

complaint

Mr M complains that American Express Services Europe Limited (American Express) treated him unfairly when it didn't approve his request to help him reduce his credit card balance and this has had a negative impact on his mental wellbeing.

background

Mr M explained that he contacted American Express for help sometime in 2016 or 2017 and again in April 2019. He asked for a temporary reduction in his interest rate or an interest-free period to help him repay his outstanding credit card balance.

Based on information provided by American Express, this showed Mr M contacted it in June 2018 and again in April 2019. American Express's customer notes show that in June 2018 Mr M asked for the previous month's interest of £482.06 to be waived and American Express refunded this to his account.

The notes show he contacted American Express again at the end of April 2019. According to the call notes provided by American Express, Mr M said he was struggling to chip away at paying off his credit card due to the interest rate being so high. American Express asked him for some information but based on the information he provided, it said he didn't fall into the category of financial difficulties so it wasn't able to help.

Mr M complained to American Express but it didn't uphold his complaint.

Mr M doesn't think his financial circumstances were properly investigated to see what help could be offered. He also thinks the phone call was frustrating and that at one point American Express incorrectly thought he was unemployed. Due to the large outstanding balance on his credit card he says this is affecting his mental well-being.

Unhappy with American Express's response, Mr M brought his complaint to our service.

Our investigator didn't recommend his complaint should be upheld. The investigator noted that when Mr M asked in June 2018 for interest of £482.06 to be refunded he noted that American Express did this. He thought there was limited information about what else was discussed at this time so he didn't think American Express should've done anything more than it did. And looking at Mr M's account statements our investigator didn't think there was anything which should have led it to conclude that Mr M was experiencing significant financial difficulties.

In terms of the April 2019 phone call, our investigator thought American Express had done enough to investigate Mr M's circumstances and had enough information to conclude that he wasn't experiencing financial difficulties.

Mr M disagrees with the investigator's view. He says his complaint isn't just that American Express didn't ask enough about his situation to understand what help was appropriate but that it didn't listen to him to understand the points he was making.

Mr M made detailed points to our service. I won't repeat them here but in summary he says he's only been able to make credit card payments because he's used his card to fund his day to day expenditure. He also told us that he's spending more on his card than he's able to repay. And he wouldn't use his credit card if he had cash available because of the high rate of interest.

In response our investigator acknowledged Mr M's credit card payments versus his spending on the card but he didn't think this on its own this was enough to demonstrate he was in financial difficulties.

Our investigator looked at the situations which would indicate to a lender that a customer is in financial difficulties – as referred to in the Financial Conduct Authority's (FCA) Consumer Credit Sourcebook (CONC), 1.3. If the information available to American Express in April 2019 showed Mr M was in financial difficulties then he would have expected it to take positive steps to help him but the information available didn't show this was the case.

Mr M disagrees. He says he's using his disposable income to pay off his credit card debt and then using his card for day to day living expenses. So he thinks this shows his "inability to meet repayments out of disposable income or at all, for example, where there is evidence of non payment of essential bills (such as, utility bills), the customer having to borrow further to repay existing debts, or the customer only being able to meet repayments of debts by the disposal of assets or security".

Our investigator didn't agree. He explained that looking at the activity on Mr M's credit card and the information he'd given to American Express, there was no suggestion that he wasn't in a position to pay his essential bills. And Mr M's credit card statements weren't consistent with what he'd expect to see of someone experiencing financial difficulties. He also noted that Mr M had told American Express that he'd recently been promoted and this would indicate an improvement in his financial circumstances.

He appreciated the points Mr M made but it wouldn't be possible to make a further conclusion about whether Mr M was struggling financially without visibility of his wider financial situation and he didn't think it was necessary for American Express to have this to reach the conclusion it did.

Mr M remains unhappy with the investigator's opinion. He maintains that he's not been treated well by American Express so he's asked for an ombudsman's decision. He explained that he's been doing research on persistent debt and the repayment options offered by banks and other people he knows have been offered repayment plans on smaller debts than his.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so I agree with the conclusion reached by the investigator and for broadly the same reasons. I realise this will come as a disappointment for Mr M so I'll explain why I've reached this decision.

When a customer is in financial difficulty we'd expect a financial business to gain an understanding of their customer's financial position, to offer appropriate support and to treat their customer positively and sympathetically.

In the circumstances of Mr M's complaint, American Express came to the conclusion that Mr M wasn't in financial difficulties so it declined his request for assistance. I need to consider whether American Express acted fairly in coming to the decision it did or whether, as Mr M thinks, it should have done more to help him and asked further questions to understand his financial circumstances.

American Express provided its customer notes to our service and these show that Mr M contacted it in June 2018 and again in April 2019 to ask for help.

June 2018 telephone call

American Express's contact notes show that Mr M asked for the previous month's interest of £482.06 to be waived. I can see that American Express refunded this amount by two separate credits to his credit card account.

I agree with the investigator that there's limited information about what else was discussed at this time. The notes don't suggest that Mr M asked for any further help or that he made American Express he was experiencing financial difficulties so I think American Express treated him fairly because it refunded the interest as he'd asked. And the activity on Mr M's credit card statements at this time doesn't appear to show anything that should have put American Express on notice that he was struggling financially.

April 2019 telephone call

The notes from this call show that Mr M told American Express he was struggling to chip away at his credit card balance due to the interest rate each month being high. I think American Express listened to his concerns because the call notes show the call handler went on to ask Mr M if he had problems with his finances. Mr M provided further detail and explained that he'd recently bought a flat and was spending money on renovations. He also said he'd been promoted and he was looking for a new job. He was asked how long he'd like support and he replied 4-6 months.

The call notes suggest to me that it attempted to understand his difficulties. It appears there was initially some confusion about whether or not Mr M was currently in employment but this was resolved during the call. Once Mr M provided the information the call notes suggest to me that it listened to the information he'd provided because he was put on hold whilst the call handler spoke to its financial difficulties team. Mr M was then asked how much he could afford to repay and he replied £1,500 per month.

Although Mr M believed himself to be in financial difficulty, it's not necessarily the case that American Express was obliged to treat him as being in financial difficulty provided it treated him fairly in coming to the conclusion that he wasn't in financial difficulty.

Based on the information he provided to American Express at the time together with the information it had about the way he managed his account I don't think American Express treated him unfairly in coming to the conclusion that he wasn't in financial difficulty. I'll explain why I've reached this conclusion.

I realise that buying a flat may have put a strain on Mr M's personal finances but he also told American Express that he'd been promoted, that he was looking for a better job and that he could afford to pay £1,500 per month. As the amount he said he could afford to pay was significantly greater than his average required minimum repayments in the preceding six months, taken as a whole I don't think the information he provided to American Express suggested he was in financial difficulties or would soon become so.

The FCA's Consumer Credit Sourcebook (CONC) 1.3 gives examples of the circumstances that would indicate to a financial business that a customer is in financial difficulties. *CONC 1.3 provides that "the following matters, among others, of which a firm is aware or ought reasonably to be aware, may indicate that a customer is in financial difficulties:*

- (1) consecutively failing to meet minimum repayments;
- (2) adverse accurate entries on a credit file, which are not in dispute;
- (3) outstanding county court judgments for non-payment of debt;
- (4) inability to meet repayments out of disposable income or at all, for example, where there is evidence of non-payment of essential bills (such as, utility bills), the customer having to borrow further to repay existing debts, or the customer only being able to meet repayments of debts by the disposal of assets or security;
- (5) consecutively failing to meet repayments when due;
- (6) agreement to a debt management plan or other debt solution;
- (7) evidence of discussions with a firm (including a not-for-profit debt advice body) with a view to entering into a debt management plan or other debt solution or to seeking debt counselling”.

I've therefore looked at the information that would have been available to American Express when Mr M contacted it in April 2019 to see if there were any signs that the circumstances detailed in CONC 1.3 applied to him – and I've looked at his credit card statements for the period June 2018 until April 2019.

I haven't focused on CONC 1.3 (2), (3) (6) or (7) as I'm not aware Mr M has provided any information to suggest these circumstances applied to him.

The notes suggest there was some discussion about whether or not the repayments which Mr M thought he was making in advance were treated by American Express as being made in arrears but it doesn't appear that American Express treated the payments made by Mr M as being late as I can't see that any late payment fees were applied. That being the case, I don't think it can be said that Mr M consecutively failed to meet his minimum repayments. His statements show he generally paid more than the required minimum repayment each month. And there were also some months when he was able to repay significant amounts in excess of the purchases he'd made.

Mr M told American Express that he could afford to pay £1,500 per month. I've already explained above that this amount is almost double the amount of his average minimum repayments in the preceding six month period. This means that after allowing for interest applied to his account he was still in a position to be able to repay some of the outstanding balance.

Mr M told us that he's not able to meet his repayments out of his disposable income within CONC 1.3(4) because he's using his disposable income to pay off his debt and using his card for his day to day living expenses. I appreciate the points he's made and it wouldn't be possible to reach a conclusion about this without a wider look at Mr M's financial circumstances but I don't think it was necessary for American Express to have this to reach the conclusion it did and I wouldn't expect a financial business to ask for more information than it needs where there was nothing to suggest Mr M was in financial difficulties.

Taken with the other information available to American Express at the time I don't think the spending on Mr M's card was enough, on its own, to show he was in financial difficulties. He was within his credit limit and the pattern of spending on his card doesn't appear to show he was using his card to fund essential spending.

For the reasons I've explained above I don't think there was anything about the way Mr M managed his account that should have alerted American Express to him being in financial difficulty in light of the circumstances set out at CONC 1.3 and the information he provided. It follows that I don't think American Express acted unfairly in forming the opinion that he wasn't in financial difficulty and declining his request for help. And I don't think it treated him unfairly when it didn't ask for more detailed information about his financial circumstances at the time.

I'm sorry to hear the impact this issue is having on Mr M's mental wellbeing but I think the way American Express handled his request for assistance was fair and reasonable in the circumstances, so it follows that I do not uphold this complaint.

In terms of Mr M's points about persistent debt, this doesn't appear to be something that he raised as part of his original complaint to American Express so if he remains concerned about this he should raise this first with American Express and give it the chance to respond before we can look into this part of his complaint.

I can see that Mr M feels strongly that American Express should have done more to help him. I can see that the investigator has already recommended that he should contact American Express and ask it to undertake a more thorough review of his financial situation. If this shows that his income is insufficient to cover reasonable living expenses and to meet his financial commitments when they become due, I would expect American Express to take a sympathetic and positive approach in trying to help him.

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 M to accept or reject my decision before 30 May 2020.

Michelle Hayward
ombudsman