

The complaint

Mr W complains that American Express Services Europe Limited (AESEL) passed his account to a collections agency and registered a default on his credit file.

What happened

Mr W opened an account with AESEL in May 2021. The account he opened was a charge card which meant that the full statement balance was payable each month.

Mr W experienced a period of ill health which led to excessive spending on the account. The account fell into arrears in August 2021 when Mr W's direct debit was returned unpaid.

AESEL tried to contact Mr W in August and September but didn't receive a response. In November 2021 the account was defaulted and passed to a collection agency. AESEL wrote to Mr W advising him of this.

The collection agency set up a repayment plan with Mr W for £206 per month. Mr W made payments from December 2021 until April 2022, but no payments were received after this.

AESEL wrote to Mr W in July 2022 advising him that the account was going to be passed to another collection agency.

Mr W complained to AESEL. He was unhappy that his account had been transferred to a second collection agency and felt that AESEL hadn't followed Financial Conduct Authority guidelines on dealing with vulnerable customers.

AESEL didn't uphold the complaint. It said it had reassigned the account to the second collection agency because no payment had been received from Mr W for the previous 81 days.

Mr W was unhappy with the response and brought his complaint to this service.

Our investigator didn't uphold the complaint. They said they hadn't seen any evidence to suggest that AESEL was aware of Mr W's vulnerabilities until September 2022, and the events which Mr W had complained about happened prior to this. The investigator also said he didn't think AESEL had acted unfairly by transferring the account to a collections agency.

Mr W didn't agree. He said he'd set up a debt management plan and that despite breathing space having been put in place, AESEL had instructed another collection agency in addition to the two existing ones. Mr W said that AESEL had accepted the offer of payment under the debt management plan and had no need to instruct a third collection agency. He felt that AESEL's actions weren't in accordance with the FCA guidance on dealing with vulnerable customers.

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.

Mr W's complaint to AESEL was about the transfer of his account to two collections agencies and his concerns that AESEL had failed to follow FCA guidance when dealing with a vulnerable customer.

I think it's important to say what Mr W's original complaint was about, because this was the complaint which AESEL investigated and in relation to which AESEL's final response was issued.

Mr W has since raised some further complaint points in correspondence with this service in relation to the action taken by AESEL during breathing space. I understand that Mr W feels strongly about this. However, these complaint points didn't form part of Mr W's original complaint and AESEL hasn't yet had the opportunity to investigate these. So, I'll only be addressing the points raised in Mr W's original complaint in this decision. If Mr W wants to pursue a complaint about something that AESEL did or didn't do during breathing space, he will need to raise this as a new complaint with AESEL first.

I've reviewed the available information about Mr W's account. The account fell into arrears in August 2021. I can see from the system notes that AESEL tried to contact Mr W multiple times by telephone in August and September 2021 but didn't receive a response. I can also see that AESEL sent notices to Mr W at this time, advising him that the account was overdue and that charges were incurred.

AESEL has said that if Mr W had responded to its attempts to contact him, it might've been able to set up a payment plan much sooner. However, because of the lack of response from Mr W, the account was defaulted and passed to a collection agency.

I understand that Mr W doesn't think that the account should've been passed to a collection agency. However, because the account was more than three months overdue, I don't think it was unreasonable for AESEL to pass the account to a collections agency. I'm satisfied that AESEL had made reasonable attempts to contact Mr W before it defaulted the account and passed it to collections.

Mr W has said that AESEL was aware that he was a vulnerable customer and that it failed to follow relevant FCA guidance in this respect. However, I'm not persuaded that AESEL was aware of Mr W's circumstances in 2021. Based on what I've seen, AESEL wasn't made aware of Mr W's vulnerabilities until September 2022.

Even if AESEL had been aware of Mr W's vulnerabilities in 2021, I don't think AESEL acted unreasonably by transferring the account to a collections agency. I say this because the collections agency to which the account was transferred in November 2021, and with whom Mr W set up the repayment plan at £206 per month, was a collections agency who AESEL use for accounts which are part of a financial hardship programme and who are trained to assist vulnerable customers.

I appreciate that Mr W wasn't happy when his account was transferred to a second collections agency. I can see that this happened when Mr W stopped making payments of £206 under the repayment plan he'd agreed with the first collections agency. Given that Mr W's payments had stopped, I don't think it was unreasonable for AESEL to pass the account to a different collections agency. Further, and as the investigator explained, this service can't tell a business to change its collections process. So, I'm unable to say that AESEL was wrong to use more than one collections agency.

I appreciate that the transfer of the account to a collections agency has caused Mr W

distress. However, having looked at the history of the account and taking into consideration AESEL's attempts to contact Mr W, I'm unable to say that AESEL acted unfairly or unreasonably when it defaulted the account and transferred the account to a collections agency.

For the reasons I've given, I'm unable to uphold the complaint.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 January 2024.

Emma Davy
Ombudsman