

The complaint

Mr K complains that American Express Services Europe Limited (AESEL) was irresponsible in its lending to him. He wants the interest he has been charged reduced and all adverse information recorded on his credit file removed.

What happened

Mr K was provided with two credit cards by AESEL in October 2018. Each credit card had a credit limit of £1,000. Mr K said at the time of the credit being provided he was struggling financially, and this got worse over the following years due to the cost of this credit. He doesn't think that adequate checks were carried out before the credit was provided, saying that AESEL relied on internal automated systems rather than a full review of his circumstances.

AESEL issued a final response to Mr K's complaint in November 2024. It said that his credit applications were processed in line with its internal procedures and each application undertook credit, identity and address checks. It said Mr K's applications were approved based on its lending criteria at the time.

Mr K referred his complaint to this service.

Our investigator noted the checks that AESEL said had been undertaken before the applications were approved but that it had been unable to provide a copy of its credit check results. He said that Mr K had provided evidence to show that he had a County Court Judgement entered against him on 27 March 2018. He found on the balance of probabilities – and without any evidence from AESEL to demonstrate otherwise – that this judgment would have shown on Mr K's credit check. As the judgment showed that Mr K was likely to be struggling financially, he thought that further checks should have been carried out and that the lending decisions weren't fair. Therefore, he upheld this complaint.

AESEL didn't agree with our investigator's view. It said that when Mr K applied for the credit cards, he declared an annual income of £28,000 and his credit file didn't indicate anything other than another active credit card with a £462 balance and a loan of £108. It said there was no evidence of a judgment being applied against Mr K at the address he had supplied. It noted that when Mr K's accounts were reinstated in 2021, he provided a copy of his driving licence which had a different address to that contained in his applications and questioned whether the judgment may have been registered against Mr K at this different address.

Our investigator considered AESEL's response but as this didn't change his view this case was passed to me, an ombudsman, to issue a decision.

My provisional conclusions

I issued a provisional decision not upholding this complaint. The details of my decision are set out below.

Mr K was provided with two credit cards by AESEL in October 2018. Each credit card had a £1,000 credit limit. Before the credit cards were provided, AESEL gathered information about Mr K's income and carried out a credit check. Mr K's annual income was recorded as £28,000. Mr K has said that he told AESEL that he was working part time and that his visa meant he had restricted income. I do not have any further evidence of this being recorded by AESEL, but I have taken Mr K's testimony into account.

AESEL hasn't been able to provide the details of its credit check. It has said that Mr K met its lending criteria, and it has provided details of its internal credit scoring results and shown that Mr K's results met the required thresholds. AESEL has said that it identified Mr K as having active unsecured loans of £108 and an active credit card balance of £462. Based on these results I do not find I can say that AESEL should have identified Mr K as being in financial difficulty.

Mr K has said that a county court judgement was registered against him in March 2018 with an original balance of £937. He has provided a copy of a notification of the judgment being removed from his credit file after six years. The notification includes Mr K's full name, date of the judgement and the original balance. Unfortunately, further evidence of this judgment isn't available.

As the judgment was recorded around six months before his credit card applications, I would have expected this to have raised concerns about Mr K's financial stability and that he was struggling to manage his commitments at the time. However, AESEL has said that its checks didn't identify any judgements and based on the other information it has provided, I find on balance, it reasonable to accept that it wasn't aware of the judgement at the time of lending.

That said, I have to consider what I think reasonable and proportionate checks would have identified. AESEL has provided details of the credit reference agencies it uses, and these are the main agencies. Mr K has provided a copy of his credit report from the main agency that AESEL said it uses in its application assessments. However, as the credit report is from November 2024, the judgment would have been removed.

It has been noted that Mr K was using two different addresses around the time of his application. Mr K has explained that he was living with family at the address he used on his AESEL applications and then subsequently rented a property in March 2019 which accounted for the second address. He said he still used the family home as his main address for documents and registrations. Mr K also confirmed that the judgement was registered at the address he had given to AESEL. This explains the two addresses and if Mr K only rented the second property in 2019 this was after the AESEL application. However, I note a copy of his driving licence has been provided with a date of 2017 and this recorded his address as the rented property address.

So, while I accept that a judgment was registered against Mr K in March 2018, I also accept, on balance, that this didn't show in AESEL's checks. I cannot say why this happened and based on the evidence provided, I cannot say whether proportionate checks took place or whether if these had happened the judgment would have been identified. Because of this and also noting Mr K's testimony about him explaining his income at the time, I think it reasonable that a thorough assessment of Mr K's financial circumstances is carried out to assess whether, had this happened, AESEL's lending decision would be considered fair.

Mr K has explained that he was working part time when he applied for the credit cards and that he was also taking on casual work within his community, including work with phones. He has said that he was living with family and they covered his basic costs. I have looked through the bank statements Mr K has provided. While Mr K had more than one current account, he was only using one account in the months leading up to his applications. I have

statements from this account covering July 2018, August 2018 and half of September 2018. Using the information from the full months, these show Mr K receiving an average of around £1,000 a month from his part time job and the work with phones. Additional to this he deposited an average of around £175 into his account which could be explained by his comment about the casual work and loans from friends and family. In this case, given the irregular nature of the deposits and that some of these may have been loans, I think it reasonable to say that further checks would have identified Mr K's income as being around £1,000 a month. This is substantially less than he declared.

While further checks would have shown Mr K had a low income, and that this varied, this doesn't necessarily mean that the credit shouldn't have been provided. However, I think it does mean that AESEL needed to understand his existing commitments and ensure that Mr K had a reasonable buffer after these to cover the costs of the new credit even in months when his income was lower. Mr K's statements show him making payments towards two credit cards totalling around £22 a month which is in line with the amount that would be calculated based on 5% repayments on the credit card balance of £462 identified through AESEL's checks. Additional to this he was making a regular payment to a bank of around £124 a month. It isn't clear what finance product this was repaying but I note that AESEL's checks identified unsecured debt of £108. The total of Mr K's credit payments based on his statements was around £146 a month. I do not think this should have raised concerns about Mr K's level of debt. Additional to this Mr K had other regular outgoings of around £50, bringing his regular committed expenditure to around £200. This is a low amount, but Mr K has explained that he was living with family and being financially supported by them at the time.

Based on the above, I think that had further checks been carried out by AESEL, that it would still have found the lending to be affordable. I accept that had the judgement been identified this should have raised concerns, but I also note the other credit information provided doesn't raise issues. Therefore, in this case I do not find I have enough to say that AESEL should have considered this lending to be irresponsible.

So, for the reasons set out above, I do not intend to uphold this complaint.

I've also considered whether AESEL acted unfairly or unreasonably in some other way given what Mr K has complained about, including whether its relationship with Mr K might have been viewed as unfair by a court under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think AESEL lent irresponsibly to Mr K 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.

Mr K didn't accept my provisional decision. He said he was in a much weaker financial position than was suggested by the provisional decision. He said that he, his wife and children were living with family in a shared space in their rented accommodation. He said his family had limited financial means and were not assisting him with his expenses. He explained that his immigration status was unresolved at the time, and he was limited in the work he could do. He said the deposits into his account were from family and friends and were informal loans that he struggled to repay causing him stress and issues with his personal relationships and mental health which resulted in him needing medication. Mr K said that he contributed to household costs and this along with the need to repay the loans meant his disposable income was less than that suggested by his bank statements.

Mr K commented that his financial situation was more fragile than AESEL originally assessed, and that AESEL not identifying the county court judgment showed a serious failure of the checks performed. He also said he was pressured into applying for multiple credit cards, including the AESEL credit cards, and coerced into taking out credit. He said he

wasn't in a position to independently assess the suitability of the credit products he was applying for.

Mr K believed that given his financial circumstances, immigration instability, and mental health vulnerability, AESEL should have carried out more detailed checks and had these happened he believes it would have realised that the credit shouldn't have been provided. He raised concerns that his relationship with AESEL was unfair under Section 140A of the Consumer Credit Act 1974 and requested that AESEL provide full details of the credit cards.

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.

When making a decision I take all relevant rules, regulations and guidance into account, but my decision is based on what I consider fair and reasonable given the unique circumstances of the complaint. Where there is evidence incomplete, inconclusive or contradictory, I make my decision based on the balance of probabilities, that is what I consider most likely to have happened given the evidence provided and wider circumstances of the complaint.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, and the total cost of the credit.

I have considered Mr K's response to my provisional decision and while I thank him for providing further details about his circumstances at the time, my conclusions haven't changed. I say this because I have to consider what I think would most likely have been identified had further checks taken place. While I note Mr K's comments about his financial circumstances, I explained that in my assessment I only included the income he received from his part time employment and the work he explained he did with phones. This was identifiable in his bank statements and Mr K explained this income when he raised his complaint so I think it likely that had further questions been asked at the time this would have been the amount identified. I didn't include in my assessment the deposits and noted these could be for informal loans which Mr K has confirmed.

I acknowledge Mr K's comments about his housing, but I have to consider what he would have explained were his expenses had he been asked about these. There were no clear housing costs or regular contributions to costs shown in his bank statements and as part of this investigation, Mr K has explained that he was living with family, and they helped him with his basic costs. Mr K's statements do show payments referred to as bills. These weren't regular amounts but even if these are included as his contributions, they still do not suggest the credit provided would be unaffordable. So, based on the evidence I have seen, I think further questions at the time would have shown Mr K to have limited outgoings.

I considered the issue of the county court judgment in my provisional decision and said I couldn't say why this hadn't been identified by AESEL. However, taking all the evidence into account, for the reasons I previously explained and those set out above, I do not find I can say that proportionate checks would have shown the lending to be unaffordable for Mr K.

I am sorry to hear that Mr K was struggling with his mental health at the time and I also note his comment that he was pressured into the borrowing. However, I have nothing to show that Mr K raised these issues with AESEL at the time and so I cannot say that it should have been reasonably aware of these issues.

Mr K also referred to Section 140A of the Consumer Credit Act, but as I noted in my provisional decision, I've considered whether AESEL acted unfairly or unreasonably in some other way given what Mr K has complained about, including whether its relationship with Mr K might have been viewed as unfair by a court under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think AESEL lent irresponsibly to Mr K 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, while I understand that my decision will be disappointing for Mr K, I do not find I can uphold this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 11 June 2025.

Jane Archer
Ombudsman