

## The complaint

Mr M is unhappy with how American Express Services Europe Limited (AESEL) handled a dispute he raised with it following purchases made on his credit card.

## What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

*“In 2024, Mr M purchased around £8,000 worth of furniture (including a sofa) across five separate orders from a supplier I’ll call ‘W’. After encountering issues with multiple items across the orders, Mr M contacted W to express his dissatisfaction. Mr M explained he had debated returning every single piece of furniture given what he had experienced. In response W offered to refund Mr M £300 as a gesture of goodwill, Mr M accepted this.*

*Several months later Mr M faced issues with the sofa he had purchased. W agreed to collect the sofa and refund Mr M. However, the refund Mr M received was £300 less than the purchase price. Mr M therefore contacted W to ask why this was. W said it had issued a partial refund previously and provided a breakdown of what it had already returned to Mr M across the order in question. This equalled the full amount of the order (£4,005). Mr M said the £300 included in the breakdown was actually the gesture of goodwill payment he had received for the issues he had experienced across multiple orders. He said that by not refunding the sofa cost in full, W was effectively taking back the compensation it had paid.*

*W responded and said the compensation was on the basis the items would be kept and not returned. W added it was unable to refund anything further, as Mr M had already received the full amount taken from him. Mr M said there were no conditions on the gesture of goodwill, and it didn’t relate to the sofa, so it shouldn’t have been refunded towards that. Mr M said W still had thousands of pounds for items that he kept, so should apply the £300 gesture to one of those. W said it couldn’t do anything more than offer a 20% voucher as the full monetary value of the order had already been refunded. Mr M therefore contacted AESEL to raise his dispute.*

*AESEL raised a chargeback for £300 on the transaction that totalled £4,005, as this included the cost of the sofa. As part of this AESEL applied a temporary £300 credit to Mr M’s account. W defended the chargeback and showed it had already fully refunded Mr M £4,005. AESLE therefore removed the £300 it had applied. Unhappy with this Mr M raised a complaint. AESEL responded and said it can’t retrieve funds that are more than the actual value of the transaction. It added that any compensation post full refund should be dealt with W directly.*

*Unhappy with this Mr M referred his complaint to the Financial Ombudsman Service. He said the £300 gesture of goodwill related to the dreadful experience he had received and was a totally separate matter to the issues with the sofa that didn’t manifest until months after the £300 was offered and accepted. It was therefore unfair to not fully refund the cost of the defective sofa.*

*One of our investigators was passed the matter to consider. They said the £300 was a goodwill partial refund towards the total order. So, while the sofa didn’t develop any issues until later, a partial refund for that item had already been received. Given this AESEL weren’t in a position to take any further action once W provided evidence a full refund had been*

issued. The investigator added that under s.75 of the Consumer Credit Act 1974 (CCA), compensation doesn't fall within its remit.

Mr M responded and said the £300 didn't solely relate to the items within the £4,005 order. He had made a total of five orders and issues on items within those had led to W offering the £300 gesture of goodwill. Mr M said he had still retained £3,440 worth of furniture from W, so it should refund him the £300 from one of the other orders where a full refund hadn't been provided. Mr M added that under s.75 there had been a breach of contract as W had clawed back the gesture of goodwill by not fully refunding the cost of the sofa.

The investigator responded and said AESEL could only 'chargeback' the amount of the transaction, and as previously advised that had already been fully refunded here. For s.75 they explained the contract in question is the original transaction for the order. So AESEL aren't able to establish a breach of contract, because the agreed compensation is a separate matter to the original contract and so not covered by s.75.

Mr M said he didn't think his comments had been taken into account. He repeated the £300 was for issues spanning multiple orders and not just the order that contained the sofa. He said W hadn't said the £300 refund would be applied to the cost of the sofa, only that he would receive it. Which he hasn't as it's been clawed back when the defective sofa was returned months later. Mr M added he couldn't see why AESEL hadn't tried to support his claim by raising things on one of the four other orders he had made where he had retained around £3,500's worth of furniture.

The investigator responded once again and said as the transaction relating to the sofa has been fully refunded AESEL couldn't have done any more to support Mr M. The investigator added that for s.75 claims only a limitation is that for consequential losses, these need to be related to a further expense a consumer has in trying to resolve an issue related to the original purchase. Here Mr M's claim was for a payment relating to poor service and that isn't covered by s.75 or chargeback.

Mr M asked for an ombudsman to consider his complaint. In summary he didn't agree because he was promised a refund of £300 as an apology for a range of issues across five orders. But he doesn't have the £300, so it hasn't been applied. Mr M said W had defended the chargeback by showing the £300 had already been refunded. Lastly Mr M added that the investigator had said AESEL can't retrieve funds over the value of the transaction. But here it was still holding around £3,500 for furniture that hadn't been returned. So AESEL could've set the claim up against one of the other transactions where a full refund hadn't been provided.

As Mr M didn't agree, the complaint has been passed to me to decide.

### **What I've provisionally 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 would also like to point out I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point, it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

To reach a fair and reasonable decision I have taken into account any relevant law and regulations, regulator's rules, guidance and standards, codes of practice and (where appropriate) what is considered to have been good industry practice at the relevant time.

For the avoidance of doubt, my considerations are limited to AESEL's actions as the provider of financial services.

As the provider of financial services, AESEL have two different mechanisms available to them to attempt recovery of funds for customers in situations such as this. For Mr M's

dispute both chargeback and s.75 were available to AESEL. In this case AESEL says it assisted Mr M via the chargeback route only, as that's what Mr M asked for. Trying to assist via chargeback in the first instance wasn't unreasonable. But I do believe AESEL should've then considered its liability under s.75, as that was a mechanism available for it to try and assist its customer with the dispute that had been raised. Had AESEL done so, I'm satisfied it would've concluded a breach of contract had occurred here. Therefore, in this provisional decision I've solely focused on s.75.

### S.75

S.75 is part of the CCA. It allows, in limited circumstances, someone buying goods and/or services on credit to claim for a breach of contract or a misrepresentation against their credit provider when there is a like claim against the supplier.

To have a valid claim under section 75, there are certain conditions that need to be met—one of which is establishing a debtor-creditor-supplier relationship (DCS) between the parties. Having looked at the invoice here for the purchase of the sofa, I'm satisfied the necessary DCS arrangement is in place for Mr M to raise a s.75 claim. The sofa cost £2,129, so is also inside the required monetary limits.

It doesn't appear to be in dispute here that W accepted the sofa was defective. After commissioning a report, it advised Mr M it would collect the sofa and issue a full refund. There's no mention of this being a gesture of goodwill, and I see no reason why W would've offered this if it was satisfied the sofa was of satisfactory quality. So given this, I'm persuaded there's a breach of contract regarding the quality of the sofa Mr M received.

For this breach W offered a full refund in December 2024. However, Mr M only received £1,828.80 when the sofa was collected in early 2025. W says this was because it had already refunded £300 in June 2024.

Looking at the communication between Mr M and W from when the £300 was offered, there is nothing in that which persuades me it related to the sofa. At that time Mr M hadn't raised any concerns around the quality of the sofa. It was one of the items Mr M hadn't complained about having issues on in June 2024. So, I don't believe the £300 offered then has any relation to the sofa and shouldn't be included when looking at the refund for the breach of contract that happened months later. Regardless of how W accounted for the refund in applying it to the sofa order in the first place.

I appreciate W has said it made the offer in June 2024 on the basis Mr M retained the remaining items. But that doesn't seem to have been a condition of the offer when it was made to Mr M. At that time W said "I have reviewed your case and again apologies for all the issues that you have experienced and can assure you that we take all feedback seriously. These issues will be looked into with the aim to improve on our products and service going forward. Due to the issues I would like to offer you a £300 refund as a gesture of good will." Given what W said at the time of the offer, I don't think it reasonable that it now says it was conditional upon items being retained when it didn't mention that when making the offer and only said it was some nine months later.

Here I believe Mr M should've received the full refund for the faulty sofa he purchased from W, and in this case he didn't. So, it follows that I feel AESEL should refund this missing £300.20 as this is its liability under s.75. AESEL should also pay interest on this amount from two months after the chargeback was declined until date of settlement. Two month's is a reasonable amount of time for AESEL to have considered the s.75 claim after looking at the chargeback, given the work it had already carried out on that.

Lastly, I'm satisfied Mr M should receive compensation for the degree of frustration and inconvenience caused by AESEL not looking at a s.75 claim for him when it was clearly a mechanism available to it to assist Mr M. As I've said above AESEL are experts here and while Mr M appears to have raised a chargeback, given the nature of the dispute I do feel

*afterwards AESEL should've tried a s.75 claim. And for the reasons given above, I feel that would've ultimately resulted in him receiving the full refund he was entitled to for the sofa much sooner. For the distress and inconvenience caused here, AESEL should award Mr M £75."*

I invited both parties to respond with new information they wanted me to consider before I made my final decision.

Mr M responded and accepted the findings in my provisional decision. AESEL didn't. It said the £300 gesture of goodwill was offered by W to Mr M and is solely between those two parties. AESEL added the gesture of goodwill does not relate to the transaction amount in the s.75 claim or any other transaction made on Mr M's credit card and therefore it can't be held liable.

### **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 understand the points AESEL has raised. But ultimately the findings in my provisional decision hold it liable under s.75 for Mr M's loss in not being fully refunded for his defective sofa, which was purchased on his AESEL credit card. I'm not holding AESEL liable for the gesture of goodwill. I agree with AESEL that is separate amount and isn't connected to the sofa being of unsatisfactory quality.

I acknowledge it was refunded against the cost of the sofa. But I remain persuaded based on the evidence that wasn't done so due to any issues relating to the sofa. As I've said previously, the gesture of goodwill was awarded months before any issue with the sofa was raised by Mr M. It appears applying it to the sofa was purely done on an accounting basis only.

Given this, I see no reason to depart from the outcome I reached in my provisional decision.

### **Putting things right**

- Rework Mr M's credit card account as if the £300.20 refund had been credited two months after the chargeback was declined. If that puts the account into any periods of credit – pay interest at an annual rate of 8% simple on the credit balance between then and when AESEL settles this complaint.
- Pay Mr M £75 compensation.

### **My final decision**

I'm upholding Mr M's complaint. American Express Services Europe Limited should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 12 January 2026.

Paul Blower  
**Ombudsman**