

## **The complaint**

Mrs E is unhappy with Vanquis Bank Limited's response to her complaint about a transaction on her credit card account that she says she didn't make or authorise. The bank has declined to refund her.

## **What happened**

Mrs E noticed a transaction on her statement that she didn't recognise. It was for £394.15 paid to a pizza restaurant. She was sure she hadn't made the transaction and so reported it to Vanquis as fraudulent.

Vanquis looked into the transaction but said it would be holding Mrs E responsible for it. It said the correct card details had been used to make the purchase through the pizza restaurant's website. Vanquis also said the transaction had required approval by way of a one-time passcode (OTP). Its records showed the OTP had been sent to Mrs E's registered mobile number and that the reply had come from the same number.

Mrs E had said that no one else had access to her card or her mobile phone. And so Vanquis couldn't determine how a third party could have placed the order without Mrs E being aware or giving authorisation.

One of the details that was communicated to Mrs E was that the transaction appeared to take place in Bournemouth. Mrs E said that couldn't have been her as she lived and worked miles away from there. But Vanquis didn't change its answer.

Mrs E was unhappy with the response and so brought the complaint to our service. One of our investigators looked into what had happened and didn't find Vanquis had acted unfairly. She could see evidence to support Vanquis' position on the use of the card details and also the sending and receiving of the OTP. In light of such evidence our investigator was also unable to see how a third party could have carried out the transaction without Mrs E's knowledge. She didn't recommend the complaint be upheld.

Mrs E didn't agree with the investigator's opinion and so the case has been passed to me for a final decision. Mrs E, in her response to our investigator, said that she and her husband had both been at work at the time transaction took place and that her daughter had been at school. And so she couldn't see how anyone could have accessed her card or her phone. She also said there was no record of any OTP on her phone, despite what the bank had said about one being sent and received.

## **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'm not upholding it. I'll explain why.

The regulations of particular relevance to this case are the Payment Service Regulations 2017. Broadly speaking, they set out the situations in which a customer will be responsible for transactions on their account and when the bank will be. Generally, when it can be shown a transaction was authorised by a customer, they will be responsible for it. That will include times when a customer has given permission to someone else to use their account.

My role is to consider whether Vanquis has acted fairly and reasonably in holding Mrs E responsible for the disputed transaction of £394.15. In doing so I must consider whether it has sufficient evidence to show that she more likely than not authorised the spending.

I'm not able to determine exactly what happened. I must consider the evidence available to me and use it to reach a conclusion on whether I think the bank's actions have been fair. This means I can't tell Mrs E for certain how the transaction came to be placed. Only why I believe it's fair and reasonable for Vanquis to hold her responsible for it.

I've seen persuasive evidence from Vanquis that supports its position that the correct card details were used and that an OTP was sent and responded to. The evidence also shows that Mrs E's genuine mobile number was used by Vanquis. There's nothing to suggest her number was changed, temporarily or otherwise.

Mrs E has said that she and her husband were both at work when the transaction was processed. And her daughter was at school. Mrs E has further explained that her card and phone would have been in her possession. I can see why that would mean she struggles to see how anyone could have gained access to them.

I am of the same mind as Mrs E here. It doesn't seem possible, or at least highly unlikely, that someone would have been able to gain access to Mrs E's card details, place an order for the pizzas and respond to an OTP without her noticing. But it's because there isn't a reasonable explanation for how that might have happened that I have to agree the bank has acted fairly and reasonably in holding her responsible for the spending. The evidence doesn't point to or allow for any other reasonable explanation. And so I won't be telling Vanquis to refund the transaction.

Mrs E has questioned how and why someone might spend so much money on pizza. I would agree it does seem unusual. But it doesn't give me grounds upon which to uphold her complaint.

I'll also note here that I think there may have been some confusion created with the location of the pizza restaurant. There doesn't actually seem to be evidence of it being in Bournemouth. It doesn't seem possible to determine where the pizzas were actually ordered from. The records show the order was placed online and so it seems more likely than not that any reference to a location in the records is only tied to where the processing of the payment might have taken place. Not to where the pizzas were actually dispatched from. That said, even if the pizzas were ordered from or delivered to an address miles from where Mrs E lives, the significant and persuasive evidence around the card usage and OTP would still not be overcome and the outcome would remain the same.

I'm sorry to have to deliver this news to Mrs E. She's come across as very genuine in her correspondence with us. Matters of fraud are always distressing and if she's genuinely had money stolen from her and has no idea how I can only imagine it must be even more upsetting. But, as I've said, I must deliver the fair and reasonable outcome that the evidence supports.

## **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 11 February 2021.

Ben Murray  
**Ombudsman**