

## **The complaint**

Mr H complains that Vanquis Bank Limited have held him liable for transactions on his credit card that he says he didn't make or otherwise authorise. He's also unhappy with the service he received.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide an overview of some key events here. Mr H says there were a number of payments on his Vanquis credit card that he didn't recognise. These totalled around £2,800 and were all made online. The payments had taken place throughout August and September 2019. Vanquis investigated but ultimately held Mr H liable for the transactions. They said they'd sent Mr H text messages to confirm some of the payments and that many others had been confirmed using a 'one time passcode' that was again sent to his phone. So although Mr H believes his phone might have been cloned and denied ever receiving or responding to any messages, they thought it most likely that he authorised the payments in question. Mr H disagreed and complained. Vanquis responded to the complaint in November 2019 and maintained their position on the payments but acknowledged there had been poor service. They agreed some confusion had been caused as to whether or not Mr H had to make payments whilst his fraud claim was investigated. Vanquis said they'd credit his account with £50 compensation as well as £36 to cover default fees that had been applied. They acknowledged that Mr H had asked to make a claim under section 75 of the Consumer Credit Act (CCA). But they said this would only apply to a breach of contract or a misrepresentation. As Mr H said he hadn't made the transactions they didn't think this was applicable.

Mr H referred his complaint to our service and one of our investigators didn't think it should be upheld. In summary she thought the compensation already offered was fair, and that Vanquis' decision to hold Mr H liable for the transactions was reasonable. Mr H disagrees and has asked for an ombudsman to review his complaint.

## **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 agree with our investigator and for essentially the same reasons. I know this will be disappointing for Mr H, so I'll explain why.

Generally speaking, unless Mr H authorised the payments, Vanquis can't hold him liable for them. Where there are conflicting accounts, I have to make my decision on the balance of probability as to what I think is most likely to have happened. I'm satisfied that the payments were correctly authenticated by Mr H's card details being entered online. But that isn't, on its own, enough to conclude that he consented to the payments.

The evidence from Vanquis shows that many of the payments Mr H disputes were further verified by a text message being sent to confirm authorisation. There were also two occasions where security texts were sent to Mr H's number asking him to confirm payments

that had recently taken place. In all instances a positive reply was sent. I appreciate Mr H says this wasn't him and that he believes his phone could have been cloned. I've considered this but I find the technical evidence from Vanquis to be more persuasive. Mr H hasn't provided any further evidence beyond his testimony to support issues with his phone. Vanquis had the correct number for Mr H and I think it's more likely than not that Mr H responded to the texts and consented to the payments. There isn't a plausible explanation as to how anyone else could have obtained both the full card details needed to make online payments as well as access to his phone at the same time. Mr H has evidenced that he was in a different part of the UK (by providing a statement showing debit card spending) at the relevant time. But as all the disputed transactions were distance contracts conducted online, Mr H's location doesn't mean he couldn't have instructed the payments. Overall, I'm satisfied it's more likely than not that Mr H made the transactions he disputes and it is therefore fair for Vanquis to hold him liable for them. Mr H says that he contacted some of the merchants involved who told him that they'd stopped some orders as the delivery address provided didn't match that associated with his card. He says this is further evidence that he didn't authorise the payments. I've thought about this, but it doesn't change my opinion on whether Mr H authorised the payments. It's entirely possible that he (or someone with his consent) authorised a payment and instructed delivery to a different address. If a merchant stops this as it falls outside their policy, that doesn't change my opinion as to whether or not the transaction was authorised. I'm not making a finding as to whether or not Mr H received any of the goods ordered, my consideration here is whether or not he authorised the transactions, which for the reasons I've explained, I'm satisfied he did.

Whilst Mr H says he didn't order any goods from the merchants, he also says that he wanted Vanquis to try to recover the money from the merchants as he never received any goods or services. I understand why Mr H may think as he didn't receive any goods or services he should be entitled to pursue a claim under Section 75 or the applicable chargeback scheme but as Mr H told Vanquis and maintained that he hadn't made any payments to the merchants, I don't think Vanquis not taking things further was unfair or unreasonable. And even though I agree with Vanquis that it's more likely than not that Mr H authorised the transactions in question it doesn't automatically qualify him to make a Section 75 or chargeback claim.

Vanquis accepted they caused some confusion as to whether or not payments had to be made whilst the disputed transactions were under investigation. They credited Mr H's account with £50 compensation for this and refunded £36 in fees. I think this is fair. I appreciate this was a troubling time for Mr H, but I'm not persuaded the impact of the confusion caused by Vanquis justifies increasing the compensation already paid.

### **My final decision**

Your text here

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 24 March 2021.

Sonia Williams  
**Ombudsman**