

The complaint

Mr M complains that Vanquis Bank Limited (Vanquis) acted irresponsibly in agreeing to lend to him.

In bringing his complaint Mr M is represented by a third party. For ease of reading I will only refer to Mr M in my decision.

What happened

In May 2010 Mr M applied for a credit card account with Vanquis. His application was successful and Vanquis applied a credit limit of £250. Vanquis subsequently increased Mr M's credit limit in September 2010 to £500, in January 2011 to £1,500, in June 2011 to £2,500. And finally in May 2012 to £3,000. Mr M said he struggled to maintain the repayments as the credit limit had increased substantially. He said Vanquis hadn't sufficiently checked whether the lending was affordable for him. Mr M said his health had been affected caused by the stress and anxiety of his financial difficulties. He complained to Vanquis.

Vanquis said Mr M had brought his complaint too late to be considered.

Mr M wasn't happy with Vanquis' response and referred his complaint to us.

While our investigator considered Mr M had brought his complaint too late under the six- and three-year rules. She said we could consider the complaint under section 140A Consumer Credit Act (CCA). On investigation she said Vanquis should have checked further into Mr M's financial circumstances. But based on the evidence provided by Mr M she couldn't say the lending had been unfair.

Mr M didn't agree and asked for an ombudsman to decide.

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.

There are time limits for referring a complaint to the Financial Ombudsman Service. Vanquis has argued Mr M's complaint was made too late because he complained more than six years after the decisions to provide the credit card and all the credit limit increases 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 the complaint as being one alleging that the relationship between Mr M and Vanquis was unfair to him as described in s140A of the CCA. She also explained why Mr M's complaint about an unfair lending relationship had been made in time.

Having carefully considered everything, I've decided not to uphold Mr M's complaint. Given the reasons for this, I'm satisfied that whether Mr M's complaint about the specific lending

decisions was made in time or not has no impact on that outcome.

I understand my decision will disappoint Mr M as he's shown the impact the lending has had on his health. While my reasoning differs slightly to that of our investigator this doesn't change the outcome reached. I'll explain how I've reached my decision.

In considering this complaint I've paid due 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, in this case it would be the Office for Fair Trading (OFT) irresponsible lending guidance. It's important that I don't hold Vanquis to the standards that apply today, and which didn't apply at the time of Mr M's applications and subsequent credit limit increases.

The OFT provided the relevant guidance at this time. And when assessing affordability, the test to be applied needed to be borrower focussed. Meaning the borrower's likely ability to be able to meet repayments under the credit agreement in a sustainable manner. In a sustainable manner is defined as without undue difficulty – without incurring or increasing problem indebtedness. So, I've drawn on the law and what good industry practice would have looked like at the time.

Given the passage of time the evidence available is limited. When the evidence is incomplete, inconclusive, or contradictory, I've made my decision on the balance of probabilities – which, in other words, means I've based it on what I think is more than likely to have happened given the available evidence and the wider circumstances. And as Mr M's application and subsequent credit limit increases happened more than a decade ago the evidence is inevitably incomplete.

What's important to note is Mr M was being provided with a revolving credit facility rather than a loan. And this means that Vanquis was required to understand whether the credit could be repaid within a reasonable period, rather than in one go.

Vanquis' records show that Mr M had a declared annual income of £16,000. And had credit commitments of £100. Mr M's credit history showed he'd previous financial difficulties as there was evidence of a bankruptcy order which had been satisfied in 2007. And that he'd a county court judgement (CCJ) and defaults. But these were all historic being 46 and 62 months respectively prior to the credit card application. The amount of the initial lending was £250, and if Mr M had drawn down the full limit, I'd expect he would have had to repay around £12 a month. Given the low level of lending I think the checks Vanquis did were proportionate, and there wasn't any evidence to suggest the lending was unaffordable to Mr M.

Vanquis increased Mr M's credit limit to £500 in September 2010. They've shown they did the same checks, which again showed Mr M had credit commitments of £100 and showed the same historic CCJ's and defaults. Vanquis also had internal data for how Mr M was managing his credit card account which didn't show any issues with late or over the limit fees. And based on the type of lending provided should Mr M have drawn down the full amount he'd be expected to pay around £25 a month. Given the evidence I've seen I think the checks were proportionate and there wasn't any evidence to suggest the lending was unaffordable.

Credit limit increases January 2011-£1,500, June 2011 - £2,500 and May 2012 - £3,000.

It's for a lender to decide which checks they carry out, there isn't any set list but we can consider whether we think what was done was fair to the extent the checks allowed the lender to reasonably understand whether the borrower could make their payments. If we

don't think that the lender did enough to establish whether the repayments were affordable, it doesn't automatically mean a complaint should be upheld. We would need to consider what reasonable checks would have likely shown.

Vanquis records again show Mr M's credit commitments to be £100. And showed the same historic CCJ's and defaults. By the time of the credit limit increases in June 2011 and May 2012 the defaults were no longer showing on Mr M's credit history as they were now over six year of age and so no longer recorded. But given the credit limit increases were now substantial I think Vanquis should have checked further into Mr M's income and expenditure.

Mr M has provided some evidence of his bank statements around this period, but the information is limited as they don't provide a granular breakdown of his income and outgoings. But from these I can see Mr M had a regular income that was reflective of his declared £16,000 annual income. And that his current account was in credit and only on an odd occasion fell into a negative balance. So, on balance Mr M seemed to be managing his current account well. The only charges I can see that were applied were for ATM withdrawals. I haven't seen any evidence of direct debits not being paid such as bank fees.

I've also considered how Mr M managed his credit card account. I can see that he did incur late payment fees on occasion, but these were sporadic rather than showing regular financial difficulty. I can also see from Vanquis' notes that in March 2012 they spoke to Mr M about a charge being applied for a late payment which they explained to Mr M was due to him paying £2 less than he should have for his minimum payment - £80 instead of £82 thereby incurring a fee of £12. I can see Vanquis explained to Mr M the impact this would have on his credit history. So, I can't say this was evidence of Mr M struggling to meet his repayments more an education as to prevent him incurring unnecessary charges. And up to the new credit limit increase there weren't any further late fee charges applied. Vanquis' records show that for the three months prior to the credit limit increase in May 2012 Mr M had paid more than the minimum payments required.

I can see evidence of Mr M's account usage for the increases in June 2011 and May 2012. At the time his credit limit was increased in June 2011 Mr M was using 37% of his credit limit. And in May 2012 he was using 70%. I haven't seen any evidence that Mr M utilised his limit to the full or rapidly upon the credit limit being applied.

So, I can't reasonably say that Mr M's account usage ought reasonably to have shown Vanquis that his indebtedness, on his credit card, was rapidly increasing in an uncontrollable way, or that the pattern of lending here ought reasonably to have led Vanquis to conclude that the facility had become demonstrably unsustainable for Mr M either.

As acknowledged the evidence here is limited but overall having considered what's been provided I can't say, on balance that Vanquis has acted unfairly in their lending decisions with Mr M. So, I'm not upholding this complaint. I appreciate this will be very disappointing for him. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

While I don't think Vanquis has acted unfairly in lending to Mr M, if they haven't done so already, I'd expect Vanquis to treat Mr M positively and sympathetically to any ongoing debt or financial difficulty.

My final decision

I don't 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 20 May 2025.

Anne Scarr
Ombudsman