

The complaint

Mr C says American Express Services Europe Limited, has treated him unfairly in relation to a transaction on his credit card for a cruise.

What happened

During 2022 Mr C used his American Express Services Europe Limited (Amex for short) credit card to purchase a cruise. He made an initial booking and then two further amendments to the booking each being paid for on his Amex card, coming to a total of nearly £10,000. Shortly before going on the cruise Mr C's wife was diagnosed as having serious medical conditions. So Mr C cancelled the cruise shortly before departure. In the end the cruise supplier said there would be no refund due to Mr C cancelling shortly before departure and the relevant terms and conditions that had been agreed said in such a situation there was no refund payable. So Mr C raised a dispute with Amex.

Amex spoke to Mr C repeatedly over a period of time. It raised a chargeback which the Supplier defended. After some back and forth and some conflicting information being provided, Amex said Mr C had to repay Amex the cost of the holiday having told him the money was his. Amex accepted it had made mistakes and offered him £125 as a gesture of goodwill.

Mr C wasn't happy with Amex's position, so he brought his complaint to this service. Our investigator looked into the matter and pointed to the call recordings of conversations between Amex and Mr C and said the following:

During the first call between Mr C and Amex, its clear Mr C believed the dispute was successful and there was no further investigation. There is an argument to say he was right to think this, but I do note he wasn't explicitly told the dispute had concluded during this call. The second call is rather different. Amex told Mr C the dispute had been found in his favour and there was no need for any further action from him. Amex specifically said "It's just been a write off, so what we're going (to) do is we've immediately found the merchant liable. So no need to actually upload any documents". Amex then said he'd just get the money back. Amex did explicitly tell Mr C the dispute was done, and the money was his."

Our Investigator felt Amex should pay Mr C a further £525 for the distress and inconvenience caused and to arrange a new repayment plan, allowing Mr C to repay any outstanding balance on the account in a flexible way that took into account his financial circumstances, and without recording of arrears or default on his credit file.

Amex accepted this proposed resolution. Mr C feels he should be paid more so this complaint comes to me for a 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.

This dispute reaches me with the facts of the matter broadly accepted by the parties. In short these were that some of the communications between Mr C and the supplier about refund amounts payable/applicable weren't wholly clear. Mr C wasn't entitled to any refund for the cruise under the supplier's terms. Amex did tell him it had got him a full refund, but this wasn't true. And Mrs C was suffering from very serious medical condition and Mr C had other unrelated but very serious matters to deal with at that time also. So Mr C was under a significant amount of stress at the time. And both parties appreciate that Amex added to Mr C's distress by the mistakes it made here.

Mr C feels that Amex shouldn't make him repay the whole cost of the cruise and rather it should write off half the amount, so he pays half the cruise cost. He says making the repayments agreed has been at great personal difficulty. However had Mr C and Mrs C not had the personal issues they did have, they'd have gone on the cruise and the full amount would have been payable. So the personal difficulty Mr C says he's faced in making the repayments would have happened anyway. The terms of the supplier are clear, and I see no persuasive reason for Amex to bear any of the cost of the cruise.

However it is clear Amex were far from faultless in this matter and clearly a significant award is due here. I concur with the rationale set out by the investigator and I consider the total award of £650 (£125 already paid) is a fair reflection of the failings of Amex here.

I appreciate these were very stressful times for Mr C. However I can only apportion the distress that Amex caused by what it did in an award here. Mr C had substantial matters to deal with including appreciating he was cancelling a holiday which he'd have to pay for and not go on. This wasn't Amex's fault nor was it his fault that Mr C had the very serious matter of his wife's health to deal with and other serious unrelated matters. And although clearly Amex told him things that weren't true he did know that the supplier was saying no refund was due.

I understand Mr C faces a significant amount to pay, and I also fully appreciate he feels Amex has failed miserably in its customer service. But I cannot make punitive awards. And I must only make awards based on Amex's failings and the impact of those and disassociate that award from that the very stressful matters that Mr C faced that weren't Amex's fault or responsibility.

I appreciate that this isn't the decision which Mr C was hoping for. And I appreciate that this decision will mean Mr C will continue to make payments to Amex which will doubtlessly, to use a colloquialism, leave 'a sour taste in the mouth'. Nevertheless the remedy that Amex has latterly agreed to is fair.

Putting things right

So Amex must pay a total of £650 (including that already paid) and put in place a new, more flexible repayment plan with Mr C. The repayment plan must be flexible taking into account his financial circumstances, and without the recording of arrears or defaults on his credit file.

So all in all having considered the matter and everything Mr C has said I uphold Mr C's complaint and direct Amex to resolve this dispute as I've explained above.

My final decision

For the reasons set out above, I uphold the complaint against American Express Services Europe Limited and direct it to resolve the matter as I've described.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 10 January 2024.

Rod Glyn-Thomas
Ombudsman