

The complaint

Mr M complains that Vanquis Bank Limited allowed a transaction to be paid from his credit card after his card had expired.

What happened

Mr M booked a holiday with a third party company. The total cost for this was £675. Mr M paid a part deposit of £30 in March 2020 with the remaining balance due in September 2020. Mr M says that as his credit card had expired, the third party company asked him to update his card details. As Mr M was unable to go on holiday due to personal reasons, he did not update his credit card details on the third party website.

Mr M says he would have paid the balance of his full deposit of £215.90 but the third party processed a payment of the full remaining balance of £645. Mr M says that Vanquis should not have authorised this payment to the third party as his card had expired. In a chat with Vanquis, Mr M said that he purposely didn't update his card details with the third party so the payment wasn't taken. Mr M raised a complaint with Vanquis and asked for them to refund the £645 which was paid in September 2020.

Vanquis did not uphold the complaint. They said although the payment was processed using his expired card details, it was automatically linked to his new card and approved due to the way in which the payment was processed (as a continuous payment) by the third party.

Vanquis also informed Mr M that although he didn't want the transaction to be approved as he was no longer able to utilise the booking, he should've contacted the merchant to cancel the booking before the final payment was due to be collected. Alternatively, if he was unsuccessful in contacting the merchant, he could've contacted Vanquis to request a payment stop on future transactions to the merchant.

A dispute was also raised regarding the transaction. Vanquis wrote to Mr M and said that they were unable to progress this dispute on his behalf as they had confirmed that the merchant acted in accordance with the terms and conditions accepted by Mr M at the point of sale. The payment was then processed using the details for the booking which he provided at the initial booking stage. As no new card information had been supplied, the merchant completed the transaction in line with the details on the payment information. As the booking was made using a deposit with an outstanding amount, the terms and conditions state they will automatically take payment from Mr M using his original payment method. The merchant had processed the payment using details on his payment information page.

Mr M brought his complaint to our service. Our investigator did not uphold his complaint. She said on the email that the third party had sent Mr M dated 8 March 2020 it said that Mr M had authorised them to automatically take the outstanding balance on the due date from his payment card. Our investigator also said that while Vanquis had referred to the term continuous payment authority, Vanquis have said that it was processed as a recurring transaction.

Mr M asked for an Ombudsman to review the complaint. He asked how a customer was supposed to know if they were agreeing for a further payment to be made such as a continuous payment authority/recurring transaction or him simply storing his credit card details as he would do for websites such as online supermarkets. He also said Vanquis had ignored the terms and conditions about him must having a valid credit card – but his card had expired.

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.

Mr M has made a number of points to this service and I've considered and read everything he's said and sent us. But, in line with this service's role as a quick and informal body I'll be focusing on the crux of his complaint in deciding what's fair and reasonable here.

I'll start off by explaining that I'll only be able to look into the actions of Vanquis here and not the actions of the third party company. This is because the complaint has been brought against Vanquis here.

So what I've considered, is whether Vanquis were fair for allowing the payment which the third party processed – not Vanquis – to be approved. When the partial deposit was taken originally, the third party appeared to set this up as a recurring payment. And although these types of payments are usually set up for recurring transactions such as third party subscriptions, they can also be set up when a future payment is expected to be paid to a company. But because of the way these payments are set up, it is possible for payments to be taken from an expired credit card as long as the account is active. And that's what has happened here.

This is because Vanquis have explained that the expired card in this case was automatically linked to the new card. And although the card stored on the third party website may have expired, the account hadn't. So although the third party asked Mr M to update his details on the system as he had an expired card, they were still able to take the balance of the holiday by processing the payment under the recurring transaction they had set up originally and that's why they didn't need to know the new card details, even though they had asked for them, to process the payment.

But as Mr M raised a dispute with Vanquis, I've looked at the actions they've taken to determine the outcome of their investigation. The email dated 8 March 2020 from the third party states *"total balance remaining: 12th September 2020: £645"*. It also says *"please note that you have authorised us to automatically take the above balances on the due dates noted above from your payment card"*. Underneath this it states *"please note that the balance of your deposit of £215.90 is payable even if you cancel your booking"*.

I asked Mr M if he had cancelled the booking and he confirmed he had not. If he had cancelled the booking before 12 September 2020, which is the date the third party have gave him to pay his remaining balance then he would have been required to pay the balance of his deposit, which was £215.90. But because he didn't do so, then the third party took the remaining balance as they said they were going to do so.

The wording the third party has used on the email shows Mr M has authorised them to automatically take the payment. This supports what Vanquis have said regarding continuous/recurring payment. So although Mr M has asked how a customer was supposed to know if they were agreeing for a further payment to be made such as a continuous payment authority/recurring payment or him simply storing his credit card details as he would

do for websites such as online supermarkets, I think it was clear from the email the third party sent him that they would use this method to take his payment. Mr M had also said that he purposely didn't update his card details. So I'm persuaded that this shows that he's likely to have expected the third party company to attempt to take the payment from his stored payment method.

I've noted the strength of feeling Mr M has regarding that the third party website states in their frequently asked questions: *"if your authorised card expires before your due date we will notify you that you will need to provide us with updated card details in order to complete your automatic balance payment on the due date"*. So I can understand why Mr M may have been under the impression that the third party wouldn't be able to take the payment from an expired card. But this doesn't say that they won't be able to take a payment or attempt to take a payment if he doesn't update his details and this is not in their terms and conditions. So I've looked at the third party terms and conditions in relation to this matter.

The third party terms say *"7.8.1 if you authorised us to take payment for these amounts from your chosen payment method when you made your Booking, we will automatically take payment from you using your original payment method"*. As previously mentioned, the email the third party sent Mr M stated that Mr M had authorised them to take the payment on the due date. Mr M's chosen method was his Vanquis credit card. The wording of the terms and conditions says the method of payment as opposed to his original card. So I'm not persuaded that Vanquis acted unfairly by approving the transaction the third party processed.

The third party terms and conditions (section 10) also say that *"after you receive your Booking Confirmation", "you will not be entitled to cancel the Booking Services for a particular Booking and obtain a refund as we will already have completed the provision of the Booking Services for that Booking."*

So as Mr M didn't cancel the holiday before the due date or inform Vanquis to not authorise any future payments to the third party, Vanquis approved the payment as the third party had informed Mr M they would take the payment automatically and in their email and this is what they did. This was also confirmed in the terms and conditions of the third party company. So while I can sympathise with Mr M for the reason he couldn't go on holiday, I'm persuaded for the reasons I've already given that Vanquis were fair by authorising the transaction that the third party processed. So it follows that I won't be asking Vanquis to do anything further.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 October 2021.

Gregory Sloanes
Ombudsman