

## The complaint

Mrs G complains that Vanquis Bank Limited irresponsibly provided her with an unaffordable credit card.

## What happened

Vanquis provided Mrs G with a credit card with the following details:

Date	Lending Decision	Credit Limit
September 2009	Original limit	£500
October 2010	1 <sup>st</sup> limit increase	£1,500

Mrs G complained to Vanquis in January 2024 saying it hadn't completed reasonable checks when providing her with this credit card account. Mrs G said better checks would have identified this account wasn't affordable for her, and as such Vanquis had acted unfairly by providing it.

Vanquis issued a final response letter in April 2024 in which it said it wouldn't investigate the complaint. It said this as it considered Mrs G had made her complaint outside of the regulatory timescales for complaining.

Unhappy with Vanquis' response Mrs G referred her complaint to our service for review.

One of our investigator's considered the details and ultimately didn't uphold the complaint. She considered Vanquis hadn't made a fair lending decision when providing Mrs G with this credit card, and set out why she considered capping redress to the six years before Mrs G had made her complaint was reasonable in the circumstances. She went on to explain that the evidence she'd received from Vanquis confirmed it hadn't applied any interest or charges to Mrs G's account since 2013; and therefore there was no financial loss for our investigator to recommend be redressed within the six years leading up to Mrs G making this complaint.

Vanquis didn't respond to this view; Mrs G did and disagreed. She said that exceptional circumstances should apply in her case and that we should consider her complaint in full. She set out that her personal and financial circumstances around the time of Vanquis' lending events, and in the many years that followed, meant she wasn't in a position to make her complaint sooner. Mrs G also said she has suffered distress and inconvenience as a result of Vanquis' actions.

Our investigator considered Mrs G's response and set out why her view didn't change.

As an agreement couldn't be reached the complaint has been passed to me 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.

The information in this case is well known to Mrs G and Vanquis, so I don't intend to repeat it in detail here. I've focused my decision on what I consider to be the key points of this complaint; so, while my decision may not cover all the points or touch on all the information that's been provided, I'd like to assure both parties I've carefully reviewed everything available to me. I don't mean to be discourteous to Mrs G or Vanquis by taking this approach, but this simply reflects the informal nature of our service.

Initially I think it's helpful for me to set out that there are time limits for bringing a complaint to our service, and Vanquis has said this is a complaint that was referred to us late. Our investigator set out within their view why they didn't think we could look at a complaint about the lending events Vanquis made more than six years before the complaint was made.

But they also went on to explain why it was reasonable to interpret Mrs G's complaint as being about an unfair relationship as described in section 140A of the Consumer Credit Act 1974 (s.140); and why she therefore considered Mrs G's complaint about an allegedly unfair lending relationship had been made to us in time.

I don't intend to go into the detail our investigator has already set out within my decision here. But for the avoidance of doubt, I agree with our investigator that I have the power to look at Mrs G's complaint on this basis.

I would set out at this point that I have very carefully considered the testimony Mrs G has provided about her circumstances over the years. I am very sorry to hear of the personal and financial circumstances she has made us aware of; I've no doubt that these will have been exceptional to Mrs G, and that making this complaint would not have been her priority.

The *Dispute Resolution: Complaints* (DISP) rules which I must follow are set out by the regulator, the Financial Conduct Authority (FCA), in its Handbook – details of which can be found online. The rules don't define exceptional circumstances, but DISP 2.8.4 provides an example as being '*where a complainant has been or is incapacitated*.' So, while I acknowledge the circumstances Mrs G has made us aware of, I can't agree, under the rules I must apply, that Mrs G was prevented from making her complaint within the regulatory timescales because of exceptional circumstances.

However, I consider Mrs G's complaint can reasonably be considered as being about an unfair relationship, as she says both the original credit card limit and credit limit increase in 2010 were unaffordable for her, and that Vanquis ought to have identified this through reasonable checks.

The provision of this credit card may have made the relationship unfair as Mrs G may have paid more in interest and charges than she could afford. I accept Vanquis doesn't agree we can look at any events more than six years before Mrs G's complaint was made, but as I don't intend to uphold this complaint, I won't be commenting on this further.

In deciding what's fair and reasonable I'm required to take into account, amongst other matters, relevant law. As I consider Mrs G's complaint is about the fairness of her relationship with Vanquis, relevant law in this case includes s.140A-C.

S.140A says a court may make an order under s.140B if it determines that the relationship between the creditor (in this case Vanquis) and the debtor (Mrs G), 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 the details of Mrs G's complaint, I would usually look to consider whether Vanquis' decision to lend to her, or any other actions it may have taken, created an unfairness in the relationship between her and Vanquis; and if it did whether Vanquis took reasonable steps to remove that unfairness.

However, just because there may have been unfairness in a consumer's relationship with a business, doesn't automatically mean it would be fair to refund all of the interest and charges on the account from when that unfairness began.

In *Smith v Royal Bank of Scotland Plc* [2023], the Supreme Court pointed out that remedies for unfair relationships are in the court's discretion, and the court may deny a remedy where the claimant had knowledge of the facts relevant to their claim, but substantially delayed making the claim. So, when deciding a fair and reasonable outcome to Mrs G's complaint and fair redress, it's important for me to take this into account as relevant law. There is no fixed period of delay that brings this principle into play, but the Supreme Court approved the District Judge's comment in the case that a court would be slow to remedy unfairness in a situation where the claimant delayed more than six years after knowing the facts.

We consider that a complainant would have knowledge of the facts that caused the unfairness they complain of when they became aware of a problem and that they were suffering a loss. In this case, I consider Mrs G was aware of a problem from 2011 when her balance consistently went above the agreed credit limit, and she started to miss her contractual monthly payments. Mrs G consistently incurred charges for both being over her agreed credit limit and missing her contractual payments from early 2011, which was shortly after Vanquis had increased her credit limit in late 2010. In addition, Vanquis sent Mrs G final demand and Notice of Default letters in 2013. But Mrs G didn't do anything about this until she complained in 2024.

In these circumstances, even if I thought the complaint should be upheld, I don't think it would be fair compensation to require Vanquis to refund interest and charges dating back more than six years before Mrs G made her complaint.

In Mrs G's case, I can see that Vanquis stopped charging interest and fees from 2013. So, this means that even if I were to uphold the complaint there would be no refund due; as no interest and charges were applied to the account in the six years before Mrs G made this complaint.

I've also considered if Mrs G's credit file may have been negatively impacted by Vanquis' actions; due to the missed payments and the payment arrangement that appears to have been in place until August 2018, when the outstanding balance was repaid.

However, even if Vanquis had reported adverse information about the account to credit reference agencies, this information would no longer be reporting as the account was

brought up to date more than six years ago. As such there would be no negative information for me to direct Vanquis to remove.

So, because of this, I've not looked into the lending decisions any further.

Mrs G has made reference to Vanquis not supporting her during periods of financial difficulty, and the distress and inconvenience its actions (and inactions) have caused. While I don't doubt Mrs G's testimony, from the evidence available to me I've not been presented with anything that persuades me Vanquis acted unfairly or unreasonably outside of its lending decisions.

The contact notes I've seen show Vanquis provided forbearance when it became aware of a change to Mrs G's circumstances; ultimately it stopped applying interest and charges and entered into an affordable payment arrangement with Mrs G, which was in place for many years, until the outstanding balance was repaid in August 2018. I've therefore not been presented with any information or evidence which leads me to conclude that a payment for distress or inconvenience is warranted here.

I would acknowledge again that I'm sorry to hear of the circumstances Mrs G has made us aware of; and I am sorry to disappoint Mrs G with my decision. But for the reasons I've set out above, I'm not directing Vanquis to take any further action in resolution of this complaint.

### **My final decision**

My final decision is that Vanquis Bank Limited doesn't need to take any further action in resolution of Mrs G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 7 October 2025.

Richard Turner  
**Ombudsman**