

## **The complaint**

With the help of a professional representative (PR), Ms B complains that Vanquis Bank Limited lent to her irresponsibly. For ease, I'll refer to the actions of the PR as being those of Ms B.

## **What happened**

On 21 November 2012, Ms B opened a credit card account with Vanquis. She was given a credit limit of £500 which was increased to £1,500 on 10 December 2013. Ms B fell into financial difficulty and entered an Individual Voluntary Arrangement (IVA) on 15 June 2015. Vanquis issued a default notice on the account on 16 July 2015.

On 31 October 2023, Ms B complained to Vanquis. She said Vanquis failed to carry out proper checks on her application to ensure she could afford the initial limit and the later increase. As a result she said the relationship between her and Vanquis was unfair as described in Section 140A of the Consumer Credit Act 1974 (s.140), because she was asked to pay charges and interest she couldn't afford. To resolve her complaint, Ms B asked Vanquis to refund the charges and interest she'd paid on the account, plus statutory interest of 8% per annum.

Vanquis looked into Ms B's complaint and said she had brought it too late to be considered under the complaint handling rules set by the Financial Conduct Authority (FCA). It said the lending decisions complained of had taken place more than six years before she'd raised her complaint, and she ought reasonably to have been aware of her cause for complaint when she entered the IVA. It didn't uphold her complaint.

Ms B was unhappy with Vanquis' response and referred her complaint to our service. One of our investigators looked into it. She didn't agree with Vanquis that the complaint had been brought too late, because it is in part about the fairness of the credit relationship. She went on to consider the merits of the complaint but she didn't uphold it. She explained there was insufficient evidence to allow her to say Vanquis had lent irresponsibly or treated Ms B unfairly in some other way.

Ms B didn't agree with our investigator. As there was no agreement the complaint has been passed to me for a decision.

## **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, and Vanquis thinks this complaint was referred to us too late. Our investigator explained why she didn't, as a starting point, think we could look at a complaint about the lending decisions that happened more than six years before the complaint was made. But she also explained that as part of the complaint is an unfair relationship as described in s.140, and why this complaint about an allegedly unfair credit relationship had been referred to us in time.

For the avoidance of doubt, I agree with our investigator that I have the power to look at the complaint on this basis. I think this complaint can reasonably be considered as being about an unfair relationship as Ms B says the agreement of the card and the later increase was simply unaffordable for her. This may have made the relationship unfair as she had to pay more in interest than she could afford and was unable to reduce the debt. I acknowledge Vanquis still doesn't agree we can look at this complaint, but as I don't think it should be upheld, I don't intend to comment on this further.

In deciding what is fair and reasonable I am required to take relevant law into account. Because Ms B's complaint can be reasonably interpreted as being about the fairness of her relationship with Vanquis, relevant law in this case includes s.140A, s.140B and s.140C of the Consumer Credit Act 1974.

S.140A says that a court may make an order under s.140B if it determines that the relationship between the creditor (Vanquis) and the debtor (Ms B), 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.

S.140B 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 what Ms B has complained about, I need to consider whether Vanquis' decision to lend to her and increase her credit limit, or its later actions, created unfairness in the relationship between her and Vanquis such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Ms B's relationship with Vanquis is therefore likely to be unfair if it didn't carry out proportionate affordability checks and doing so would have revealed its lending to be irresponsible or unaffordable, and if it didn't then remove the unfairness this created somehow.

I think there are key questions I need to consider in order to decide what is fair and reasonable in the circumstances of this complaint:

- Did Vanquis carry out reasonable and proportionate checks to satisfy itself that Ms B was in a position to sustainably repay the credit?
- If not, what would reasonable and proportionate checks have shown at the time?
- Did Vanquis make a fair lending decision?
- Did Vanquis act unfairly or unreasonably towards Ms B in some other way?

B had to carry out reasonable and proportionate checks to satisfy itself that Ms B would be able to repay the credit sustainably. It's not about Vanquis assessing the likelihood of it being repaid, but it had to consider the impact of the repayments on her.

There is no set list of checks that it had to do, but it could take into account several different things such as the amount and length of the credit, the amount of the monthly repayments and the overall circumstances of the borrower.

Did Vanquis carry out reasonable and proportionate checks?

Perhaps due to the time elapsed since the agreement was opened and the limit increased, Vanquis has been able to provide only limited information about what it considered at the time. But I can see that it considered a household annual income of £7,384 and there were no County Court Judgements (CCJ's) or defaults registered on her credit file. The information shows Ms B was retired at the time of her application.

But Vanquis hasn't provided details of what personal income Ms B had at the time of the application or details of any other credit commitments she might have held elsewhere at the time.

There is only similarly limited information provided by Vanquis for the credit limit increase too. The only additional information I have is that she was using 93% of her available credit at the time.

While the lack of information isn't surprising as businesses aren't obliged to hold information indefinitely, it does mean that I don't have enough evidence to show that Vanquis carried out reasonable and proportionate checks on Ms B's application or the limit increase it offered later.

What would reasonable and proportionate checks have shown at the time? Did Vanquis make a fair lending decision?

Our investigator asked Ms B for various information to demonstrate her financial circumstances at the time of the application and increase. Unfortunately, she has not been able to provide any of the requested information.

Due to the lack of evidence from either party involved, I am unable to reach a reasonable view of what proportionate checks would have shown in this case. That being so, I can't reasonably conclude that Vanquis lent to Ms B irresponsibly.

Did Vanquis act unfairly or unreasonably towards Ms B in some other way?

I've carefully read and considered everything each party to the complaint has said. I can see that after Ms B entered the IVA, Vanquis defaulted the account which will have had the effect of preventing any further interest and charges. Ultimately, Vanquis wrote off around £1,300 in February 2022. I've seen nothing to suggest Vanquis treated Ms B unfairly in some other way.

For the reasons I've already given, I don't think Vanquis lent irresponsibly to Ms B or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that s.140 would, given the facts of this complaint, lead to a different outcome here.

**My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 21 August 2025.

Richard Hale  
**Ombudsman**