

## **The complaint**

Miss M complains American Express Services Europe Limited ('Amex') irresponsibly lent to her.

## **What happened**

The facts of this case are familiar to both sides, so I don't intend to repeat them in detail here. Instead, I'll provide a summary.

Miss M applied and was accepted for a credit card in August 2022 with a credit limit of £1,000. The limit was not increased. The account was cancelled in May 2023.

In March 2024 Miss M – via a professional representative (PR) - complained to Amex about its decision to lend to her. As PR didn't receive a response from Amex within the required timeframe, it referred Miss M's complaint to our service in July 2024.

In the months that followed there was dialogue between our service, PR and Amex which appeared to result in Amex issuing a final response to Miss M's complaint in October 2024. Amex did not uphold the complaint.

Unhappy with this response, PR on behalf of Miss M asked our service to proceed with its investigation.

One of our investigators reviewed Miss M's complaint and, in June 2025 they issued their findings. The investigator didn't think Amex needed to do anything further to resolve this complaint, and so they didn't recommend that the complaint be upheld.

PR on behalf of Miss M didn't agree with the investigator's findings and so the complaint has been passed to me to review afresh.

## **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.

However, before I do, I'm aware that I've summarised this complaint above in less detail than it may merit. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I will, however, refer to those crucial aspects which impact my decision.

Lastly, I would add that where the information I've got is incomplete, unclear or contradictory, I've based my decision on the balance of probabilities.

The Financial Ombudsman Service has set out its general approach to complaints about irresponsible and unaffordable lending on its website. And, having taken this into account along with everything else I need to consider, I don't think it would be fair or reasonable to uphold this complaint. I recognise this will be disappointing for Miss M. I hope my explanation helps her to understand why I've come to this conclusion.

In keeping with the information on the Financial Ombudsman Service's website, I think there are a number of overarching questions I need to consider when deciding a fair and reasonable outcome given the circumstances of this complaint:

1. Did Amex carry out reasonable and proportionate checks to satisfy itself that Miss M was likely to have been able to repay the borrowing in a sustainable way?

- i. If Amex carried out such checks, did it lend to Miss M responsibly using the information it had?

Or

- ii. If Amex didn't carry out such checks, would appropriate checks have demonstrated that Miss M was unlikely to have been able to repay the borrowing in a sustainable way?

2. If relevant, did Miss M lose out as a result of Amex's decision to lend to her?

3. Did Amex act unfairly or unreasonably in some other way?

#### Did Amex carry out reasonable and proportionate checks?

There are many factors that could be relevant when determining how detailed proportionate checks should have been. And while much will depend on the circumstances in question, the more obvious factors include – though aren't necessarily limited to:

- The amount of credit;
- The total sum repayable and the size of regular repayments;
- The duration of the agreement;
- The costs of the credit; and
- The consumer's individual circumstances.

As a result, the circumstances in which it would be reasonable to conclude that a less detailed affordability assessment was proportionate strike me as being more likely to be limited to applicants whose financial situation was stable and whose borrowing was relatively insignificant – especially in the early stages of a lending relationship.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Miss M's complaint.

Prior to agreeing to lend, Miss M was asked to provide her income – she declared her annual income was £28,500. Amex has explained it used a service provided by the credit reference agencies to verify Miss M's declared income (CATO). The CATO response confirmed Miss M's declared income was accurate, so I'm satisfied that was a reasonable figure for Amex to use as part of its lending decision.

I can also see that Amex applied estimates for Miss M's regular outgoings when considering her application. That's an approach Amex is allowed to take under the relevant lending rules.

Amex also carried out a credit check which showed, in terms of active credit accounts, that Miss M had two unsecured loans (both held with communication providers), one current account with an overdraft facility and one hire purchase/conditional sale agreement.

Looking at things in the round, I think Amex carried out reasonable and proportionate checks prior to agreeing to lend.

I say this noting the size of the credit limit relative to Miss M's declared (and verified) income.

What's more, this appears to have been Miss M's first lending with Amex. As such, I don't think there was any established pattern in her borrowing needs, at least from Amex, at that stage.

Whilst I think Amex proceeded with a proportionate amount of information, as I've said before, it then had to evaluate it because it still had to reasonably assess whether Miss M could afford to meet the repayments in a sustainable way.

#### Did Amex lend to Miss M responsibly using the information it had?

From Miss M's verified gross annual income (£28,500), Amex has said that it attributes 60% (based on data from the Office of National Statistics) to non-discretionary expenditure which includes housing costs, living costs and taxation. Of the remaining income, deductions were made based on what Amex understood – from the credit check it carried out - to be Miss M's external credit commitments. In my view, given the circumstances of this case, this is a reasonable way for Amex to calculate Miss M's income and expenditure.

Having done so, Amex was satisfied that Miss M would be able to reasonably service the lending in question – even if she utilised the entire credit limit – from her income.

In short, Amex was satisfied the lending should've been affordable for Miss M on a simple pounds and pence basis. This seems like a reasonable conclusion in the circumstances.

As I've said, Amex also carried out a credit check. Amex has provided a copy of the results of this search. It shows Miss M had a total indebtedness of £9,995 to unsecured creditors (spread across the four accounts referenced earlier). The combined monthly repayments for these debts were £132.

What's more, the search revealed that all of Miss M's accounts were up to date. And, as our investigator said, there was no evidence of *active or recent* financial problems – such as defaults, insolvencies or any other public records (such as County Court Judgments) – which ought to have given Amex cause for concern.

I've reviewed the information available to Amex and I'm satisfied it had an accurate picture of what Miss M owed at the time of her application and the payments she was making each month. I'm satisfied Amex accurately factored the cost of servicing Miss M's existing debts when considering her application.

The results from the credit check did show evidence of prior financial difficulties in the form of 13 defaulted accounts. The report showed these defaults were all applied in 2018 and 2019 - the most recent default was applied three years prior to the lending in question. So, I do not think this is enough to say the lending shouldn't have been provided.

The credit check revealed that, across these defaulted accounts, there was an outstanding balance of £2,525. But I don't think Amex had cause to think Miss M was not making (or able

to sustainably make) inroads into these defaulted debts bearing in mind what it had gathered and understood about Miss M's wider financial situation.

It strikes me that Amex had good reason to think Miss M's financial circumstances had improved following the events several years earlier which caused her to miss payments and incur defaults.

So, looking at things in the round, I don't think the results of the credit check Amex carried out should have prompted further checks or prevented it from lending to Miss M.

PR – on behalf of Miss M - says that her financial situation was worse than the information Amex gathered at the time suggested. Specifically, it has pointed to another default applied 11 months prior to the lending in question and a CCJ applied 14 months prior to the lending in question present on a copy of her credit report it has provided. I am unsure why this information was not present on the credit check Amex carried out at the time. However, in the absence of anything that ought reasonably to have alerted Amex to the possibility Miss M's financial situation may be worse than the information it gathered suggested, I think I'd be applying the benefit of hindsight unfairly if I were to now use Miss M's own copy of her credit file to argue that Amex's credit search was in some way inadequate or incomplete when that didn't appear to be the case at the relevant time.

Notwithstanding this, even if this information had been present on the credit search Amex carried out, I am not necessarily persuaded it would have been cause for Amex not to lend.

For the reasons I've explained, I think Amex carried out proportionate checks prior to agreeing to lend. I don't think there was sufficient cause for Amex to decline Miss M's application based on the output from those checks and I don't think there was sufficient evidence from the information Amex gathered to suggest Miss M would have difficulty repaying the lending in question in a sustainable way.

Therefore, I don't think it was unreasonable of Amex to grant the lending in question.

#### Did Amex act unfairly or unreasonably in some other way?

I understand Miss M made the first payment to the account in October 2022, after which no further payment was made.

Amex has said that Miss M has not told it she was experiencing financial difficulties. And I understand it has attempted to contact Miss M to discuss matters, but this has proved unsuccessful.

Therefore, as our investigator has noted, I think it was appropriate for Amex to default (and cancel) the account when it did so.

I've also considered whether Amex acted unfairly or unreasonably in some other way given what Miss M has complained about, including whether their relationship with her might have been viewed as unfair by a court under s.140A Consumer Credit Act 1974.

However, for the reasons I've already given, I don't think Amex lent irresponsibly to Miss M or otherwise treated her unfairly. I haven't seen anything to suggest that Section 140A or anything else would, given the facts of this complaint, lead to a different outcome here.

#### **My final decision**

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 8 August 2025.

Ross Phillips  
**Ombudsman**