

## **The complaint**

Mr S is unhappy that American Express Services Europe Limited (“AmEx”) defaulted his account and transferred the account debt to a third-party debt recovery agency (“DRA”).

## **What happened**

Mr S had an AmEx account that had fallen into arrears. Mr S successfully applied for a government mandated 60-day breathing space on his account, which ran from 2 April to 1 June 2025.

AmEx applied the breathing space to Mr S’s account, but because his account was in arrears when the breathing space started, those arrears continued to age while the breathing space was in place. This led AmEx to issue a notice of default to Mr S on 22 April, while the breathing space was in place, and which gave Mr S until 10 May to recover the position of his account. Mr S wasn’t happy at receiving this notice while his account was in breathing space, so he raised a complaint.

AmEx responded to Mr S on 27 May and explained that a breathing space doesn’t prevent arrears present on the account from aging or AmEx’s collections and recoveries process regarding those arrears. And AmEx also explained that they have a regulatory obligation to issue a notice of default when their arrears process progresses to that stage, even when an account is in a breathing space.

Following this, Mr S’s breathing space ended on 1 June, and because AmEx hadn’t received any payment of engagement from Mr S in response to the default notice that they issued, and because the deadline given in the default notice had expired, AmEx defaulted Mr S’s account the following day, on 2 June, and sent a letter to Mr S confirming as such. Then, a few days later, on 5 June, AmEx transferred Mr S’s defaulted account debt to a DRA and sent a further letter to Mr S notifying him of the transfer.

Mr S wasn’t happy that his account had been defaulted or transferred to the DRA, and on 12 June he contacted AmEx and raised a new complaint with them. At that time, Mr S explained to AmEx that he was struggling with his mental health. Mr S was also unhappy at receiving letters from AmEx which provided contradictory information and was concerned that AmEx had committed a breach of his personal data by transferring his account to the DRA without his consent.

AmEx responded to Mr S’s new complaint on 26 June but provided a copy of their response letter to his earlier complaint, which didn’t address the new points of complaint Mr S had raised. Mr S wasn’t satisfied with AmEx’s response, so he referred his complaint to this service that same day.

One of our investigators looked at this complaint and liaised with Mr S and AmEx about it. During their review, AmEx confirmed that they didn’t feel that they’d done anything wrong regarding Mr S’s further points of complaint. Upon review, our investigator didn’t feel that AmEx had acted unfairly towards Mr S as he felt was the case. Mr S disagreed, and so the matter was escalated to an ombudsman for a final decision.

## **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 Mr S applied for 60-day breathing space with AmEx, his account was already in a position of arrears. And while the breathing space meant that AmEx wouldn't try to contact Mr S about the arrears it didn't stop the arrears from aging. Similarly, the breathing space hold didn't stop AmEx from acting in accordance with their arrears recoveries processes, although it did delay certain actions, such as the defaulting of the account.

In this instance, because Mr S's account was already in arrears when the breathing space began, the arrears on Mr S's account passed AmEx's procedural threshold whereby a default notice would be issued while the breathing space hold was in place. It was for this reason that AmEx issued the default notice to Mr S on 22 April.

Mr S may point out that if the breathing space hold meant that he shouldn't have received any contact from AmEx about his account arrears then AmEx shouldn't have sent him the default notice. But as explained, I'm satisfied that it was fair for AmEx to consider the arrears that were in place before the hold to have continued to age during the hold. And once the arrears aged to the point where AmEx would issue a default notice, I feel that AmEx's obligation to inform Mr S that his account may be defaulted if he didn't take the required action by a certain date superseded their obligation not to contact Mr S.

Because the default notice is a system generated letter, the date given on that letter by which Mr S needed to act was 10 May. But Mr S was in the breathing space hold until 1 June, and so I would not have expected AmEx to have defaulted his account while that hold was in place.

However, the purpose of an account hold is to give the account holder the opportunity to assess their position and to contact the credit provider – in this case, AmEx – before the account hold ends. Mr S didn't do this or make a payment to clear the account arrears. And this meant that after the 10 May deadline passed, Mr S's account was scheduled to be defaulted by AmEx once the breathing space hold ended on 1 June. And this is why AmEx defaulted Mr S's account on 2 June, the day after the breathing space hold ended.

All of this feels fair to me. Ultimately, Mr S's account was in a position whereby Mr S needed to take action to avoid the defaulting of his account. This was communicated to Mr S via the default notice, as would be expected. But it would also be expected that AmEx wouldn't chase Mr S any further about the position of his account after issuing the default notice, because Mr S was in a breathing space hold. And because Mr S didn't make a payment to AmEx or engage with them about his account before the breathing space hold ended, this meant that the defaulting of Mr S's account, that was pending from 10 May onwards, took place soon after the breathing space hold ended.

Mr S is unhappy that AmEx didn't give him any further grace period after the breathing space hold ended. But given that the breathing space hold is a clearly defined period where account activity is paused, I feel that it stands to reason that account activity would resume when that hold ends. And I feel that the onus rested with Mr S to have contacted AmEx before the breathing space hold ended if he wanted to discuss the position of his account with them, especially in consideration of the default notice that Mr S had received and which had by that time expired.

Mr S is also unhappy that AmEx transferred his defaulted account debt to a DRA. But the transferral of defaulted account debt to a DRA is a common practice and is permitted by the

terms and conditions of the AmEx account, which Mr S consented to and accepted when opened the AmEx account. And AmEx didn't require any further consent from Mr S, beyond that he'd previously given in his acceptance of the account terms, to transfer his defaulted account debt to the DRA.

Mr S has also explained that when the breathing space hold ended, he received contradictory letters from AmEx, one being a notice that his account had been defaulted, and the other being a notice of variation. From what I've seen, these letters confirmed to Mr S that his account had been defaulted and then subsequently had been passed to the DRA. While I appreciate that these letters may have been confusing, it's clear that Mr S developed an accurate understanding of his account when he was contacted by the DRA, and I don't feel that AmEx need to do anything further in this regard.

Finally, Mr S feels that AmEx haven't acted in consideration of his mental health. Mr S doesn't appear to have made AmEx aware that he was struggling with his mental health until 12 June, and AmEx have no record of Mr S providing such information to them before that date. However, the events under consideration here all took place before 12 June, and so before Mr S told AmEx about his mental health. And if Mr S had told AmEx about his mental health before that time, I still would reasonably have expected him to have contacted AmEx before the breathing space hold ended on 1 June if he wanted to avoid the potential defaulting of his account.

For this reason, I don't feel that AmEx have acted unfairly towards Mr S in this regard. This is because when AmEx defaulted Mr S's account and transferred his account debt to the DRA, they hadn't been made aware that Mr S was struggling with his mental health. And having not been told as such by Mr S, there was no reason for AmEx to consider acting any differently to how they did.

In taking this position, I don't intend to downplay Mr S's mental health struggles in any way. Instead, my position is simply an acknowledgement that a business can't act on information it hadn't been given at that time of that action. If Mr S presently feels that his mental health is such that AmEx should recall his account from the DRA, then I can only refer Mr S to AmEx directly to make that request to them.

All of which means that I don't feel that AmEx have acted unfairly towards Mr S as he contends, and it follows from this that I won't be upholding this complaint or instructing AmEx to take any further action. I hope that Mr S will understand, given what I've explained, why I've made the final decision that I have.

### **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 S to accept or reject my decision before 17 March 2026.

Paul Cooper  
**Ombudsman**