September 2023, are out of time under the six-month time limit rule. The last of the final response letters issued by AESEL in 2023, was on 25 September 2023. This meant that at the very latest, in order to meet the six-month time limit, Ms B had until 25 March 2024 to refer this complaint to our service. And in respect of all the other complaints dealt with in the final response letters issued in 2023, these needed to be referred to us earlier than this to meet the six-month time limit rule.

I also note that whilst our investigator concluded we had the power to consider the final response letter issued on 3 April 2024, I don't consider this is the case. This final response letter dealt with the issue of AESEL not extending the use of the companion vouchers that had been issued to Ms B as part of the BA card reward scheme. But looking at the final response letters issued on 25 September 2023 and 3 April 2024, I think they both dealt with the same subject matter – that is, whether AESEL was incorrect not to extend the dates under which Ms B could use the vouchers. And just because AESEL issued another final response letter to Ms B in April 2024, I don't think this extended the time by which Ms B had to refer her complaint to us. She was given the correct referral rights in the September 2023 letter. She was told that she had six months to bring her complaint to us. As she did so outside of this timescale, I consider she referred this matter to us too late.

That said, we have the power to consider complaints referred to us outside of the six-month time limit where the reason for doing so is due to exceptional circumstances. In this case, I've noted what Ms B has said about her health conditions and also her personal circumstances. I'm, of course, sorry to hear about the difficulties Ms B has been facing. But as our investigator noted, I can see that throughout different points during 2023 up until she referred her complaint to us in April 2024, she was still in communication with AESEL about various matters. So, I can't reasonably say she was *unable* to refer her complaint to our service. And I don't think exceptional circumstances apply in this case.

I note Ms B's further comments in response to my provisional decision, but I can't see she has added anything substantially new, so my decision remains as I've set it out above. I am sorry that Ms B thinks AESEL has acted unfairly in regard to the vouchers, but this isn't a matter we can consider as she has referred it to us outside of the relevant time limits.

The complaint I can consider

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The complaint I can consider, is about the direct debit that Ms B says AESEL failed to set up when she sent it a direct debit mandate form in July 2023. I can see this was dealt with in a final response letter dated 12 March 2024 and as Ms B brought this complaint to us on 18 April 2024, I think this has been referred to us in time. However, having reviewed everything, I'm not intending to uphold this complaint. I'll explain why.

From what I can see, AESEL couldn't set up a direct debit in respect of Ms B's BA card account following her application to do so. As noted above, she sent in the direct debit mandate form in July 2023, and this was received by AESEL on the 25th of that month. But because the bank account she provided in her direct debit mandate form, didn't match her BA card details, AESEL emailed Ms B asking her to provide evidence to support that she was the bank account holder.

It later transpired that the bank account details Ms B had provided were her daughter's. Ms B had given her own name as the bank account holder, but the account number and sort code related to a bank account under her daughter's name. Ms B subsequently explained that due to her (Ms B's) illness, her daughter had agreed to make any repayments owed in relation to her BA card account. Whilst I appreciate Ms B may have agreed with her daughter to do so, I can't fairly or reasonably conclude that AESEL has acted incorrectly here. Her credit card statements clearly say payments will be collected from 'your' bank account - meaning that repayments will only be taken from the cardholder's bank account not that of another party.

I should also note that AESEL did request the verification information quickly – it sent Ms B an email on the same day it received her mandate form which was on 25 July 2023. Further, a contact note dated 5 September 2023 shows Ms B was told over the phone by an AESEL agent the reason for the direct debit not being set up. And it was confirmed another direct debit mandate had been re-sent to her. Ms B has been told several times since this contact about the reason AESEL hadn't set up the direct debit. However, from what I can see she's not taken any steps to rectify this situation. She has since said she is the joint account holder of the account listed on her direct debit mandate form. But as far as I'm aware, she didn't provide any evidence of this to AESEL.

Overall, I can't fairly or reasonably say that AESEL acted incorrectly when it declined to set up a direct debit for Ms B's BA card based on the information she provided. I think it provided her with clear, fair and not misleading information about the reasons for this and did so in a timely manner.

Finally, I note what Ms B has said about AESEL failing to acknowledge her health conditions. I know Ms B has referred to her health conditions in relation to several complaints she had made against AESEL. In relation to this particular complaint, I can see AESEL did address Ms B's health conditions and said if she had any specific adjustment she needed, it would try to assist her with this. But I don't think this means AESEL acted unfairly when it didn't set up a direct debit mandate when it didn't have all the information it needed to do so.

In response to my provisional decision, Ms B explained again the reason she used her daughter's account when trying to set up the direct debit. I understand her situation but as I said, I can't fairly or reasonably say AESEL has acted incorrectly by asking her to verify the account holder details. So, whilst I very much sympathise with Ms B's situation – and I acknowledge that she has been through a very difficult time – for all the reasons set out above, I'm not upholding this complaint.

My final decision

In respect of the complaint I can consider, my final decision is that I don't uphold the

complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 13 June 2025.

Yolande Mcleod
Ombudsman