

Complaint

Mr O has complained that Vanquis Bank Limited ("Vanquis") irresponsibly provided him with a credit card. He's said that that this impacted on his position going forward and caused him difficulty.

Background

This complaint is about a credit card Vanquis initially provided to Mr O in May 2008. Mr O was provided with a credit limit of £500 which was never increased.

In November 2023, Mr O complained saying that the credit card was unaffordable for him and caused continued financial difficulty. Vanquis did not issue a final response to Mr O's complaint within eight weeks of receiving it and Mr O chose to refer his complaint to our service as a result. When responding to our request for its file on Mr O's complaint, Vanquis told us that it believed he had complained too late.

One of our investigators looked at everything provided and reached the conclusion that Vanquis didn't act unfairly or unreasonably when providing this credit card to Mr O. So she didn't think that Mr O's complaint should be upheld.

Mr O disagreed with our investigator's conclusions and asked for an ombudsman's review of his complaint.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Basis for my consideration of this complaint

There are time limits for referring a complaint to the Financial Ombudsman Service. Vanquis has argued that Mr O's complaint was made too late because he complained more than six years after the decision to provide the credit card as well as more than three years after he ought reasonably to have been aware of his cause to make this complaint.

Our investigator explained why it was reasonable to interpret Mr O's complaint as being one alleging that the relationship between him and Vanquis was unfair to him as described in s140A of the Consumer Credit Act 1974 ("CCA"). She also explained why this complaint about an allegedly unfair lending relationship had been made in time.

Having carefully considered everything, I've decided not to uphold Mr O's complaint. Given the reasons for this, I'm satisfied that whether Mr O's complaint about the specific lending decision was made in time or not has no impact on that outcome.

I'm also in agreement with the investigator that Mr O's complaint should be considered more broadly than just the lending decision. I consider this to be the case as Mr O has not only

complained not about the decision to lend but has also alleged that this unfairly impacted upon going forward.

I'm therefore satisfied that Mr O's complaint can therefore reasonably be interpreted as a complaint about the overall fairness of the lending relationship between him and Vanquis. I acknowledge Vanquis still doesn't agree we can look Mr O's complaint, but given the outcome I have reached, I do not consider it necessary for me to make any further comment, or reach any findings on these matters.

In deciding what is fair and reasonable in all the circumstances of Mr O's case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Mr O's complaint can be reasonably interpreted as being about the fairness of the lending relationship between him and Vanquis, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (Vanquis) and the debtor (Mr O), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship. S140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given Mr O's complaint, I therefore need to think about whether Vanquis's decision to lend to Mr O, or its later actions resulted in the lending relationship between Mr O and Vanquis being unfair to Mr O, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mr O's relationship with Vanquis is therefore likely to be unfair if it didn't carry out reasonable enquiries into Mr O's ability to repay in circumstances where doing so would have revealed the credit card to have been unaffordable, or that it was irresponsible to lend. And if this was the case, Vanquis didn't then somehow remove the unfairness this created.

Was Vanquis' decision to provide the credit card unfair?

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website.

Vanquis says it would have agreed to Mr O's application after it obtained information on his income and carried out a credit search. And the information it would have obtained would have indicated that Mr O would be able to make the low monthly repayments due for this credit card. On the other hand, Mr O says that the credit card was unaffordable and caused him ongoing hardship.

I've considered what the parties have said.

What's important to note is that Mr O was provided with a revolving credit facility rather than a loan. This means that Vanquis was required to understand whether Mr O could repay £500 within a reasonable period of time. It's fair to say that it wouldn't have required especially large monthly payments in order to clear the full amount that could be owed, as a result of a credit limit of £500, within a reasonable period of time.

Vanquis has only been able to provide limited information on what it saw about Mr O's circumstances at the time. Given this application took place more than sixteen years ago I don't think that this lack of information, is unreasonable. Therefore, I've not drawn any adverse conclusions as a result of it not being able to provide this.

I'm also mindful that Mr O's representative hasn't provided any information on Mr O's circumstances at the time either. So I've not been provided with anything which shows me that Mr O had any significant adverse information – such as defaulted accounts or county court judgments (“CCJ”) recorded against him at this time.

Furthermore, I need to consider the facts of Mr O's complaint against the obligations and expectations that were in place on a lender at this time. And it would be fair to say that a lender's obligations and responsibilities were not the same as they are now. For example, the concepts of borrower focused assessments and proportionate checks were not part of the expectations or requirements when Mr O was provided with this credit card in May 2008.

However, the good industry practice in place at the time of Mr O's application, required a lender to assess whether it felt that a prospective borrower would be able to repay any lending provided. Clearly Vanquis must have felt that Mr O could repay a credit card with a limit of £500.

As there isn't anything to indicate that Mr O had any significant adverse credit information recorded against him at the time and I've not been provided with any evidence or information which shows me that Mr O was in financial difficulty in May 2008. Indeed, the earliest information that Mr O has been able to provide is from a number of years later. As this is the case, I've not been provided with any clear evidence that Mr O shouldn't have been lent to in May 2008.

Vanquis felt that Mr O could repay £500 within a reasonable period of time and I've not seen anything which clearly shows me that this wasn't the case. As this is the case, I've not been persuaded that Vanquis' decision to provide Mr O him with a credit card was unfair or that it resulted in unfairness going forward.

In reaching my conclusions, I've also noted that Mr O did sometime later have difficulty making the payments on his account and fell into arrears. However, it looks like Vanquis set up payment arrangements with Mr O and then went on to prevent further spending on his account. In these circumstances, I'm satisfied that Vanquis didn't act unfairly when Mr O had difficulty making his repayments either.

Overall, and based on the available evidence I don't find that the lending relationship between Mr O and Vanquis was unfair to Mr O. I've not been persuaded that Vanquis created unfairness in its relationship with Mr O by irresponsibly lending to him. And I don't find Vanquis treated Mr O unfairly in any other way either based on what I've seen.

So overall and having considered everything, while I can understand Mr O's sentiments and appreciate why he is unhappy, I'm nonetheless not upholding this complaint. I appreciate this will be Vanquis disappointing for Mr O. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 24 February 2025.

Jeshen Narayanan
Ombudsman