

## **The complaint**

Mrs F's complaint is that Vanquis Bank Limited acted irresponsibly when it provided her with a credit card on 18 May 2019. To settle the complaint Mrs F would like Vanquis to refund all interest fees and charges on the account, plus 8% interest, and pay compensation for distress and inconvenience.

Mrs F is represented in the complaint, but for convenience I will refer to Mrs F throughout even where submissions have been made on her behalf.

## **What happened**

I don't need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mrs F being identified. So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision.

Mrs F took out a credit card with Vanquis on 18 May 2019 with a credit limit of £1,000. The limit was not increased. From October 2019 payments on the account started to be missed, Notices of Default were issued on 22 March 2022, 10 October 2022, 3 March 2023 and 6 April 2023. The account has now been sold to a third party.

On 1 July 2024 Mrs F complained to Vanquis that the lending had been irresponsible. Vanquis didn't uphold the complaint so it was brought to our service. Initially the Investigator thought the complaint should be upheld, but after receiving further information from Vanquis, changed her opinion. She was satisfied Vanquis had carried out sufficient checks based on the information Mrs F had provided to justify offering her the level of credit it did.

Mrs F disagreed and asked for an Ombudsman to review the complaint.

## **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.

As stated above, in her very detailed letters, the Investigator set out the full history of the matter, including details of the information provided by Mrs F and considered by Vanquis when making the lending decision. Because all parties have had copies of the correspondence, I don't need to set out all the details again here.

Before entering into a credit agreement Vanquis needed to check that Mrs F could afford to repay the credit out of her usual means, within a reasonable period of time, without having to borrow further and without experiencing financial difficulty or other adverse consequences. The checks needed to be proportionate to the nature of the credit, for example the amount offered, and to Mrs F's particular circumstances. In addition Vanquis needed to have proper regard to the outcome of its risk assessment in relation to affordability. The overarching

requirement was that Vanquis needed to pay due regard to Mrs F's interests and treat her fairly.

With all this in mind, I have to consider whether Vanquis carried out reasonable and proportionate checks when it opened the account for Mrs F to satisfy itself that she would be able to repay the credit offered within a reasonable period of time. If it didn't do this, what would reasonable and proportionate checks have shown? Was there anything of concern in the checks Vanquis carried out, and did it make fair lending decisions? Did Vanquis treat Mrs F unfairly or unreasonably in any other way, including whether the relationship might have been unfair under s.140A Consumer Credit Act 1974 (s.140A CCA)?

It seems to me that Vanquis carried out proportionate checks when it opened the accounts. It considered what Mrs F said on her application forms and checked her credit file. I note Mrs F left some details blank, and Vanquis has explained how it assessed her disposable income taking into account average costs for housing and household expenditure, and taking into consideration a minimum payment towards the credit card of £59 per month.

I've reviewed the information Vanquis gathered and I haven't seen anything which suggests that Mrs F would have any difficulty meeting her repayments for the level of credit offered out of her stated income. I also don't think there was anything in the information Vanquis had gathered about Mrs F's circumstances that should have led it automatically to decline her application, or prompted it to complete further checks before entering into the agreements.

Mrs F has provided a copy of her bank statements for the period when the card was applied for. The account appears to be used largely for discretionary spending, and there don't seem to be any regular payments for utilities, council tax or other household expense. I also note that there are regular transfers in and out to another bank account in Mrs F's name, so it seems she had either another current account or a savings account, the details of which haven't been provided to us. Therefore, whilst I note that the account disclosed to us does appear to have run at a modest balance (generally in credit), Mrs F also had access to another source of funds in the other account.

I'm satisfied from the information Vanquis has provided that Mrs F's disposable income was sufficient to sustain repayments on the card, and I'm not persuaded there were any "red flags" that should have alerted Vanquis to any financial difficulties.

I've noted what Mrs F has said about her vulnerabilities, details of which I will not go into to preserve Mrs F's privacy. However, the difficulties Mrs F encountered occurred after the card had been taken out, and I'm satisfied that when Vanquis was made aware of what had happened, it took steps to ensure Mrs F was dealt with sympathetically.

Altogether, considering the information about Mrs F's income from the application forms, what Vanquis saw on Mrs F's credit file, and the amount of credit it was offering, I can't say that Vanquis made irresponsible or unfair lending decisions when it opened the accounts for Mrs F.

Finally, I've thought about whether considering this complaint more broadly as a complaint about an unfair relationship would affect the outcome.

In the context of this complaint, the law relating to unfair relationships is described in Section 140A of the Consumer Credit Act 1974 ('Section 140'). It says a court may make an order under Section 140 if it determines a relationship between the creditor and the debtor is unfair. The consumer is the debtor and Section 140 defines the creditor as "*the person to whom his rights and duties under the agreement have passed by assignment or operation of law.*"

So where a debt has been sold, it follows that the debt purchaser is now the creditor for the purposes of the credit agreement. That means a claim about an unfair relationship can't be brought by a consumer against the original lender as they are no longer the creditor.

### **My final decision**

My final decision is that I don't uphold this complaint.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 24 April 2025.

Jan O'Leary  
**Ombudsman**