

## **The complaint**

Miss C complains that American Express Services Europe Limited (Amex) irresponsibly lent to her.

## **What happened**

Miss C was approved for an Amex credit card in September 2021, with a £8,000 credit limit. Miss C says Amex irresponsibly lent to her. Miss C made a complaint to Amex, who did not uphold her complaint. Amex said that comprehensive checks were completed to ensure the credit limit was affordable for her. Miss C brought her complaint to our service.

Our investigator did not uphold Miss C's complaint. He said that Amex should have completed further checks, but after reviewing Miss C's bank statements, he concluded that Miss C would have enough disposable income to meet the repayments on the account. Miss C asked for an ombudsman to review her complaint. She told us the balance of her bank statement on 10 September 2021 (when she was asked to provide identification).

Miss C said that she was consistently overdrawn before her wages credited her account as she said her income was used to clear her overdraft, and to pay essential living costs. She said this pattern showed she was in financial difficulty, and she had no disposable income.

## **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.

Before agreeing to approve the credit available to Miss C, Amex needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks Amex have done and whether I'm persuaded these checks were proportionate.

Amex said they completed a credit check with a Credit Reference Agency (CRA) and they considered information that Miss C had provided them before approving her application. The information showed that Miss C declared a gross annual income of £26,000.

Amex also received information from a CRA about the level of unsecured debt Miss C had. The CRA informed Amex that Miss C had £98 of active unsecured debt. The CRA was not reporting any defaulted accounts or any active County Court Judgements on her credit file. Miss C had also not been in arrears on an external account within the 12 months prior of her applying for the account.

But as the £8,000 credit limit was almost a third of Miss C's declared gross annual income, then I'm persuaded that Amex should have completed further checks to ensure that the lending was affordable and sustainable for her.

There's no set way of how Amex should have made further proportionate checks. One of the things they could have done was to contact Miss C to find out what her actual outgoings were. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Miss C provided me with her bank statements leading up to this lending decision. As these showed transfers to other accounts, I asked Miss C for the additional statements so I could get a clearer position of her financial circumstances leading up to this lending decision.

I've considered what Miss C has said about her balance on 10 September 2021. But as the statement would not have been produced at this time, I've disregarded this bank statement, and I've looked at the three months prior to September 2021.

Miss C's income was showing as between around £1,749 a month and £2,300 a month. Miss C's main bank account shows she is often overdrawn. But using an overdraft, even if she is close to her overdraft limit at times does not automatically equate to her not being able to make sustainable repayments for a £8,000 credit limit.

I say this as Miss C may have the affordability to reduce her arranged overdraft, but she may wish to choose to pay for things other than reducing the overdraft. I did see a returned direct debit on her bank statement on 21 July 2021, but it appears to be an oversight. I say this as Miss C had sufficient funds in another account to pay the direct debit, and later on that day she transferred £30 into the account (before transferring it back out again – albeit she still had the funds in another account to pay the direct debit at the time).

Another of Miss C's accounts shows credits from a third party, which she says was from a family member to subsidise her expenditure. But Miss C's main bank statement (and her secondary bank statement where she doesn't receive the subsidy) shows a lot of non-priority spending. So if Amex would have viewed Miss C's bank statements, then they would have seen that Miss C, after her priority bills were paid, had enough disposable income from her salary (not including other income) to make sustainable and affordable repayments for a £8,000 credit limit.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I can't conclude that Amex lent irresponsibly to Miss C or otherwise treated her 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.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 24 February 2026.

Gregory Sloanes  
**Ombudsman**