

## The complaint

Mr K is unhappy that he didn't receive the benefit of a promotion when using his American Express Services Europe Limited card. Mr K was also unhappy with the service provided by American Express.

## What happened

Mr K says he wasn't able to take advantage of a promotion run by American Express when using his card at a retailer that was listed as a participant in the promotion. Mr K was enrolled on a promotion which was for a Dining Benefit offer being run by American Express. As part of the promotion eligible customers were entitled to £150 statement credit for any spend under the promotion for a set period.

Mr K made a reservation on 31 August 2023 for a booking on 16 September 2023, as part of the reservation Mr K made an online payment of £200. Mr K was expecting a statement credit of £150 in line with the promotion offer, but Mr K only received £1.10 for a payment made at the restaurant on 16 September 2023.

Mr K complained to American Express, but American Express didn't think it acted unfairly in not adding the statement credit. It said that the payment made online was through a *payment facilitator* and this meant the transaction wasn't eligible for the statement credit. American Express did accept it provided Mr K with poor service and paid him compensation of £150.

Mr K remained unhappy so referred his complaint to our service. He said he wasn't aware a payment facilitator had been used in the transaction and felt it was unfair to penalise him. He also said that he'd used a similar offer previously in a similar way and he was provided the statement credit in December 2021.

Our investigator considered what Mr K had said. But he didn't think American Express had done anything wrong. He said the terms and conditions set out the eligibility criteria for the promotion and payments made through a payment facilitator weren't eligible for the purposes of the promotion.

He further said the terms and conditions set out that payments made for reservations and deposits were not eligible and as Mr K's payment of £200 was a reservation this was a further reason why American Express hadn't been unreasonable in refusing the statement credit. He also felt the £150 payment for the poor service was fair.

Mr K still disagreed. In summary he said he made the payment directly to the retailer and there was no mention of a payment facilitator so the onus shouldn't be on him, and he feels American Express should honour the promotion. He also felt that American Express were applying the terms inconsistently and on previous occasions when credits were missed it always applied the statement credit without contesting it.

Because Mr K didn't agree the complaint has been passed to me to make 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.

Having done so, I've come to the same overall conclusions as our investigator. In order to uphold this complaint, I would have to find that American Express has done something wrong or treated Mr K unfairly - and I don't think it did. I know Mr K will be disappointed with my decision because I can see how strongly he feels about the matter, so I'll explain why.

American Express' Dining Benefit promotion paid out a total £150 of statement credit in any qualifying period for qualifying transactions. But the eligibility criteria needed to be met. The eligibility criteria was set out in the terms and conditions and included the following:

- *Meals paid for through "payment facilitators" are not eligible and will not count towards your benefit spend. A payment facilitator is an intermediary that accepts payments on behalf of the restaurant. Payment facilitators can include some online payment platforms....*
- *You will not receive a statement credit for the following charges or transactions: booking fees, deposits paid towards your meal, any upfront charges made by the restaurant ....*

It was the retailer's choice to decide how it received any payments and if it wanted to use a payment facilitator, American Express would not have had any control over what a retailer decides to do. So whilst I note that this would be frustrating and disappointing for Mr K, it wasn't American Express' fault.

As the transaction was completed through a payment facilitator it wasn't a qualifying transaction under the Dining Benefit promotion. And as a result, I don't think I can fairly or reasonably require American Express to pay him the promotional statement credits, as he'd like.

I also note Mr K feels American Express have been inconsistent in applying the statement credits. But those were different transactions and different retailers and what I'm looking at here is this specific transaction on which I have been provided information and evidence by both parties, so I don't think it would be appropriate for me to comment on what American Express may have decided in different circumstances.

I also think the £150 American Express have paid for the poor service is fair for the distress and inconvenience caused to Mr K when he was trying to resolve the issues for the poor handling of the call and the missed call back that had been promised to him.

Overall, I don't think I can fairly or reasonably ask American Express to do, credit or pay any more to Mr K than it's already done.

## **My final decision**

For the reasons mentioned above, I don't uphold Mr K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 15 December 2023.

Jag Dhuphar

**Ombudsman**