

The complaint

Mr H complains that American Express Services Europe Limited (AESEL) hasn't provided the service it should have in response to his data requests.

What happened

Mr H referred a complaint to this service in October 2020 about his account being switched to paperless statements. A final decision was issued dated 6 January 2022 not upholding this complaint. Since then, Mr H has raised several further complaints about not being provided with the information he has requested, specifically the call that he believes took place around July 2020 and the information sent by AESEL to this service in response to his initial complaint. He has also raised complaints about the service AESEL has provided while he was trying to get access to his data.

AESEL issued a final response letter to Mr H in November 2022. It accepted that it hadn't always provided the service it should have and apologised for some technical issues with the calls and that call backs weren't made. AESEL awarded Mr H £50 compensation for its poor service. It said that in response to Mr H's Subject Access Request made on 6 September 2022 two emails were sent which contained links and that a separate email containing instructions should have also been sent but there wasn't evidence this had been provided. This was followed up on 20 September when the instructions were provided by email and letter. It said that Mr H's complaint was logged on 6 September and following that Mr H had raised further issues which had been added to the complaint and addressed in its final response. In regard to Mr H's comment that he had already provided copies of his ID, AESEL said that it hadn't located the documents Mr H provided but having reviewed his request, AESEL felt that it had carried out sufficient checks to enable the data to be provided.

Mr H wasn't satisfied with AESEL's response. He said he was missing information he had requested on multiple occasions.

Our investigator didn't uphold this complaint. He said that Mr H wanted a copy of a call from July 2020 because he thought it could change the outcome of the final decision issued in January 2022. But he said this call had been noted as part of the previous case investigation and as a final decision had been issued, he couldn't consider issues covered by that decision. He noted the other issues Mr H raised that were addressed in AESEL's final response letter dated 17 November 2022 (and within our jurisdiction) and thought the £50 compensation offered was reasonable. Therefore, he didn't think AESEL was required to do anything further in resolution of this complaint.

Mr H didn't accept our investigator's view. He said he requested metadata on phone calls as AESEL had said it no longer had the calls. He said he had provided evidence that AESEL have this data and he thought our service was ignoring the fact that AESEL was refusing to provide evidence.

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.

I can see that Mr H is very frustrated by the process and service he has experienced while trying to get copies of certain data from AESEL, specifically a call that took place around July 2020. I understand that Mr H feels that had the July 2020 call been provided to our service as part of his initial complaint then the outcome would have been different. While I note Mr H's comments and appreciate why he is frustrated, as a final decision has been issued on his previous complaint (in January 2022) I am not able to consider the issues covered by that decision.

This decision relates to the issues that were addressed in AESEL's final response letter dated 17 November 2022. Mr H has subsequently raised a new complaint which, if he is unhappy with AESEL's response, he could refer to this service for investigation. However, I want to be clear that the new complaint points aren't covered in this decision.

I have considered Mr H's complaint about how his requests for his data have been handled, and I agree that AESEL could have provided a better service. This issue has been ongoing for an extended period and final responses have been issued and compensation paid. As noted above, this decision relates to the issues addressed in AESEL's final response letter dated 17 November 2022. In this letter AESEL acknowledged that there were technical issues with Mr H's calls on one day and that he hadn't received call backs when expected. It also noted that Mr H wasn't provided with the instructions he needed alongside the response to his Subject Access Request in early September but that these were provided on 20 September. Given these issues, I think that it was right that AESEL apologised and said feedback would be provided. AESEL also awarded Mr H with £50 compensation. In this case, while I do not underestimate the frustration caused by the issues noted above, I find this to be a fair and reasonable response to the issues raised by Mr H.

The outstanding issue relates to Mr H not receiving the data to evidence the call of July 2020. AESEL provided Mr H with calls from September 2020 but has said it doesn't retain calls indefinitely and no longer has the call Mr H is referring to. It isn't unreasonable that calls aren't held indefinitely, and businesses are not required to do so. And so, I cannot say that AESEL is wrong to delete calls after a certain period of time. As the call is no longer available, Mr H has said he has requested the meta data to evidence the call. While requests for further evidence have been made evidence of this call hasn't been provided. I understand that this is and has been very frustrating for Mr H and I note his comments that he feels AESEL is withholding information. But we are an informal dispute resolution service and I make my decision based on the evidence provided and what I consider is a fair and reasonable outcome. In this case as evidence of the call hasn't been located, I cannot say that AESEL is withholding this call, nor can I say it has treated Mr H unfairly by not being able to provide this to him. Therefore, I am unable to uphold this part of his complaint. I note that Mr H has also referred his complaint to the Information Commissioner's Office.

In summary, it has already been explained that as a final decision was issued on Mr H's initial complaint the merits of the issues covered in that decision cannot now be reconsidered. However, I have considered Mr H's complaint in regard to the service he has received in response to his data requests. As noted above this hasn't always been as it should have been, but I think that the resolution provided in the final response letter dated 17 November 2022 was a reasonable response to the issues raised at that time.

Based on the above, I do not uphold this complaint.

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 H to accept or reject my decision before 28 December 2023.

Jane Archer
Ombudsman