

## **The complaint**

Mr R complains about a credit card account he held with Vanquis Bank Limited.

## **What happened**

In 2011, Mr R took out an account with Vanquis and was given a credit limit of £150. He tells us that he struggled to manage the account quite soon after this. He says he often missed payments – sometimes he was between three to four months behind.

In 2014, Mr R came into difficulties making the monthly minimum payment again. Mr R didn't make a payment from October 2014 and Vanquis started to contact him regarding the missed payments. In January 2015, Vanquis sent Mr R a notice of default. This stated that if Mr R didn't bring his account up to date by 4 February 2015, then it would apply a default to his account. Because Mr R didn't bring the account back up to date, the account defaulted in April 2015, and Vanquis registered this with the credit reference agencies.

Mr R complains that Vanquis should have registered the default against him sooner. Our investigator looked into things. He agreed that the default should have been applied sooner and should have been registered in February 2015.

Mr R responded to our investigator to say that there were other times when he missed a number of payments, and so the default ought to have been applied much sooner – he thinks around 2011.

Vanquis also responded to say that it didn't agree. It said that it had followed its normal process, and because it only reports to the credit reference agency once a month, the default was registered in April 2015 – which was when Mr R had missed seven payments to the account. Which it doesn't feel is a significant deviation from the ICO's guidelines.

Because neither party has agreed with our investigator, the complaint has been passed to me to make a final decision on the matter.

## **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 looked at everything, I've decided to uphold Mr R's complaint. And I'll explain my reason for doing so in more detail below.

Firstly, it's worth noting what the ICO (Information Commissioner's Office) says about when a default should generally be registered. It says that a default shouldn't be registered unless a consumer is at least three months behind with their payments. And it would usually expect a default to be registered by the time the consumer is six months behind with their payments.

Looking at what has happened in this case, I can see that the last payment Mr R made to the account was in September 2014. After this, he didn't make a payment. Vanquis says it sent Mr R a 'Notice of Arrears' letter in November 2014 to ask that Mr R brings the account up to date. Mr R didn't bring the account up to date, and so Vanquis sent him a 'Notice of Default'. This letter asked Mr R to bring the account up to date by 4 February 2015, and if he didn't do this it may apply a default to his account.

Looking at the statements that have been sent to me. I can see that Mr R didn't make a payment by 4 February 2015, and so I agree with Vanquis's decision to apply a default.

However, Vanquis didn't register the default with the credit reference agencies until April 2015 – this is after Mr R would have missed seven payments. The ICO says that a default should normally be registered by the time a consumer has missed six payments, so I agree that I think the default was registered later than it should have been here.

Mr R believes that the default should have been registered even sooner than this. He says that he missed payments from between October 2011 and February 2012, and so it should have been clear at this stage that he was struggling financially, and the default should have been applied then. I've looked through the statements. And while I agree that Mr R has clearly missed several payments, I can't agree that a default should have been applied sooner.

I've looked at the statements provided by Vanquis, I can see that Mr R did make some manual debit card payments during these dates and so he doesn't appear to be so far behind on his payments where Vanquis ought to have defaulted the account, particularly considering the ICO's guidance in relation to this.

While Mr R did go on to miss more payments while he had this credit card account, I can't agree he missed enough for a default to be registered. The marking of a default on a consumer's credit file is likely to impact on their ability to obtain credit, or the terms or cost of their borrowing – so it could have serious consequences for Mr R. Because of this Vanquis would need to be sure that Mr R wouldn't be able to repay the account under the current terms. And because he did, on each occasion, bring the account back up to date, I don't think it did anything wrong by not applying a default prior to 2015.

So, given what I've said, I do think Vanquis needs to do something to put things right for Mr R. Based on the ICO's guidelines, I think Vanquis should have registered the default against Mr R by March 2015 at the latest – as this would have been when he was six months behind on his repayments.

However, I think the default ought to be registered in February 2015. I say this because, when Mr R didn't make a payment by the date specified in the default notice, I think it should have been clear to Vanquis at this point that Mr R wasn't going to bring the account back up to date. And so, I think February 2015 would be a fair date for the default to be registered.

I've taken on board Vanquis' comments in relation to what they've said about only reporting to the credit reference agencies on a monthly basis. I don't doubt this, but even when taking this into account, I still think the default could have been registered in February 2015.

### **Putting things right**

To put things right for Mr R, Vanquis should update the date of the default to February 2015 and inform credit reference agencies of this.

### **My final decision**

For the reasons set out above, I'm upholding Mr R's complaint. Vanquis Bank Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 19 February 2021.

Sophie Wilkinson  
**Ombudsman**