

The complaint

Miss D complains that Vanquis Bank Limited irresponsibly lent to her and unlawfully applied a default to her credit file.

What happened

Vanquis' records first show Miss D having an outstanding balance on her credit card in April 2013. Her credit limit at this time was £250. In July 2014, this limit was increased to £1,000, in December 2014 it was then increased to £2,000 and then to £3,000 in May 2015. In mid-2016 Miss D fell behind on her payments, so Vanquis reduced her limit to £2,300 and she entered into a three-month payment plan, which she completed. In October 2017 the limit was returned to £3,000.

Miss D fell behind on her payments again in 2018. She made a payment in February 2018 to meet her January 2018 minimum payment, but she didn't make any payments towards the card after this. In May 2018 Vanquis defaulted the account and it later sold the debt.

Miss D complains that Vanquis didn't do adequate assessments when she applied for this card. She says the money was irresponsibly lent to her. And she says that the default was unlawfully applied, as she didn't receive a Default Notice. She also complained that the credit increases contributed to her indebtedness and financial distress.

Vanquis didn't uphold Miss D's complaint. It said that had very limited information from when the card was taken out, as it was more than six years ago, so it wasn't able to investigate her complaint about when the card was opened. However it was satisfied the credit increases were appropriate and that the relevant checks were carried out. It had a copy of the Default Notice it sent to Miss D and also said that credit limit increases were offered, so she could've declined them.

Miss D asked out service to look into the matter. She said she was in financial difficulty from 2017 to date. She said she missed monthly payments on many other accounts and had multiple defaults registered in her credit file. She considered Vanquis should've seen these and not lent her further money.

Our investigator didn't think we could look into what happened when Miss D applied for the card, due to the time passed. But she did look into the credit increases and the default. She didn't think Vanquis had lent irresponsibly based on Miss D's credit history at the time of the increases. And she said she could see Vanquis had asked Miss D to engage with it over the outstanding debt in 2018 and had given her a warning about applying the default when she didn't respond to it. So she didn't uphold the complaint.

Miss D asked for an ombudsman to review her complaint. She said that while she did maintain her payments, she struggled through cycled patterns of borrowing – which Vanquis ignored. She argued that she became aware of her complaint within the time-limit after discovering her rights and having difficulties maintaining payments. And that Vanquis didn't do adequate checks before letting her take out the card and then increasing her limit.

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.

Our investigator explained to Miss D why she didn't think we could look into what checks were carried out when Miss D took out this card. I'm in agreement with our investigator that this part of the complaint is time-barred.

The rules under which we operate provide that I cannot consider a complaint which is not made within six years of the event complained of, or if later, within three years after the complainant was aware, or ought reasonably to have been aware, of cause for complaint. Dispute Resolution rule 2.8.2R can be found in the regulator's handbook of rules and guidance.

Miss D says she took out the card in September 2008. Vanquis doesn't have records of this card prior to April 2013. But in any event, as Miss D hasn't provided any evidence she complained before November 2019, regardless of whether the account started in September 2008 or April 2013, she would be out of time under the six-year rule. As the credit limit increases and the default being applied all happened within six years of Miss D complaining, its accepted these are in time.

The three-year rule only comes into effect if it extends the time for complaining beyond the primary six-year period. So I've thought about when Miss D ought to have first been aware of her complaint about the card itself being irresponsibly given to her. Miss D has told us that when she took the card out, she was unemployed and on benefits. And that while she was able to maintain her payments, she struggled to do this. So I think it is likely she was aware of cause for this complaint shortly after she started using the card, as she's suggested it wasn't affordable for her right from the start.

But in any event, Miss D has also told us that she was aware of her complaint within the time limit that our investigator applied. I assume by this she means within the six-year time limit, so by April 2019, as this gives her the most time to complain. So on the basis of her own testimony, Miss D has told us she was aware of her complaint within the time-limit. And I consider that she would've also been aware during the six-years, due to the fact her complaint is around her struggling to maintain payments over the duration of the card. So the three-year rule wouldn't apply here, as it doesn't give more time.

While Miss D has told us she was aware of the complaint in time, she hasn't provided us with any evidence she actually *complained* inside the time-limits. And she's not provided any form of acknowledgement from Vanquis of her complaint in time, which is what she'd need to do to 'stop the clock'. So this means I can't agree she is in time.

We can however consider complaints which are brought late if this was due to exceptional circumstances. When our investigator asked Miss D if there were any reasons why she brought the complaint late, she said she didn't know about her rights until 2019. However a complaint is simply an expression of dissatisfaction – so I don't consider Miss D needed to know of her legal consumer rights to know she had a reason to complain. This is especially because she's told us she was in financial difficulty for a number of years prior to the complaint. So I don't consider exceptional circumstances apply in this case and so this part of the complaint is out of time under the rules I must apply.

I've considered the credit limit increases and then the default that Vanquis applied to Miss D's account. As our investigator set out, between 2013 and 2015 she made all her payments on time and Vanquis has confirmed Miss D met its criteria for these increases. So

I can't see that the increases during this time were irresponsible. I appreciate she's told us she was struggling with payments, but neither her credit file or her payment history to Vanquis suggests this. I've then looked at whether it was appropriate for Vanquis to reinstate Miss D's limit in 2017, after it decreased it due to her falling behind on payments in 2016.

Miss D has argued that this increase/reinstatement wasn't appropriate. And she's said our investigator didn't take into account the missed and late payments to her accounts in 2017, which led to her getting defaults in 2018. She provided us with her credit report, which was generated in November 2019, but this doesn't show any late or missed payments for any of her accounts in 2017. So based on the credit report, these type of markers only started showing from 2018.

However I've also reviewed Miss D's statements with Vanquis and I can see that while she didn't miss any payments, she did make two payments late in 2017. In June 2017, she paid the majority of the balance on time, but was one day late on the remaining amount. And in August 2017 she paid the full balance one day late. Vanquis hasn't reported these as late payments on Miss D's credit file. And as Miss D was able to make the full minimum payment within 24 hours of it being due, I expect this is why. But I've considered whether it was appropriate to increase Miss D's limit in October 2017, considering this information.

Miss D's credit report doesn't show any late or missed payments for 2017. So on reviewing this, I can see why Vanquis felt she was managing her other financial commitments well. Vanquis has told us it reviewed her total borrowing and this, alongside the other information it held for Miss D meant it could return her limit to £3,000. Vanquis has said, as with the other limit increases, that Miss D was offered this and could've declined it, but she didn't. And as she'd been able to complete the payment plan and make the minimum payments required of her since 2016, it considered she could afford this limit again. This was also because it had recorded that the issues in 2016 were due to a short-term change in her employment, so the cause of her difficulties was seemingly resolved.

I understand Miss D says that while she made the repayments, she was struggling financially. And that her borrowing showed a cycle that Vanquis ignored. But I don't think her credit report reflects this. And her statements don't support this either, as I can't see she was acquiring this credit to pay other monthly repayments or that she only used the card for everyday needs or non-discretionary bills – as she's suggested. I don't consider the two late payments were enough for Vanquis not to reinstate the limit – particularly as they were only late by a day. So while I appreciate what Miss D says was going on behind the scenes, I don't think the way she managed her account made this clear to Vanquis. This means I can't say the credit limit reinstatement in October 2017 was an unfair increase or that Vanquis did something wrong here. I also have to factor in that Miss D, knowing her situation, could have done more to mitigate it. For example by declining the increase (or in fact any of the increases) or not utilising the additional limit on the card, but she didn't do either of these.

In relation to the default, Vanquis has been able to provide the letters it sent to Miss D about her arrears – which are correctly addressed. And in the letters she's warned that the account will be defaulted if she doesn't engage with Vanquis – which she didn't do. Considering this and that Vanquis has evidenced it sent the required letter when it did then default the account, I can't agree this action was unfair or unlawful.

While I don't doubt the situation Miss D has described to us, I have to consider whether Vanquis did the right checks and used the information available to it correctly before increasing Miss D's limit. And I think it did, so I don't think it did act unreasonably by increasing Miss D's credit limit, or by defaulting her account in 2018.

My final decision

For the reasons set out above, I don't uphold Miss D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 15 January 2021.

Amy Osborne
Ombudsman