

## **The complaint**

Ms A complains about her bank, Vanquis Bank Limited (Vanquis), regarding a default they applied to her credit card account.

## **What happened**

In January 2018 Ms A took out a credit card account with Vanquis. No payment in respect of the outstanding balance on the account was made between April 2018 and July 2018, so Vanquis told Ms A that they would need to pass her account to a debt collection agency. Ms A contacted Vanquis, telling them that she had recently become unemployed, causing her financial difficulty, but that she had taken up new employment. In response, Vanquis agreed a payment plan with Ms A, but no payments were received.

Vanquis then sent a notice of default on the account to Ms A in August 2018. At that point there was a balance of £574 on the account (against a credit limit of £500) and payments totalling £138 were outstanding. Vanquis then suspended the account in September 2018 and passed it to a debt collection agency in October 2018. Vanquis subsequently applied late payment and default markers against the account in November 2018.

Ms A was unhappy at the decision to apply a default to the account and complained to Vanquis in March 2021, asking that they remove the default because of the difficulties she was experiencing at the time, including being in an abusive relationship. Vanquis considered Ms A's complaint but didn't uphold it. In their final response they declined to remove the default because they hadn't made any errors and, in accordance with banking industry practice, had to apply the late payment and default markers as an accurate reflection of the activity on the account.

Ms A didn't think Vanquis considered her complaint fairly and complained to this service. She was unhappy at Vanquis applying the default to her account, given the difficult circumstances she was facing at the time. Ms A said this meant that she wasn't in control of her finances. Ms A wanted Vanquis to remove the default.

Our investigator upheld the complaint, concluding that Vanquis hadn't acted fairly. He thought that, based on the evidence of what Ms A said about the nature of the difficulties she had faced in the period leading up to the default being applied, she wasn't fully in control of her finances. Because of this, the investigator concluded that while Vanquis hadn't done anything wrong, he thought they should remove the default.

Vanquis disagreed with the investigator's conclusions and requested an ombudsman review the complaint. Vanquis thought that Ms A had the opportunity to tell them about the nature of the difficulties she faced, both in the period before the default was applied and subsequently in the time before she complained to them, but hadn't done so. They also said, given the investigator's view that they hadn't made any errors, they weren't able to remove the default, which had to be a true and accurate record of Ms A's account. But Vanquis offered to backdate the default to July 2018 (when three payments had been missed). They also noted that the outstanding account balance had been cleared (in February 2021) so the default was showing as 'satisfied'. They said this would, over time, reduce the impact of the default.

## **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.

I've considered very carefully what Ms A has told us about her circumstances at the time that she took out the account and the nature of the domestic abuse she suffered from her former – now deceased - partner. I recognise that this was very difficult for her. I know that she wants to move on and start afresh. This has been at the forefront of my mind when reaching this decision and I hope what I've said here makes clear how I've reached this decision.

The main element of Ms A's complaint is that Vanquis haven't considered her complaint fairly, including the circumstances that she faced, and that this means the default should be removed. Vanquis have said that, while they have no reason to doubt what Ms A has told us, she had ample opportunity to tell them about the abuse (both before the default was applied and subsequently). I've considered these points carefully. Ms A has described the nature of the abuse, including details of the controlling behaviour of her former partner, the nature of which I think would have precluded her from telling Vanquis of the full circumstances before the default was applied.

Vanquis also argue that Ms A could also have told them about her position after the account was suspended (because that meant a third party could no longer benefit from the account). However, I don't think this is persuasive, given the evidence Ms A has provided of the subsequent criminal conviction of her former partner, including its timing, which I think supports what she told us about the abuse she suffered and why she would not have felt able to tell Vanquis about it at the time, or subsequently. Vanquis's point about Ms A being able to tell them about her position after the account was suspended (and the default applied) is also not consistent with Vanquis's other main argument, that they are unable to remove the default because it has to be an accurate record of activity on the account.

On the point about Vanquis not having made an error, I agree that they responded appropriately to activity on the account, including the missed payments and the account balance exceeding the credit limit. I've listened closely to the key call between Ms A and Vanquis (at the start of August 2018) following their initial notice of their intention to apply a default. A payment plan was agreed under which Ms A was to make payments at regular intervals. I also recognise that Vanquis asked Ms A about her financial circumstances, in particular her becoming unemployed but then starting new employment. The discussion also covers Ms A's health vulnerability. I think Vanquis acted fairly and reasonably in setting up an interest free agreement with Ms A. I also think that was reasonable, as no payments were subsequently made, for Vanquis to then follow the process they did leading to the default being applied.

I've also considered Vanquis's offer, in response to our investigator's view, to backdate the default applied to Ms A's account to July 2018 (when three payments had been missed). I've also considered the point about the outstanding account balance now having been cleared, so the default is showing as 'satisfied'. I agree that, as the default would now be over three years ago, over time this is likely to reduce the impact of the default recorded in terms of potential future credit for Ms A. While I recognise that, in making the offer, Vanquis have sought to reduce the impact of the default on Ms A's ability to obtain future credit, it's likely that the fact of there being a default applied is likely to have a significant impact on Ms A. I've thought carefully about all these points when deciding what would be a fair and reasonable outcome, in all the circumstances. As I've said, given the situation and circumstances that Vanquis were aware of in the period leading up to the default being applied, I think they acted fairly and reasonably.

However, I've also thought carefully about what would be fair and reasonable in all the circumstances – as they now are, given what Ms A has told us about the nature of her relationship with her late partner and the impact that had on her. I've also considered the independent evidence [the conviction] she's provided and I think this lends weight to her testimony, which I find credible. I've also looked at the account statements – Ms A says that most of the spending was carried out by her former partner and she didn't benefit from it. While it's difficult to tell that from the statements, which appear to show routine expenditure, given what Ms A has said about the nature of the relationship I think it's likely that Ms A didn't benefit from all the of the expenditure.

Considering all these points, I'm satisfied on the balance of probabilities that Ms A was a victim of domestic abuse and that this card was taken out in those circumstances. She's no longer in that situation and is taking steps to rebuild her life and move on from the relationship and its consequences.

I recognise there are important reasons for credit files. They record the conduct of an account – and are used to inform future lending decisions, which protects both lender and borrower from inappropriate lending. And it's important that they are an accurate record of the account's conduct.

But I also need to think about what's fair and reasonable in all the circumstances. While, in the particular circumstances of this case, the credit file is an accurate record of how the account was conducted at the time, I don't think it reflects the important context in which Ms A took out the account, the duress from her then partner and the likelihood that she didn't benefit, at least in part, from the expenditure on the account. While her loss of employment affected her ability to keep up with the payments, without the abuse I think it's unlikely she would have taken the card out in the first place, and so wouldn't have been in this position.

As I've acknowledged, Vanquis isn't responsible for any of what happened to Ms A and wasn't aware of the situation at the time. But now these things are known, I don't think it's fair and reasonable to continue to record the default on Ms A's credit file without the crucial context of how the debt came about in the first place. And as that isn't possible, I think the fairest solution is for it to be removed from her credit file.

### **My final decision**

For the reasons set out above, it's my final decision that it's fair and reasonable in the circumstances to require Vanquis Bank Limited to:

- Remove record of the debt from Ms A's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 27 December 2021.

Paul King  
**Ombudsman**