

## The complaint

Ms B complained because Vanquis Bank Limited refused to refund her for a transaction which she said she hadn't authorised.

## What happened

Ms B didn't recognise two transactions on her Vanquis credit card. She then found out that one of them had been made by her sister, who was staying with her. On 30 June 2020, Ms B told Vanquis that she didn't recognise the other transaction. This was for an item imported from abroad for the equivalent of £36.94. Ms B said she lives with her four children and when she's at work she leaves the card available in case her sister or her nanny wants to use it. Ms B said no-one said they'd made this transaction.

Vanquis investigated. It told Ms B it had credited her account with £36.94, but said that if it received any information from the merchant, it might need to continue investigations.

The merchant sent Vanquis information to show that the purchase had been authorised using Ms B's name, address and email address. So Vanquis wrote to Ms B on 13 August, saying it was holding her liable. It re-debited the £36.94 on 23 September.

Ms B said she wanted to know what had been purchased and where it had been delivered. Vanquis told her it had been to buy a blender/food processor, and the shipping address had been the one Vanquis held on Ms B's account.

Ms B complained. In its final response, Vanquis said that it was holding her liable because it believed the transaction had been correctly authorised. Ms B wasn't satisfied and complained to this service.

Our investigator didn't uphold Ms B's complaint. He thought it was most likely that Ms B had authorised the transaction herself. If her sister or nanny had made it, it would still count as authorised by Ms B, who had told Vanquis she left the card for them to use.

The investigator also pointed out that the payment had been made through Ms B's online payment account, the details of which were on Ms B's home computer. She'd also told Vanquis that she stored her card login details on her computer. So the investigator said the transaction could only have been made from Ms B's home computer, and whoever used the card must have been at Ms B's address.

Ms B had said the item hadn't been delivered, but the investigator said he'd seen tracking evidence showing it had been delivered to the UK with Ms B's correct address. It couldn't be tracked further, but it wasn't likely a fraudster would have had something delivered to Ms B's address.

Ms B didn't agree. She said the investigator should have asked Royal Mail to verify that the purchase had been delivered to her home. She also said Vanquis shouldn't have re-debited the disputed amount without her consent. And she believed that Vanquis was *'teaming up with the thief'* if a family member, friend or partner had stolen from a card holder but Vanquis

wouldn't refund her. She said Vanquis also hadn't notified her that it was going to re-debit the disputed amount.

The investigator explained that the issue was whether Ms B had authorised the transaction, not whether it had or hadn't been delivered. But Ms B wasn't satisfied and said we should contact Royal Mail. She asked for an ombudsman decision.

### **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.

#### *The regulations*

The relevant regulations for disputed transactions taking place in June 2020 are the Payment Services Regulations 2017. These say that the payment service provider (here, Vanquis) must show the payment was authenticated. That's the technical part, and here, Vanquis has provided evidence which shows that Ms B's genuine card was used and was authenticated on an internet transaction. So the disputed payment was authenticated.

The regulations also say that it's necessary to look at whether the card holder authorised the payment. This online disputed transaction was a "*distance contract*." The Consumer Credit Act (CCA) 1974 also applies here, because a credit facility (here, Ms B's card) has been used. The next step for all of these regulations is to decide whether or not the customer authorised the payment. In general terms, the bank is liable if the customer didn't authorise the payment, and the customer is liable if he or she did authorise them.

Ms B told Vanquis on a recorded call that when she was at work, she left the card in case her sister or nanny wanted to use it. She also said that she wrote down the security details on her home computer. So if Ms B's sister or nanny used the card and Ms B's security details to carry out the payment, this would count as Ms B having authorised it.

#### *Who authorised the disputed payment?*

I've looked at the evidence to see who was most likely to have authorised the disputed payment.

Ms V said that when she was at home, the card was secure in her purse within her handbag in her bedroom. When she went out, she left it at home for her sister and nanny to use. The genuine card was used, so I can't see how a third party fraudster could have accessed the card to make the transaction.

And it's also most unlikely that a third party fraudster would have instructed the merchant to send the purchase to Ms B's home address – because they wouldn't have been able to benefit. I've seen the merchant's evidence showing that this was where the purchase was sent.

The purchase also brought the balance on Ms B's credit card to a figure very close to her £500 limit. Typically, a fraudster would try to steal a larger amount than £36.94, and there's no evidence to show that a larger amount was initially attempted. I consider it's more likely than not that whoever authorised the payment knew what Ms B's credit limit was. This again means it's likely that it was authorised by Ms B or one of her household.

The disputed purchase was also for a relatively low value household items. The other transactions on Ms B's Vanquis card are generally of a similar type. This also doesn't fit the pattern of a typical third party fraudster.

I've also borne in mind that the technical information shows that Ms B's Vanquis app was accessed at 20:48 on 22 June. The disputed transaction was processed at 21:56. The app was also accessed the next morning, and several more times before Ms B contacted Vanquis.

Taking all these factors into account, I consider it's more likely than not that Ms B or one of her household authorised the disputed transaction. This means that Vanquis doesn't have to refund her.

### *Other matters*

Ms B has repeatedly said that we should contact Royal Mail about the delivery of the item. But the role of this service isn't to investigate complaints about postal deliveries. It's to investigate Ms B's complaint about Vanquis, and to decide whether or not Vanquis treated Ms B fairly when it refused to refund her. And what determines that is whether or not Ms B or her household authorised the payment. I've referred above to the merchant's evidence about where the purchase was sent to – but that's because it proves that whoever authorised it knew Ms B's address. Whether or not the item arrived doesn't make any difference to the outcome of Ms B's complaint against Vanquis.

Ms B also believes that Vanquis shouldn't have re-debited the disputed amount without her consent. She said it wasn't a usual practice anywhere in the world for a bank to uphold the transaction against the wishes of the cardholder. The credit which Vanquis made to Ms B's account when she reported the transaction was a temporary credit, while it investigated. I find that Vanquis was entitled to re-debit the account when it received evidence from the merchant that the purchaser had used Ms B's name, address and other personal details. Vanquis didn't need Ms B's consent to re-debit it.

I also recognise that Ms B said she didn't receive Vanquis' 13 August letter telling her that the disputed amount would be re-debited in late September. But I accept that it was sent, and it doesn't make a difference to the outcome whether or not Ms B received it.

### **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 Ms B to accept or reject my decision before 1 June 2021.

Belinda Knight  
**Ombudsman**