

The complaint

Mrs P is being represented by solicitors. She's complaining about Vanquis Bank Limited because she says it lent irresponsibly by providing her with a credit card she couldn't afford.

What happened

In January 2011, Mrs P opened a credit card account with Vanquis with a credit limit of £250. The was increased to £500 in April 2011, £1,000 in October 2011, £1,750 in May 2013 and £2,250 in June 2015.

Our investigator concluded the complaint should be upheld. He felt the information it obtained in connection with Mrs P's original application should have led Vanquis to conclude further debt was unaffordable and to decline to lend.

Mrs P accepted the investigator's assessment. Vanquis didn't respond despite a reminder from the investigator. The complaint has now been referred to me for review.

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've reached the same overall conclusions as the investigator. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time.

Before lending to Mrs P, Vanquis was required to carry out appropriate checks to ensure the repayments were affordable and sustainable. To decide whether this requirement was met, the key questions I need to consider in respect of each lending decision are:

- Did Vanquis complete reasonable and proportionate checks to establish Mrs P would be able to repay the credit in a sustainable way?
- If so, was the decision to lend fair and reasonable?
- If not, what would reasonable and proportionate checks have discovered, and would the decision to lend have been fair and reasonable in light of that information?

The rules, regulations and good industry practice in place at the time the credit was approved required Vanquis to carry out a proportionate and borrower-focused assessment of whether Mrs P could afford the repayments. This assessment also had to consider whether the credit could be repaid sustainably. In practice this meant Vanquis had to satisfy itself that making payments to the credit wouldn't cause undue difficulty or adverse consequences. In other words, it wasn't enough to simply think about the likelihood of her making payments, it had to consider the impact of the repayments on Mrs P.

The affordability assessment and associated checks also had to be proportionate to the specific circumstances. What constitutes proportionate checks depends on a number of factors including, but not limited to, the particular circumstances of the consumer (for example their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount, type and cost of the credit being considered. Even for the same customer, a proportionate check could be different for different applications.

Vanquis has provided details of the information it gathered to assess whether Mrs P's initial application should be approved. This included information contained in her application and the results of a credit check. Vanquis says it doesn't believe there's anything within this information that shows the credit it offered was unaffordable.

There are grounds for thinking a more comprehensive affordability assessment could have been completed. But, on balance, I think the information it did obtain allowed Vanquis to make a fair assessment of whether the credit was affordable.

After reviewing the information provided, I think there were signs that Mrs P had experienced considerable financial problems in the fairly recent past. The results of the credit check showed multiple defaulted accounts (seven credit cards and one hire purchase agreement) a little over a year before she applied for the Vanquis card, and that the outstanding default balance at the time of the application was over £68,000. The credit check also showed Mrs P's mortgage was subject to a payment arrangement.

Vanquis didn't carry out a detailed assessment of Mrs P's income and expenditure, but the application did record she was a homemaker and that her household income was £30,000. Given she doesn't appear to have been working, it seems likely most of that income was earned by others in the household, but Vanquis doesn't appear to have made any attempt to consider anyone else's affordability or credit history before approving this application.

I appreciate the amount of credit offered was low initially. But when presented with an applicant who appeared to have a low income and extensive outstanding default debt and whose mortgage was subject to a payment arrangement, it's my view that Vanquis should have concluded it wasn't responsible to lend further to Mrs P.

If the account hadn't been opened in the first place, none of the additional credit offered when the credit limit was increased would have been offered either. Further, Vanquis hasn't provided sufficient evidence to show Mrs P's income had increased or her affordability had otherwise improved by the time the credit limit increases were applied to allow me to conclude this additional credit was somehow appropriate.

In conclusion, if Vanquis had adequately assessed whether the credit repayments were likely to be affordable, it's my view it shouldn't have lent to Mrs P. It's for this reason that I'm upholding her complaint.

Putting things right

The principal aim of any award I make must be to return Mrs P to the position she'd now be in but for the errors or inappropriate actions of Vanquis. But that's not entirely possible here as the lending provided can't be undone.

Because I don't think Vanquis should have lent to Mrs P, I don't think it's fair for her to pay interest or charges on the amount borrowed. But she has had use of the money that was

lent, so I think it's fair she repays the amount borrowed (without the addition of interest or charges).

To put things right, Vanquis now needs to take the following steps:

- Rework the account to remove all interest, fees, charges and insurances (not already refunded) that have been applied since the account was opened.
- If the reworking results in a credit balance, this should be paid to Mrs P with the addition of simple interest at 8% per year from the date of each overpayment to the date of settlement.

HM Revenue & Customs (HMRC) requires Vanquis to deduct tax from any interest. It must provide Mrs P with a certificate showing how much tax has been deducted if she asks for one. If Vanquis intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

- Or, if after the reworking there's still an outstanding balance, Vanquis should arrange an affordable payment plan with Mrs P for the shortfall.
- Remove any adverse information recorded on Mrs P's credit file relating to this credit, once any outstanding balance has been repaid.

If Vanquis no longer owns the debt, it should liaise with whoever does to ensure any payments Mrs P has made since moving the account are factored into the calculation of the compensation that's due or the balance that remains outstanding.

In reviewing this complaint, I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed above results in fair compensation for Mrs P in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

My final decision

For the reasons I've explained, I'm upholding Mrs P's complaint. Subject to her acceptance, Vanquis Bank Limited should now put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 16 September 2024.

James Biles
Ombudsman